ENGROSSED HOUSE
BILL NO. 1842

By: Duncan, McDaniel (Randy), Faught and McDaniel (Jeannie) of the House

and

Sykes of the Senate

An Act relating to professions and occupations; creating the Oklahoma Licensed Interpreter Act; defining terms; creating the Oklahoma Board of Licensed Interpreters for the Deaf and Hard-of-Hearing; providing for membership, qualifications, and terms of office for the Board; providing for powers and duties of the Board; providing for investigators of the Board; providing for meetings and notice of meetings of the Board; providing licensure requirements; providing for reinstatement of suspended license; providing for renewal of license; defining practice of interpreting; providing for exceptions; providing for disciplinary actions; providing for inability to practice in certain circumstances; providing for reporting of certain information; providing for good Samaritan application; providing for citations and fines; creating the Oklahoma Licensed Interpreters for the Deaf and Hard-of-Hearing Fund; providing for confidentiality of certain information; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3301 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Licensed Interpreter Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3302 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Licensed Interpreter Act:

1. "American Sign Language" means the visual/gestural language used by deaf people in the United States with semantic, syntactic, morphological and phonological rules which are distinct from English;

2. "Board" means the Oklahoma Board of Licensed Interpreters for the Deaf and Hard-of- Hearing;

3. "Certification" means certificates awarded to individuals by those organizations recognized by the Board reflecting skill level and/or professional competence;

4. "Communication ally" means an individual selected to be present by a consumer who is deaf or hard-of-hearing. A communication ally is not a professional interpreter;

5. "Consumer" means an individual who is deaf, hearing, hard-of-hearing, deaf-blind, speech-disabled, or other individuals who use special communication techniques in order to communicate, or any other person or agency that requires the services of an interpreter to effectively communicate and comprehend signed or spoken discourse;

6. “Cued speech” means a phonetically based hand supplement to speech reading that is independent of all sign language modalities. It is a system of hand shapes that represents groups of consonant sounds, combined with hand placements that represent groups of vowel sounds, used with natural speech to represent a visual model of spoken language;

7. “Director” means an individual selected by the Board to serve as the Director of the Oklahoma Board of Licensed Interpreters for the Deaf and Hard-of-Hearing or the authorized representative of such official;

8. “Interpreter” means any person who renders or offers to render the facilitation of communication between consumers who are deaf or hard-of-hearing and those who are hearing. Communication modes include but are not limited to American Sign Language, Conceptually Accurate Signed English, Manually Coded English, cued speech, oral transliteration, tactile sign, and spoken language;

9. “Interpreter trainee” means any person meeting the minimum requirements established by the Oklahoma Board of Licensed Interpreters for the Deaf and Hard-of-Hearing who is currently enrolled in an accredited interpreter training program recognized by the Oklahoma State Regents for Higher Education;

10. “License” means authorization to practice as an interpreter granted by the Board to an individual found by the Board to meet

certain requirements pursuant to the Oklahoma Licensed Interpreter Act or any other applicable statutes;

11. "Licensed interpreter" means a person who possesses a document issued by the Oklahoma Board of Licensed Interpreters for the Deaf and Hard-of-Hearing attesting that the person has satisfactorily met the established professional standards for interpreting for persons who are deaf, hard-of-hearing, and hearing and may practice interpreting in the State of Oklahoma;

12. "Manually Coded English" means a specific type of sign language interpreting which conveys written or spoken English in an English-based form of manual communication and vice versa;

13. "Nationally recognized certification" means certification granted by a national organization recognized by the Board that is based on a skills assessment of the applicant;

14. "Oral transliterating" means the mode of communication having characteristics of speech, speech reading, and residual hearing as a primary means of communication using situational and culturally appropriate gestures, with or without the use of sign language;

15. "Person" means any individual, firm, partnership, association, joint venture, cooperative, corporation, or any other group or combination acting in concert, and whether or not acting as principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest,

assignee, agent, factor, servant, employee, director, officer, fictitious name certificate, or any other representative of such person;

16. "Provisional permit" means restricted permits, authorized and issued by the Board;

17. "Spoken language" means language communicated aurally;

18. "State certification" means any Quality Assurance Screening Test (QAST) level granted by the State Department of Rehabilitation Services; and

19. "Tactile sign" means mode of communication used by individuals who are deaf-blind, using any one of a combination of tactile sign or constricted space signing.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3303 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Board of Licensed Interpreters for the Deaf and Hard-of-Hearing is hereby created, to continue until July 1, 2015, in accordance with the provisions of the Oklahoma Sunset Law, to regulate and enforce the practice of interpreting in this state in accordance with the Oklahoma Licensed Interpreter Act.

B. 1. The duty of determining a person's initial and continuing qualification and fitness for the practice of interpreting, of proceeding against the unlawful and unlicensed practice of interpreting and of enforcing the Oklahoma Licensed

Interpreter Act is hereby delegated to the Board. That duty shall be discharged in accordance with the Oklahoma Licensed Interpreter Act and other applicable statutes.

