

Effective 10/1/2016

Part 6
Interpreter Services for the Deaf and Hard of Hearing Act

35A-13-601 Title.

- (1) This part is known as the "Interpreter Services for the Deaf and Hard of Hearing Act."
- (2) All rules made under this part shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-602 Definitions.

As used in this part:

- (1) "Advisory board" or "board" means the Interpreters Certification Board created in Section 35A-13-603.
- (2) "Assistant director" means the assistant director who administers the program called the Division of Services for the Deaf and Hard of Hearing created in Section 35A-13-502.
- (3) "Certified interpreter" means an individual who is certified as meeting the certification requirements of this part.
- (4) "Interpreter services" means services that facilitate effective communication between a hearing individual and an individual who is deaf or hard of hearing through American Sign Language or a language system or code that is modeled after American Sign Language, in whole or in part, or is in any way derived from American Sign Language.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-603 Board.

- (1) There is created to assist the director of the office the Interpreters Certification Board consisting of the following 11 members:
 - (a) a designee of the assistant director;
 - (b) a designee of the State Board of Regents;
 - (c) a designee of the State Board of Education;
 - (d) four professional interpreters, recommended by the assistant director; and
 - (e) four individuals who are deaf or hard of hearing, recommended by the assistant director.
- (2)
 - (a) The director shall make all appointments to the board.
 - (b) In making appointments under Subsections (1)(d) and (e), the director shall give consideration to recommendations by certified interpreters and members of the deaf and hard of hearing community.
- (3)
 - (a) Board members shall serve three-year terms, except that for the initial terms of board members, three shall serve one-year terms, four shall serve two-year terms, and four shall serve three-year terms.
 - (b) An individual may not serve more than two three-year consecutive terms.
 - (c) If a vacancy occurs on the board for a reason other than the expiration of a term, the director shall appoint a replacement for the remainder of the term in accordance with Subsections (1) and (2).

- (4) The director may remove a board member for cause, which may include misconduct, incompetence, or neglect of duty.
- (5) The board shall annually elect a chair and vice chair from among its members.
- (6) The board shall meet as often as necessary to accomplish the purposes of this part, but not less than quarterly.
- (7) A member of the board may not receive compensation or benefits for the member's service, but may receive travel expenses in accordance with:
 - (a) Section 63A-3-107; and
 - (b) rules made by the Division of Finance in accordance with Section 63A-3-107.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-604 Powers and duties of the board.

- (1) The board shall function as an advisory board to the director and under the director's direction shall perform the following duties concerning the certification of interpreters:
 - (a) make recommendations to the director regarding:
 - (i) appropriate rules;
 - (ii) policy and budgetary matters;
 - (iii) the appropriate passing score for applicant examinations; and
 - (iv) standards of supervision for individuals in training to become certified interpreters;
 - (b) screen applicants for certification and make written recommendations to the director regarding certification, renewal, reinstatement, and recertification actions; and
 - (c) act as the presiding officer in conducting hearings associated with adjudicative proceedings and in issuing recommended orders as designated by the director.
- (2) The director, with the collaboration and assistance of the advisory board, shall:
 - (a) prescribe certification qualifications;
 - (b) prescribe rules governing applications for certification;
 - (c) provide for a fair and impartial method for the examination of applicants;
 - (d) define unprofessional conduct, by rule, to supplement the definition under this part; and
 - (e) establish conditions for reinstatement and renewal of certification.
- (3)
 - (a) The advisory board shall designate one of its members on a permanent or rotating basis to:
 - (i) assist the director in reviewing complaints involving the unlawful or unprofessional conduct of a certified interpreter; and
 - (ii) advise the director when investigating complaints.
 - (b) An advisory board member who has, under Subsection (3)(a), reviewed or investigated a complaint is disqualified from participating with the advisory board if the board serves as a presiding officer of an administrative proceeding concerning the complaint.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-605 Certification required -- Classes of certification.

- (1) Except as specifically provided in Section 35A-13-609, an individual is required to be certified as a certified interpreter if that individual provides interpreter services and a state or federal law requires the interpreter to be certified or qualified.
- (2) The director shall issue a certification to an individual who qualifies under this chapter in classifications determined by the director based upon recommendations from the advisory board.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-606 Qualifications for certification.

Each applicant for certification under this part shall:

- (1) submit an application in a form prescribed by the director;
- (2) pay a fee determined by the director under Section 63J-1-504 to help offset the costs of implementing this part for the administration of examinations for certification and for the issuance of certificates;
- (3) be of good moral character; and
- (4) comply with any other qualifications for certification established by the director in accordance with Subsection 35A-13-604(2).

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-607 Certification term -- Expiration -- Renewal.

- (1)
 - (a) The director shall issue each certificate under this part in accordance with a three-year renewal cycle established by rule.
 - (b) The director may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.
- (2) At the time of renewal, the certified interpreter must show satisfactory evidence of compliance with renewal conditions established by the director in accordance with Subsection 35A-13-604(2).
- (3) Each certificate automatically expires on the expiration date shown on the certificate unless the certified interpreter renews it in accordance with the conditions prescribed by the director.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-608 Continuing education.

- (1)
 - (a) As a condition for renewal of certification, each certified interpreter shall, during each three-year certification cycle or other cycle defined by rule, complete a number of hours of qualified continuing professional education in accordance with standards defined by rule.
 - (b) The director shall determine the number of hours based upon recommendations from the advisory board.
- (2) If the renewal cycle is extended or shortened under Section 35A-13-607, the continuing education hours determined for renewal under Subsection (1) shall be increased or decreased proportionately.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-609 Exemptions from certification -- Temporary or restricted certification.

