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TO: Sen. Rosalyn H. Baker, Chair; Sen. Clarence K. Nishihara, Vice-chair
Members, Senate Committee on Commerce, Consumer Protection, and Health

FROM: M. Alohalani Boido, M. A.
Hawaii Judiciary Certified Spanish Court Interpreter, Tier 4

HEARING: February 9, 2017, 9:00 a.m., Rm. 229

RE: **OPPOSE, SB 972**, Relating to licensing of ASL interpreters

Good morning. I am Marcella Alohalani Boido, a certified Spanish/English court interpreter. I am a founding member of Hawaii Interpreter Action Network (HIAN) and Hawaii Interpreters and Translators Association (HITA). Starting in 1989, I have been serving as a court interpreter.

In 2007, under pressure from the Legislature, the Hawaii Judiciary began to offer us the opportunity to take our oral certification exams. I passed my exam. That makes me one of ten (10) certified spoken language court interpreters in Hawaii. I would like to extend my heartfelt gratitude to all the legislators and others who made this possible.

Although I am both the president of HIAN and its Legislative Action Committee chair, I am submitting this as an individual. My ASL colleagues have their own professional associations.

Missing data. Is DCAB tracking complaints? Testimony from the Disability and Communication Access Board (“DCAB”) on HB 1106, the companion bill, is that DCAB wants these bills deferred so that SCR 32 can lead to a sunrise study, as required by law. To date, DCAB has not provided any data on number and type of complaints received, nor number of interpreters targeted, by year, island, and type of credential or skill.

Few interpreters, limited credentials available. Hopefully, the testimony from my ASL colleagues on HB 1106 will be repeated on SB 972. Please read it carefully, because it will give a much fuller picture of the situation. DCAB’s testimony on HB 1106 is that there are only forty (40) credentialed ASL interpreters in Hawaii, and that a few from the mainland come in to work from time to time. My ASL colleagues estimate a total population of fifty (50) interpreters in

Hawaii. This is a tiny population. Neither are they evenly distributed by island. Additionally, there are types of interpreting for deaf people that are needed, but do not have a test-based credential.

Standards for and funding of remedies. Since at present, DCAB does not have a grievance procedure, a possible cure for this is to legally mandate them to have one, and to fund it appropriately from Hawaii State general funds. First, however, some other remedies should be explored and considered for implementation. **Remedies:**

- **should be tailored to the size and nature of the perceived problem,, based on data,**
- **should not necessarily replicate already existing remedies, and**
- **should not make matters worse.**

Multiple avenues and remedies are already available. There are already multiple avenues for people to express their complaints. I have compiled a partial list.¹ DCAB, the ASL referral agencies, Language Service Provider (LSP) agencies, and individual interpreters with a web site could refine and publish a similar list.

Too costly. Hawaii's population of ASL and other types of interpreters serving the needs of our complex local community cannot sustain the costs of funding any licensure program. The additional hassle may not be well received, either. For interpreters to pay for such a program, they will have to raise their rates. The government sector is a major user of these services. **It is already very difficult and costly to attract, train, credential, and retain interpreters in any language combination in Hawaii.**

Interpreters providing services from outside Hawaii. The bill fails to address the situation of ASL and other interpreting services provided to Hawaii residents by interpreters living outside of Hawaii, but providing services via Video Relay Interpreting (VRI) or other means. The Legislature and the Executive should carefully inquire about how, or even if, Hawaii can go about controlling this group for adherence to standards of credentialing and ethics.

Consumer education, preventing unfounded complaints, appropriately channeling reasonable complaints, and next steps. Sometimes there are people who want to complain about an interpreter because they feel it is not safe to complain about someone else. Many do

not understand our role and our role boundaries. Some complaints have a solid basis in fact. (I limit myself here to what I know about spoken language “interpreters.”) One way to deal with this is to provide the people who work with interpreters, regardless of the reason for needing an interpreter, or the communication method or language used, with good information about:

- appropriate expectations about interpreter services, including a copy of the relevant Code of Ethics, Standards of Procedure or Performance, or whatever it is called;
- how to work with interpreters,ⁱⁱ and
- the various avenues available for complaints. (See first end note.)

This is something that DCAB, other agencies, and offices can do right now. It can be done in leaflets, in Braille, and in videos with captions and ASL interpretation on web sites.