2. a. It is necessary that the powers conferred on the Board by the Oklahoma Licensed Interpreter Act be construed to protect the health, safety and welfare of the people of this state.

b. No member of the Board, acting in that capacity or as a member of any Board committee, shall participate in the making of any decision or the taking of any action affecting such member's own personal, professional or pecuniary interest, or that of a person related to the member within the third degree by consanguinity, marriage or adoption or of a business or professional associate.

c. With advice of legal counsel, the Board shall adopt and annually review a conflict of interest policy to enforce the provisions of the Oklahoma Licensed Interpreter Act.

C. The practice of interpreting is a privilege granted by statute. It is not a natural right of individuals. In the interest of the public, and to protect the public, it is necessary to provide laws and rules to govern the granting and subsequent use of the privilege to practice interpreting. The primary responsibility and

obligation of the Board is to ensure the public receives the professional, proper, competent and lawful practice of interpreting.

D. The liability of any member or employee of the Board acting within the scope of Board duties or employment shall be governed by The Governmental Tort Claims Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3304 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. The Board shall consist of seven (7) members, appointed by the Governor with the advice and consent of the Senate. The Board shall consist of three members who are deaf or hard-of-hearing who are knowledgeable in the field of professional interpreting, one who is a nationally certified interpreter who is also an interpreter trainer in an accredited interpreter training program recognized by the Oklahoma State Regents for Higher Education, one professional interpreter, one professional interpreter specializing in the field of educational interpreting, and one lay person representing the general public and who is knowledgeable in the field of professional interpreting.

2. Each member who is an interpreter shall be licensed to practice in the State of Oklahoma. The interpreter trainer to be appointed to the Board shall be a person who is employed as such in a state-approved or state-accredited institution of higher education. The interpreter trainer shall not be required to be

licensed by the Board. One member shall be appointed from each congressional district, when possible, and any remaining members shall be appointed from the state at large. However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member. No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district.

3. The lay member shall have no financial interest in the profession other than as a consumer or potential consumer of its services.

4. Members must be residents of the State of Oklahoma. No member shall be a registered lobbyist. Any member who is an officer, board member or employee of a statewide or national organization established for the purpose of conducting peer review of interpreters licensed pursuant to the Oklahoma Licensed Interpreter Act shall disqualify or seek to disqualify themselves

from participation in a decision on grounds in regards to when there is prejudice or personal involvement. The remaining members will conduct the review.

B. The Governor shall appoint members to the Board and for terms of years as follows:

1. Three members shall be appointed to a term ending May 31, 2011;

2. One member shall be appointed to a term ending May 31, 2012;

3. One member shall be appointed to a term ending May 31, 2013;

4. One member shall be appointed to a term ending May 31, 2014; and

5. One member shall be appointed to a term ending May 31, 2015.

Successors shall be appointed for a term of five (5) years. No member shall serve consecutively for more than two terms. Not more than two terms shall expire in each year, and vacancies for the remainder of an unexpired term shall be filled by appointment by the Governor. Members shall serve beyond the expiration of their term until a successor is appointed by the Governor. The Governor shall fill a vacancy within ninety (90) days after the beginning of the vacancy. Nominees considered by the Governor for appointment to the Board must be free of pending disciplinary action or active investigation by the Board.

C. A member may be removed from the Board by the Governor for cause which shall include, but not be limited to, if a member:

1. Ceases to be qualified;

2. Is found guilty by a court of competent jurisdiction of a felony or unlawful act which involves moral turpitude;

3. Is found guilty of malfeasance, misfeasance or nonfeasance in relation to Board duties;

4. Is found mentally incompetent by a court of competent jurisdiction;

5. Is found in violation of the Oklahoma Licensed Interpreter Act; or

6. Fails to attend three successive Board meetings without just cause as determined by the Board.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3305 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. Each member of the Board shall take the constitutional oath of office.

2. The Board shall organize annually, at the last meeting of the Board before the beginning of the next fiscal year, by electing from the Board membership a president, vice president and secretary-treasurer. Officers of the Board shall serve for terms of one (1) year or until their successors are elected. Officers shall not succeed themselves for more than one term. The lay members appointed to the Board shall not hold elective office.

B. 1. The president shall:

a. preside at Board meetings,

b. arrange the Board agenda,

c. sign Board orders and other required documents,

d. appoint Board committees and their chairpersons,

e. coordinate Board activities,

f. represent the Board before legislative committees, and

g. perform those other duties assigned by the Board and this section.

2. The vice president shall perform the duties of president during the president's absence or disability and shall assist the president in duties as requested.

3. The secretary-treasurer shall be responsible for the administrative functions of the Board.

4. The employment of administrative, investigative, legal and clerical personnel shall be subject to the approval of the Board.

5. At the end of each fiscal year the president and secretary-treasurer shall prepare or cause to be prepared and submit to the Governor a report on the transactions of the Board.

C. To facilitate its work effectively, fulfill its duties and exercise its powers, the Board may establish standing or ad hoc committees. The president shall appoint members and chairpersons of the committees and determine the length of terms of service. The president may appoint individuals to serve on a standing or ad hoc committee for a term not to exceed one (1) year.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3306 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Investigators for the Board shall perform such services as are necessary in the investigation of criminal activity or preparation of administrative actions.