- (1) The following individuals may engage in the practice of a certified interpreter, subject to the stated circumstances and limitations, without being certified under this chapter:
 - (a) an individual serving in or employed by the Armed Forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agency and who is engaged in activities regulated under this part as a part of the

- individual's service or employment with that federal agency, if the individual holds a valid certificate or license to provide interpreter services issued by another state or jurisdiction recognized by the director;
- (b) a student engaged in providing interpreter services while in training in a recognized school approved by the director to the extent the student's activities are supervised by qualified faculty, staff, or a designee, and the services are a defined part of the training program;
 - (c) an individual engaged in an internship, residency, apprenticeship, or on-the-job training program approved by the director while under the supervision of a qualified individual;
 - (d) an individual residing in another state and certified or licensed to provide interpreter services in that state, who is called in for a consultation by an individual certified to provide interpreter services in this state, and the services provided are limited to that consultation;
 - (e) an individual who is invited by a recognized school, association, or other body approved by the director to conduct a lecture, clinic, or demonstration on interpreter services, if the individual does not establish a place of business or regularly engage in the practice of providing interpreter services in this state;
 - (f) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the individual may only attend to the needs of the team or group and individuals who travel with the team or group, not including spectators; or
 - (g) an individual who is providing interpreter services for a religious entity, to the extent that the religious entity is specifically exempted from liability under federal law.
- (2)
- (a) An individual temporarily in this state who is exempted from certification under Subsection (1) shall comply with each requirement of the jurisdiction from which the individual derives authority to provide interpreter services.
 - (b) Violation of any limitation imposed by this section is grounds for removal of exempt status, denial of certification, or another disciplinary proceeding.
- (3)
- (a) Upon the declaration of a national, state, or local emergency, the director, in collaboration with the advisory board, may suspend the requirements for permanent or temporary certification of individuals who are certified or licensed in another state.
 - (b) Individuals exempt under Subsection (3)(a) shall be exempt from certification for the duration of the emergency while engaged in providing interpreter services for which they are certified or licensed in the other state.
- (4) The director, after consulting with the advisory board, may adopt rules for the issuance of temporary or restricted certifications if their issuance is necessary to or justified by:
- (a) a lack of necessary available interpretive services in any area or community of the state, if the lack of services might be reasonably considered to materially jeopardize compliance with state or federal law; or
 - (b) a need to first observe an applicant for certification in a monitored or supervised practice of providing interpretive services before a decision is made by the board either to grant or deny the applicant a regular certification.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-610 Grounds for denial of certification -- Disciplinary proceedings.

- (1) The director shall refuse to issue a certificate to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the certificate of a certified interpreter who does not meet the qualifications for certification under this part.
- (2) The director may refuse to issue a certificate to an applicant, refuse to renew a certificate, revoke, suspend, restrict, or place on probation the certificate of a certified interpreter, issue a public or private reprimand to a certified interpreter, and issue a cease and desist order in any of the following circumstances:
 - (a) the applicant or certified interpreter has engaged in unprofessional conduct as defined in this part or by rule under this part;
 - (b) the applicant or certified interpreter has engaged in unlawful conduct as defined in this part;
 - (c) the applicant or certified interpreter has been determined to be mentally incompetent for any reason by a court of competent jurisdiction; or
 - (d) the applicant or certified interpreter is unable to provide interpretive services with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a threat or potential threat to public health, safety, or welfare.
- (3) An individual whose certificate has been suspended, revoked, or restricted under Subsection (1) may apply for reinstatement at reasonable intervals and upon compliance with conditions imposed by the director.
- (4) The director may issue cease and desist orders:
 - (a) to a certified interpreter or applicant who is subject to discipline under Subsection (1);
 - (b) to an individual who engages or represents that the individual is engaged in the profession of a certified interpreter; and
 - (c) to an individual who otherwise violates this part or rules adopted under this part.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-611 Unlawful conduct.

"Unlawful conduct" means conduct by an individual that is defined as unlawful under this part and includes:

- (1) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in the profession of a certified interpreter if the individual is:
 - (a) not certified to do so and is not exempted from certification under this chapter; or
 - (b) restricted from doing so by a restricted, suspended, revoked, temporary, probationary, or inactive certification;
- (2) impersonating another certified interpreter or practicing as a certified interpreter under a false or assumed name, except as permitted by law;
- (3) knowingly employing an individual to practice or engage in or attempt to practice or engage in the profession of a certified interpreter, if the employee is not certified to do so under this chapter;
- (4) knowingly permitting the individual's authority to engage in the profession of a certified interpreter to be used by another individual, except as permitted by law; or
- (5) applying for certification under this part, obtaining certification under this part, or otherwise dealing with the director through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-612 Unprofessional conduct.

"Unprofessional conduct" means conduct by a certified interpreter that is defined as unprofessional conduct under this part or under any rules adopted under this part and includes:

- (1) violating, or aiding or abetting an individual in violating, any provision of this part, rule adopted under this part, or order regulating certified interpreters;
- (2) violating, or aiding or abetting an individual in violating, any generally accepted professional or ethical standard applicable to the profession of a certified interpreter; or
- (3) physically, mentally, or sexually abusing or exploiting an individual through conduct connected with a certified interpreter's practice under this part.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-613 Penalty for unlawful conduct.

An individual who violates Section 35A-13-611 is guilty of a class B misdemeanor.

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