Conclusions. Interpreting is a profession. Normally, professions control their members themselves via credentialing and disciplinary processes. That is what RID is doing. DCAB is a credentialing authority. That makes it the most logical location for a grievance procedure. First, more information should be provided, and consultation with the community is needed.

There are a tiny number of interpreters working in this area. The services they perform are necessary, complex, and of tremendous value to our community. We need to look for ways to make things *pono* without becoming unnecessarily adversarial, complicated, or expensive. In short, we need some reflection, discussion, and creativity.

SB 972 was not written nor intended to pass this year. Please defer this bill. Thank you.

End Notes

ⁱ Possible avenues for complaints. Each of these organizations has its own *kuleana*. Some of these *kuleana* overlap. A person with a complaint can go through just one avenue to start, or multiple avenues, as they choose.

Consumers might begin by simply letting the interpreter know about the consumer’s unhappiness with that person’s services.

When an interpreter was sent by a referral agency or Language Services Provider (“LSP”) agency, consumers can complain to that agency. All of these agencies should make it simple and easy for people to complain.

The **Registry of Interpreters for the Deaf, Inc.** (“RID”) has a procedure for grievances against interpreters with an RID credential. <http://rid.org/>

Hawaii State Office on Language Access (“OLA”) <http://health.hawaii.gov/ola/>

Hawaii State Office of Consumer Protection <http://cca.hawaii.gov/blog/office-of-consumer-protection/>

Hawaii Civil Rights Commission If a person thinks they are being discriminated against by either the denial of services, or the provision of inadequate services or inappropriate services, the Commission may be able to help. <http://labor.hawaii.gov/hcrc/>

Hawaii State Office of the Ombudsman The Ombudsman might help if a person feels that a government office failed to contract a competent, ethical interpreter, or provided a category of interpreter that does not fit the needs of the person. <http://ombudsman.hawaii.gov/>

Hawaii State Judiciary Office on Equality and Access to the Courts (“OEAC”). The OEAC might help if the complaint is about an interpreter in Hawaii State courts. Although the Hawaii Judiciary does not have an interpreter disciplinary procedure yet, it is better to inform the OEAC than not to inform them. Oddly, no TTY is provided. (http://www.courts.state.hi.us/services/court_interpreting/court_interpreting)

Hawaii Better Business Bureau <https://www.bbb.org/hawaii/>

When an interpreter was provided in a medical setting such as an office, clinic, or hospital, the complaint can be made to the office, clinic, or hospital. Many hospitals have an office specifically for dealing with patient complaints.

When the interpreter was contracted by an insurance company, the patient can complain to the insurance company.

The U. S. Department of Justice has a Civil Rights Division (<https://www.justice.gov/crt>) and a Disability Rights Section (<https://www.justice.gov/crt/disability-rights-section>).

In extreme cases, a person can sue.

ⁱⁱ A good example of a leaflet on how to work with an interpreter is the Hawaii State Judiciary’s “*How to use a court interpreter.*” I would prefer “work with” to “use.” Communicating through an interpreter is an informed, cooperative effort by all participants.

http://www.courts.state.hi.us/services/language_assistance_services

JAN L. FRIED • American Sign Language/English Interpreter

• RID Certified-IC, CI, CT • Educator • Consultant •

08 February 17

LATE

Twenty-ninth Legislature of the State of Hawai'i, 2017

To: Senator Rosalyn Baker, Chair
Senator Clarence Nishihara, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Health

Fr.: Jan Fried

Re: Testimony *Opposing SB 972, Relating to Licensing of American Sign Language Interpreters*
(Hearing on SB 972, 09 February 2017; 9:00am, Conference Room 229)

Aloha. I am opposed to **SB 972** for several reasons: it is confusing, unnecessary, and somewhat duplicative. My response to **SB 972** comes from my perspective as a professional American Sign Language/English interpreter, a member and past president of the Hawai'i Registry of Interpreters for the Deaf, an interpreter educator who prepares college students to become American Sign Language/English interpreters, and longtime ally of the Deaf Community.

In the 30 years I have worked as an American Sign Language/English interpreter in private practice in Hawai'i and on the continent, I have seen the move towards licensure of interpreters steadily increase nationwide. The effect of licensure is still being studied and should be considered before passing similar legislation requiring it. I am not inherently against the notion of licensure or licensure's possible benefits. However, I am opposed to the way SB 972 is written, its provisions, and the economic effect it might have on local practitioners.