B. Any investigator hired by the Board, whether part-time or full-time, shall hold a certification as a peace officer by the Council on Law Enforcement Education and Training, and shall have statewide jurisdiction to perform the duties authorized by this section. In addition, any full-time investigator shall be considered a peace officer and shall have the powers now or hereafter vested by law in peace officers.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3307 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board shall meet at least once each year in the first half of the calendar year and once each year in the second half of the calendar year. In addition, the Board may meet at other times of the year as is deemed necessary to conduct the business of the Board. The Board shall meet at the time and place fixed by order of the Board president or by order of three members of the Board acting jointly upon refusal of the president to call for or fix a time and place for said meeting.

B. 1. Notice of meetings shall be filed in conformance with the Oklahoma Open Meeting Act. Members shall be notified of each meeting at least twenty (20) business days before said meeting, except in the case of a meeting called for emergency purposes.

2. Emergency meetings may be called at any time by the president or at the request of three Board members as required to enforce the Oklahoma Licensed Interpreter Act. The Board may establish procedures by which the Board may call an emergency meeting in accordance with the Oklahoma Open Meeting Act. The Board may establish procedures by which committee advice may be obtained in cases of emergency.

3. The Board shall establish a system for giving all Board and committee members and the public reasonable notice of scheduled meetings. Minutes of all Board and committee meetings shall be kept in accordance with promulgated rules of the Board and other applicable statutes.

C. All meetings of the Board and its committees shall be open to the public except as set out in Article II of the Administrative Procedures Act and the Oklahoma Open Meeting Act.

D. Each Board member shall receive reimbursement for expenses in accordance with the State Travel Reimbursement Act and rules promulgated by the Board.

E. 1. The Board shall be fully supported by the revenues generated from its activities, including fees, charges and reimbursed costs.

2. All such revenues, with the exception of the ten percent (10%) of its revenue required to be deposited in the General Revenue Fund, shall be deposited to the Oklahoma Licensed Interpreters for the Deaf and Hard-of-Hearing Fund and shall be credited to the account of said Board. Any revenue remaining in the revolving fund at the end of any fiscal year shall be carried over to the next fiscal year in the account of the Board.

3. The Board shall operate on the fiscal year beginning July 1 and ending June 30 of each year.

4. The Board shall develop and adopt its own budget reflecting revenues, including reimbursed costs associated with the administrative, investigative, and legal expenditures for taking disciplinary action, and the establishment and maintenance of a reasonable reserve fund.

F. All fees, charges, reimbursement minimums and other revenue generating amounts shall be promulgated by the Board by rule and shall reflect normal increases due to inflation or cost of doing business.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3308 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board shall have the powers and duty to regulate the practice of interpreting. In addition to any other powers placed on it by the Oklahoma Licensed Interpreter Act or as otherwise provided by law, the Board shall have the power and duty to:

1. Set standards for licensure by written examination and develop such examinations as will provide assurance of competency to practice;

2. Employ or enter into agreements with organizations or agencies to provide written examinations acceptable to the Board or employ or enter into agreements with organizations or agencies to provide administration, preparation or scoring of examinations;

3. Set fees;

4. Prescribe the time, place, method, manner, scope and subjects of written examination for licensure;

5. Prepare or select, conduct or direct the conduct of, set minimum requirements for, and assure security of licensing and other required written examinations;

6. Issue or deny licenses and renewals thereof;

7. Acquire information about and evaluate the professional education and training of applicants for licensure; accept or deny applications for licensure, or renewal of licensure based on the evaluation of information relating to applicant fitness, performance or competency to practice;

8. Determine which professional schools, colleges, universities, training institutions, certifying bodies and educational programs are acceptable in connection with licensure pursuant to the Oklahoma Licensed Interpreter Act, and accept the approval of such facilities and programs by accredited institutions in the United States and Canada;

9. Require supporting documentation or other acceptable verifying evidence for any information provided the Board by an applicant for licensure;

10. Require information on an applicant's fitness, qualification and previous professional record and performance from recognized data sources including, but not limited to, other licensing and disciplinary authorities of other jurisdictions, professional education and training institutions, liability insurers, and law enforcement agencies;

11. Develop and use applications and other necessary forms and related procedures for purposes of the Oklahoma Licensed Interpreter Act;

12. a. review and investigate complaints and adverse information about licensees,

b. conduct hearings in accordance with the Oklahoma Licensed Interpreter Act and the Administrative Procedures Act, and

c. adjudicate matters that come before the Board for judgment pursuant to the Oklahoma Licensed Interpreter Act upon clear and convincing evidence and issue final decisions on such matters to discipline licensees;

13. a. impose sanctions, deny licenses and renewals thereof, levy reimbursement costs, seek appropriate administrative civil or criminal penalties or any combination of these against those who violate examination security, who attempt to or who do obtain licensure by fraud, who knowingly assist in illegal activities, or who aid and abet the illegal practice of interpreting,

b. institute proceedings in courts of competent jurisdiction to enforce Board orders and provisions of the Oklahoma Licensed Interpreter Act,

c. (1) establish mechanisms for dealing with licensees who abuse or are dependent on or addicted to alcohol or other chemical substances, and enter into agreements, at its discretion, with professional organizations whose relevant procedures and techniques it has evaluated and approved for their cooperation or participation in the rehabilitation of the licensee, and

(2) establish by rules, cooperation with other professional organizations for the identification and monitoring of licensees in treatment who are chemically dependent or addicted, and

d. issue conditional, restricted or otherwise circumscribed modifications to licensure as determined to be appropriate by due process procedures and summarily suspend a license if the Board has cause to believe by clear and convincing evidence such action is required to protect public health and safety or to prevent continuation of incompetent practices;

14. Promulgate rules of professional conduct and require all licensees to practice in accordance therewith;

15. Act to halt the unlicensed or illegal practice of unlicensed interpreting and seek administrative, criminal and civil penalties against those engaged in such practice;

16. Employ, direct, reimburse, evaluate and dismiss staff in accordance with state procedures;

17. Establish policies for Board operations;

18. Respond to legislative inquiry regarding those changes in, or amendments to, the Oklahoma Licensed Interpreter Act;

19. Act on its own motion in disciplinary matters, administer oaths, issue notices, issue subpoenas in the name of the State of Oklahoma, including subpoenas for client records, hold hearings,

institute court proceedings for contempt or to compel testimony or obedience to its orders and subpoenas, take evidentiary depositions and perform such other acts as are reasonable and necessary under law to carry out its duties;

20. Use clear and convincing evidence as the standard of proof and issue final decisions when acting as trier of fact in the performance of its adjudicatory duties;

21. Determine and direct Board operating, administrative, personnel and budget policies and procedures in accordance with applicable statutes;

22. Promulgate uniform rules such as may be necessary for carrying out and enforcing the provisions of the Oklahoma Licensed Interpreter Act and such as in its discretion may be necessary to protect the health, safety and welfare of the public;

23. Determine continuing education requirements;

24. Conduct a national criminal history records search for applicants;

25. Hire investigators, attorneys, and independent contractors; and

26. Perform such other duties and exercise such other powers as the provisions and enforcement of the Oklahoma Licensed Interpreter Act may require.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3309 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful to practice interpreting in this state without a license issued by the Board.

B. An applicant for licensure shall furnish the Board two complete fingerprint cards and a money order or cashier's check made payable to the Oklahoma State Bureau of Investigation. The Board shall forward the fingerprint cards, along with the applicable fee for a national fingerprint criminal history records search, to the Bureau, and the Bureau shall retain one set of fingerprints in the Automated Fingerprint Identification System (AFIS) and submit the other set to the Federal Bureau of Investigation (FBI) for a national criminal history records search.

C. Requirements for licensure shall be set by the Board. Prior to issuance of a license to practice interpreting in this state, the Board shall require but not be limited to the following evidence of suitability to practice:

1. a. national certification granted by a national certifying body of interpreters as recognized by the Board, or

b. Quality Assurance Screening Test (QAST) level granted by the State Department of Rehabilitation Services;

2. Evidence that the applicant has demonstrated familiarity with the statutes and rules set by the Board by successfully passing the Oklahoma jurisprudence examination;

3. Evidence that the applicant has not been found guilty by a court of law of any conduct that would constitute grounds for disciplinary action under the Oklahoma Licensed Interpreter Act or rules of the Board, and there has been no disciplinary action taken against the applicant by any public agency concerned with the practice of interpreting; and

4. Evidence that all required fees have been paid.

D. Requirements for provisional permits shall be set by the Board. Provisional permits may be issued to any interpreter who has failed to obtain or failed to maintain a regular license to practice interpreting. Such provisional permits may be issued by the Board at such times as the Board determines that all requirements for possession of such permits have been met as set by rules and policies of the Board. Provisional permits may be issued for, but not limited to, the practice of interpreting while the application for full licensure is pending. Prior to issuance of a provisional permit to practice interpreting in this state, the Board shall consider but not be limited to the following evidence of suitability to practice:

1. a. graduation from an approved school of interpreter training whose requirements at the time of graduation are acceptable to the Board, and

b. graduates of schools of interpreting located outside the United States and Canada shall be held to the same standards for evidence of suitability to practice as are graduates of schools of interpreting located within the United States in that applicants shall conform in all respects to the requirements set forth in this section. Where necessary, further examination shall be administered by the Board or its designee to determine competency to practice. In addition, applicants shall demonstrate a command of the English language satisfactory to the Board. Documents and material submitted in support of application for a provisional permit, if in a foreign language, shall be translated and verified as accurate by an organization acceptable to the Board;

2. Satisfactory completion of a minimum number of months of education in interpreter training as a requirement for graduation from a school recognized by the Board;

3. a. except as otherwise provided by this paragraph, evidence that the applicant has passed examinations satisfactory to the Board and that the examination

score is acceptable to the Board. The Board may set minimum passing scores for examinations and limit the number of times an applicant may take an examination in this state, and

b. in lieu of national and state certification requirements, an applicant shall have actively engaged in the practice of interpreting for a period of at least one thousand five hundred (1,500) hours during the three (3) consecutive years immediately prior to making application in Oklahoma and hold a license to practice interpreting in another state, territory, district or province of the United States and Canada;