Hawai'i already has provisions and requirements for American Sign Language/English interpreters in HRS Title 11, Chapter 218. New policies and amendments to this chapter are also in the process of being proposed that will hopefully strengthen this statute. The Deaf and interpreting communities are also advocating that DCAB add a necessary and long overdue formalized grievance process to the State credentialing system for interpreters. Concerns about the ethical behavior or business practices of American Sign Language/English interpreters who hold national credentials from the Registry of Interpreters for the Deaf, Inc. (RID) or the National Association of the Deaf can be addressed to the RID's Ethical Practices System—a thorough oversight and grievance process. A licensure bill at this time seems unnecessary.

The terms of licensure seem vague. How does one demonstrate good professional character and reliability for a "licensing board of sign language interpreters"? (This is a misnomer considering that the board's makeup includes people who are not interpreters). How and who determines this? How will the licensing board members be selected? Why is a hearing consumer not included? How will quality be assured? Most credentialing exams require interpreters to demonstrate ethical decision-making—what would be another method of determining ethical behavior? Why is an additional one necessary? Why are certain settings where interpreters work exempt from oversight? The quality of interpreting should be assured no matter the setting or age of consumer. Consumers should not be denied qualified interpreters, no matter where they receive interpreting services.

The language in the proposed **SB 972** actually contradicts HRS Title 11, Chapter 218-9 that allows Deaf and Deaf-Blind consumers the right to request an interpreter who does not hold an interpreting credential. There are certain situations when an un-credentialed interpreter is actually the most

qualified. Will this bill penalize those who occasionally fit in this category? Unscrupulous and unethical interpreters who practice without the appropriate credentials or without this legal exemption should be deterred and penalized. However, this version of licensure may not be the answer.

Another major concern I have is the notion of the Sign Language Interpreter licensing special fund, fees and surcharge. The community of American Sign Language/English interpreters in Hawai'i is not large enough to sustain such a fund. There are less than 60 credentialed hearing and Deaf interpreters in the State and not all work full-time as private contractors. The additional surcharge can be a major deterrent, could actually cause a financial hardship for them, and result in the already small pool of interpreters to become smaller. Fewer available interpreters mean fewer consumers will have their communication needs effectively met.

In addition to the above concerns about how the **SB 972** is written and what it requires, there are several grammatical errors and capitalization inconsistencies that need to be corrected.

I strongly urge your committees to vote against this bill. *Mahalo.*

CPH Testimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 8:57 AM
To: CPH Testimony
Cc: lisa2tom@gmail.com
Subject: Submitted testimony for SB972 on Feb 9, 2017 09:00AM

LATE

SB972

Submitted on: 2/9/2017

Testimony for CPH on Feb 9, 2017 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Tom	Individual	Support	No

Comments: My name is Lisa Tom and I am a Deaf resident of Honolulu and consumer of interpreting services. I support the intent of Senate Bill 972, which would require licensing of American Sign Language (ASL) interpreters who work in the State of Hawaii. ASL interpreters are accountable to provide effective communication. There is a need to have a licensing program where deaf, hard of hearing or hearing persons can file grievances and resolve serious issues that sometimes occur with the use of interpreters. These issues and problems have long been ignored and deaf or hard of hearing consumers' rights are not protected under the current system. There is some content in Senate Bill 972 that needs to be changed because of several factors: (1) Hawaii is unique and the cost of living is high, therefore the fees shall be reasonable; (2) Hawaii has a small pool of ASL interpreters to meet the demand of all requests; (3) expanding and designing local testing for interpreters who are deaf should be included, and finally... (4) There must be something within the way that the system is set up that will assure consumers it is safe for them to express concerns about the interpreters in question. I recommend that this measure to be deferred in order for the Auditor to conduct a sunrise review of the probable effects of licensure of American Sign Language interpreters. I also request that the subject matter of the sunrise review be combined with the previously heard Senate Bill 973. Senate Concurrent Resolution 32 was introduced related to these measures in the Senate version of these bills. Please defer Senate Bill 972 and support Senate Concurrent Resolution 32 requesting a sunrise study to be conducted by the Auditor. Thank you for the opportunity to submit my testimony. Sincerely, Lisa Tom

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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