4. Evidence that the applicant has demonstrated familiarity with the statutes and rules set by the Board by successfully passing the Oklahoma jurisprudence examination;

5. Evidence that the applicant is professionally capable of interpreting in a competent manner as determined by the Board and willing to submit, if deemed appropriate by the Board, to an evaluation of skills and abilities;

6. Evidence that the applicant has not been found guilty by a court of law of any conduct that would constitute grounds for disciplinary action under the Oklahoma Licensed Interpreter Act or rules of the Board, and there has been no disciplinary action taken

against the applicant by any public agency concerned with the practice of interpreting;

7. If the Board deems it necessary, a personal appearance by the applicant before the Board in support of the applicant's application for a provisional permit. If the Board is not satisfied with the credentials of the applicant, or demonstration of knowledge or skills presented, the Board may require further examination or supervised practice before reconsideration of the application; and

8. Evidence that all required fees have been paid.

E. Practice without the legal possession of an active license or permit shall be prohibited and unlawful, and evidence of said practice shall be investigated by the Board and subsequently reported by the Board to the district attorney of the county in which the practice is found to occur.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3310 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. Licenses or permits suspended or revoked or not renewed for any purpose may be reinstated upon the motion of the Board upon proper application of the licensee.

2. A license or permit suspended for failure to renew may be reinstated by the president or secretary-treasurer of the Board, provided such action shall be approved or ratified, or may be rescinded by the Board at the Board meeting following such action.

B. Requirements for reinstatement of a license or permit which has been suspended, revoked or not renewed shall be by rule and shall include, but not be limited to, evidence that:

1. All requirements for full licensure or provisional permit have been met; and

2. The applicant has not been convicted or the applicant's license or permit suspended, revoked or not renewed or placed on probation in another state for violations of an act that would constitute the same or similar penalty in this state.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3311 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Every licensed interpreter who is the holder of a license authorizing the practice of interpreting in any manner whatsoever shall on or before the first day of July of each and every year apply to the Board on forms furnished by the Board, for a renewal entitling such interpreter to practice interpreting in this state during the next fiscal year. Each such application shall be accompanied by a renewal fee in an amount fixed by the Board.

B. The Board may modify the terms and dates of renewal requirements in order to expedite the efficiency of the procedure and to prevent inequitable financial burden on its applicants and licensees.

C. 1. Failure to renew a license properly shall be evidence of noncompliance with the laws of this state and rules of the Board.

2. The license shall automatically be placed in an inactive status for failure to renew and shall be considered inactive and not in good standing for purposes of the practice of interpreting.

D. 1. If, within sixty (60) calendar days beginning July 1, the licensee pays the renewal fee plus any reactivation fee set by rule by the Board, the president or secretary-treasurer of the Board may reactivate the license.

2. If sixty (60) calendar days elapse and the license is not reactivated, the license shall be automatically suspended for failure to renew.

3. A license suspended for failure to renew may be reinstated pursuant to the provisions of Section 10 of this title.

E. The practice of interpreting is prohibited unless the license is active and in good standing with the Board.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3312 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The practice of interpreting shall include, but not be limited to:

1. Interpreting - rendering or offering to render the facilitation of communication between consumers who are deaf or hard-of-hearing and those who are hearing. Communication modes

include but are not limited to American Sign Language, Conceptually Accurate Signed English, Manually Coded English, cued speech, oral transliteration, tactile sign, and spoken language;

2. Representing, directly or indirectly, publicly or privately, an ability and willingness to do any act prescribed in paragraph 1 of this subsection; and

3. Using any title words, abbreviation or letters by any person other than a licensed interpreter in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in paragraph 1 of this subsection. Such use shall be prima facie evidence of the intention to represent oneself as a licensed interpreter engaged in the practice of interpreting.

B. Only persons licensed to practice interpreting pursuant to the Oklahoma Licensed Interpreter Act, may use the words “Licensed Interpreter”, or an abbreviation thereof, and shall be required to use the level of certification attained as approved by the Board, whether or not in conjunction with the words “Licensed Interpreter” or any abbreviation thereof.

C. Persons who are under Provisional Permits are pending full licensure to practice interpreting and can only use the words "Provisional Permit" or an abbreviation thereof, and shall be required to use the level, if any has been attained, whether or not in conjunction with the words "Provisional Permit" or any abbreviation thereof.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3313 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Licensed Interpreter Act shall not be construed to prohibit:

1. Nonresident interpreters working in Oklahoma less than thirty (30) calendar days per year;

2. Interpreting in religious settings;

3. Interpreting in informal settings for friends, families or guests;

4. Interpreting in emergency situations;

5. The activities or services of a supervised interpreter intern or student in training that is enrolled in a program of study in sign language interpreting at an accredited institution of higher learning; or

6. Interpreting in video relay service settings regulated by the Federal Communications Commission; or

7. Any person who is deaf or hard-of-hearing from choosing to utilize a communication ally.

B. Any services provided by a communication ally shall not be construed as professional interpreting and therefore not regulated as such by the Board. No recourse for filing a formal complaint with the Board shall be available to any person utilizing a communication ally in lieu of a licensed, professional interpreter.

In the event a communication ally is utilized by the deaf or hard-of-hearing consumer, said consumer shall thereby waive their right to file a complaint against their chosen communication ally with the Board. The choice of deaf or hard-of-hearing consumers to utilize a communication ally shall not preclude hearing consumers from hiring licensed, professional interpreters to facilitate communication thereby ensuring equal access between those who are deaf or hard-of-hearing and those who are hearing. Communication allies shall not be utilized in lieu of existing statutory requirements as mandated by Sections 2407 through 2415 of Title 63 of the Oklahoma Statutes, the Oklahoma Legal Interpreter for the Deaf and Hard-of-Hearing Act, and Sections 13-115 through 13-115.4 of Title 70 of the Oklahoma Statutes, the Oklahoma Educational Interpreter for the Deaf Act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3314 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board shall have the authority to impose the following sanctions:

1. Revocation of licensure or permit;

2. Suspension of licensure or permit;

3. Probation of licensure or permit;

4. Refusal to renew a license or permit;

5. Injunctions and other civil court actions;

6. Reprimand, censure, agreement to voluntary stipulation of facts and imposition of terms of disciplinary action;

7. Administrative citation and administrative penalties;

8. Prosecution through the office of the district attorney; and

9. Any other action that the nature of the violation requires.

B. 1. Upon a determination that a violation has been committed, the Board shall have the authority to impose upon the violator, the payment of costs expended by the Board in investigating and prosecuting the cause, to include but not be limited to staff time, salary and travel expenses, witness fees and attorney fees and the same shall be considered part of the order of the Board.

2. The Board shall make a report of action to any association, organization or entity deemed appropriate for transmittal of the public record but shall in no cause be held liable for the content of the reported action or be made a party to action taken as a result of the sanction imposed by the Board.

C. The Board may require an applicant for licensure or a licensee to be examined on the applicant’s or holder’s knowledge and skills should the Board find, after due process, that there is probable cause to believe the licensee or provisional permit holder or applicant may be deficient in such knowledge and skills.

D. The Board may take disciplinary action or other sanctions upon clear and convincing evidence of unprofessional or dishonorable conduct which shall include, but not be limited to:

1. Fraud or misrepresentation in applying for or procuring a license or provisional permit to practice interpreting in any federal, state or local jurisdiction;

2. Cheating on or attempting to cheat on or subvert in any manner whatsoever the licensing examination or any portion thereof;

3. The conviction of or entry of a guilty plea or plea of nolo contendere involving a felony in this or any other jurisdiction, whether or not related to the practice of interpreting;

4. Conduct likely to deceive, defraud, or harm the public;

5. The making of a false or misleading statement regarding one's status of licensure or certification;

6. Negligence in the practice of interpreting;

7. Failure to notify the Board of current address of practice;

8. Aiding or abetting the practice of interpreting by an unlicensed or impaired person;

9. Use or abuse of alcohol or of a habit-forming drug or chemical which impairs the ability of the licensee while engaged in the practice of interpreting;

10. Obtaining a fee by fraud or misrepresentation;

11. Failure to report to the Board any felonious conviction by another jurisdictional body, by any peer review body, licensing or disciplinary jurisdiction;

12. Failure to report to the Board any felonious conviction by any law enforcement agency or court for acts or conduct whether or not related to the practice of interpreting;

13. Failure to report to the Board surrender of a license or other certificate of authorization to perform functions based on the holding of a license to practice interpreting or surrender of membership in any organization or association related to interpreting while under investigation by that association or organization for conduct similar to or the same as acts which would constitute grounds for action as defined in the Oklahoma Licensed Interpreter Act;

14. Failure to furnish the Board, its staff or agents, information legally requested or failure to cooperate with a lawful investigation conducted by or on behalf of the Board;

15. Failure to pay appropriately assessed fees or failure to make any personal appearance required by the Board or any of its officers; or

16. Violation of any provisions of the Oklahoma Licensed Interpreter Act or the rules and policies of the Board or of an action, stipulation or agreement of the Board.

E. 1. The Board may commence any legal action to enforce the provisions of the Oklahoma Licensed Interpreter Act and may exercise full discretion and authority with respect to enforcement actions. Administrative sanctions taken by the Board shall be made in accordance with Article II of the Administrative Procedures Act, the Oklahoma Licensed Interpreter Act, and other applicable laws of this state. The Board shall take appropriate enforcement action when required, assuring fairness and due process to the defendant.

2. The Board or its designee may hold informal conferences to negotiate a settlement of a dispute, provided that the conference is agreed to in writing by all parties and said conference does not preclude a hearing on the same matters. The Board shall not consider the agreement binding should a hearing be held subsequent to the agreement.

F. The Board may summarily suspend a license prior to a formal hearing when it has found upon clear and convincing evidence that such action is required to protect the public health or welfare or when a person under the jurisdiction of the Board is convicted of a felony, whether or not related to the practice of interpreting; provided such action is taken simultaneously with proceedings for setting a formal hearing to be held within thirty (30) calendar days after the summary suspension.

G. 1. The Board may issue an order to any licensee or permit holder, obtain an injunction or take other administrative, civil or

criminal court action against any person or any corporation or association, its officers, or directors, to restrain said persons from violating the provisions of the Oklahoma Licensed Interpreter Act.

2. Violations of an injunction shall be punishable as contempt of court. No proof of actual damage to any person shall be required for issuance of an order or an injunction, nor shall an injunction relieve those enjoined from administrative, civil or criminal prosecution for violation of the Oklahoma Licensed Interpreter Act.

H. 1. The Board may suspend, revoke or refuse to renew the license or permit of any person holding a license or permit to practice interpreting in this state or place such person on probation for unprofessional conduct, but no such suspension or revocation or refusal to renew, or probation shall be made, unless otherwise provided for herein, until such person be cited to appear for hearing. No such citation shall be issued except upon a sworn complaint filed with the president or secretary-treasurer of said Board charging the licensee or permit holder with having been guilty of unprofessional conduct and setting forth the particular act or acts alleged to constitute such unprofessional conduct.

2. In the event it comes to the attention of the Board that a violation of the rules of professional conduct may have occurred, even though a formal complaint or charge may not have been filed, the Board may conduct an investigation of such possible violation,

and may, upon its own motion, institute a formal complaint. In the course of such investigation, persons appearing before the Board may be required to testify under oath.

I. 1. Upon the filing of a complaint, either by an individual or the Board, the citation shall be issued by the president or secretary-treasurer of the Board over such officer's signature and seal of the Board, setting forth the particulars of the complaint, and giving due notice of the time and place of the hearing by the Board. The citation shall be made returnable at the next meeting of the Board at which hearing is set and shall be no less than thirty (30) days after issuance of the citation.

2. The accused shall file a written answer under oath with notice of intent to appear or be represented within twenty (20) days after the service of the citation. Failure to respond to the citation within the prescribed time shall constitute default.

3. The license or permit of the accused shall be suspended, revoked or not renewed if the charges are found, by clear and convincing evidence, sufficient by the Board; provided, the president or secretary-treasurer of the Board may extend the time of answer upon satisfactory showing that the defendant is for reasonable cause, unable to answer within the prescribed twenty (20) business days, but in no case shall the time be extended beyond the date of the next scheduled meeting for hearing the complaint, unless continuance thereof be granted by the Board.

4. All citations and subpoenas under the contemplation of the Oklahoma Licensed Interpreter Act shall be served in general accordance with the statutes of this state applying to the service of such documents. All provisions of the statutes of this state relating to citations and subpoenas are hereby made applicable to the citations and subpoenas herein provided. All the provisions of the statutes of this state governing the taking of testimony by depositions are made applicable to the taking of depositions pursuant to the Oklahoma Licensed Interpreter Act.

J. The Director, secretary-treasurer, designee, or prosecuting attorney for the Board, during the course of any lawful investigation, may order or subpoena the attendance of witnesses, the inspection of records, the production of relevant records, books, memoranda, documents, or other papers or things for the investigation of matters that may come before the Board.

K. 1. The attendance of witnesses may be compelled in such hearings by subpoenas issued by the president or secretary-treasurer of the Board over the seal thereof, and the president or secretary-treasurer shall in no case refuse to issue subpoenas upon praecipe filed therefore accompanied by the fee set by the Board by rule for the issuance of such subpoenas.

2. If any person refuses to obey a subpoena properly served upon such person, the fact of such refusal shall be certified by the secretary-treasurer of the Board over the seal thereof to the

district attorney of the county in which such service was had, and the court shall proceed to hear said matter in accordance with the statutes of this state then in force governing contempt as for disobedience of its own process.

L. 1. The State of Oklahoma is a proper and necessary party in the prosecution of all such actions and hearings before the Board in all matters pertaining to unprofessional conduct and disciplinary action. The Attorney General of the state, in person or by deputy, is authorized to appear in behalf thereof. The defendant in any such actions shall have the right to be represented by counsel.

2. The Board is empowered to enter into agreement with or employ one or more attorneys to conduct the business of the Board in the absence of representation by the Attorney General or designee or in conjunction with representation by the Attorney General or designee.

3. The Board shall sit as a trial body and the rulings of the Board shall be by majority vote. Appeal to the rulings thereof shall be by petition to the district court of the district in which the hearing was held. The secretary-treasurer of the Board shall cause a record of all proceedings to be made and a transcript of the proceedings or any part thereof may be obtained by payment of actual cost of taking and preparation of transcript of such proceedings or part thereof.

M. All final disciplinary actions, license or permit denials, related findings of fact and conclusions of law are matters of public record. Voluntary surrender of and voluntary limitations on the interpreter's practice or license or permit shall be public record.

N. The Board shall consider violation of any of the Rules of Professional Conduct a violation of Section 14 of the Oklahoma Licensed Interpreter Act on unprofessional conduct and shall proceed with disciplinary action as set out in the Oklahoma Licensed Interpreter Act.

O. 1. In addition to other penalties prescribed by the Oklahoma Licensed Interpreter Act, any person who the Board has determined by clear and convincing evidence to have violated any provisions of the Oklahoma Licensed Interpreter Act, or any rule, or order issued pursuant thereto shall be liable for an administrative penalty of not more than Five Thousand Dollars ($5,000.00) for each day that the violation continues.

2. The amount of the penalty shall be assessed by the Board pursuant to the provisions of paragraph 1 of this subsection, after notice and hearing. In determining the amount of the penalty, the Board shall, by clear and convincing evidence, include but not be limited to, consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on

ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Oklahoma Licensed Interpreter Act.

3. All penalties collected pursuant to the provisions of this subsection shall be deposited in the Oklahoma Licensed Interpreters for the Deaf and Hard-of-Hearing Fund.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3315 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Impairment is defined as the inability of a person to practice interpreting with reasonable skill and safety by reason of:

1. Mental illness as diagnosed by a qualified mental health professional and a licensed physician specializing in the area of mental health; or

2. Use of drugs or chemicals defined in law as controlled substances or habit-forming substances to include, but not be limited to, alcohol or other substances that impair the ability of the licensee while engaged in the practice of interpreting.

B. Upon findings by the Board, after evaluation and hearing, that the licensee or provisional permit holder is impaired, the Board may take one of the following actions or any other action deemed appropriate to the circumstances by the Board:

1. Direct the person to submit to care, counseling or treatment acceptable to the Board;

2. Suspend, limit or restrict the license to practice for the duration of the impairment; or

3. Revoke or refuse to renew the license or permit.

C. Any person who is prohibited from practicing pursuant to the provisions of this section shall be afforded at reasonable intervals the opportunity to present evidence or material not before seen by the Board to demonstrate to the satisfaction of the Board that such person can resume or begin the practice of interpreting with reasonable skill and safety; provided, that all fees have been paid and all requirements for licensure, reinstatement or other form of authorization to practice have been satisfactorily completed.

D. 1. The Board may establish rules for the approval of medically directed, nonprofit, voluntary treatment programs for impaired licensees and to set standards for the treatment of licensees.

2. The Board may exempt from reporting those who are participating voluntarily in a Board-approved treatment program. Participation in an approved treatment program does not protect an impaired interpreter from Board action resulting from a report from another source of violation of the Oklahoma Licensed Interpreter Act, whether related to the impairment or not.

3. Programs for the treatment of impaired professionals approved by this Board shall be reviewed annually or more frequently at the Board's discretion.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3316 of Title 59, unless there is created a duplication in numbering, reads as follows:

No person or entity which, in good faith, reports or provides information or investigates any person as authorized by the Oklahoma Licensed Interpreter Act, shall be liable in a civil action for damages or relief arising from the reporting, providing of information or investigation except upon clear and convincing evidence that the report of information was completely false, or that the investigation was based on false information, and that the falsity was actually known to the person or entity making the report, providing the information or conducting the investigation at the time thereof.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3317 of Title 59, unless there is created a duplication in numbering, reads as follows:

Any person who in good faith renders or attempts to render interpreting services for a consumer or consumers at the scene of an accident, disaster, emergency care, or treatment to a human victim thereof, shall not be liable for practicing without a license.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3318 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. If, upon completion of an investigation, the Director of the Board has probable cause to believe that a licensed interpreter or any other person has violated provisions of the Oklahoma Licensed Interpreter Act or rules promulgated thereto, the Director may issue a field citation to the licensed interpreter or other person, as provided in this section. Each field citation shall be in writing and shall describe with particularity the nature of the violation, including but not limited to a reference to the provision of the Oklahoma Licensed Interpreter Act alleged to have been violated.

2. In addition, each field citation may contain an order of abatement fixing a reasonable time for abatement of the violation, and may contain an assessment of an administrative penalty not to exceed Five Hundred Dollars ($500.00) for a first offense and not to exceed Five Thousand Dollars ($5,000.00) for a second or each subsequent offense. Each day such violation continues shall constitute a separate offense.

3. The field citation shall be served upon the licensed interpreter or other person personally or by any certified mail, return receipt requested.

B. Before any field citation shall be issued to a licensed interpreter or any other person, the Director shall have submitted the alleged violation for the review and examination to a probable cause committee, comprised of the Board's attorney, an investigator, and an interpreter licensed in the State of Oklahoma. The probable

cause committee, during its review, may contact the licensed interpreter or other person to discuss and resolve the alleged violation. Upon conclusion of the probable cause committee's review, the committee shall prepare findings of fact and a recommendation. If the committee concludes that probable cause exists that the interpreter has violated any provisions of the Oklahoma Licensed Interpreter Act or rules promulgated thereto, an administrative penalty shall be assessed upon the licensed interpreter or other person.

C. 1. If a licensed interpreter or other person who has been determined by the Board or agent thereof to have violated any provision of the Oklahoma Licensed Interpreter Act or rules promulgated or issued pursuant thereto desires to contest a field citation or the proposed assessment of an administrative penalty therefore, the licensed interpreter or other person shall, within ten (10) business days after service of the field citation, notify the Director in writing, requesting an informal conference with the probable cause committee.

2. The probable cause committee shall hold, within sixty (60) days from the receipt of the written request, an informal conference. After the conclusion of the informal conference, and based on recommendations thereof, the Director may affirm, modify or dismiss the field citation or proposed assessment of an administrative penalty, and the Director shall state with

particularity in writing, the reasons for the action and shall immediately transmit a copy thereof to the licensed interpreter or other person and the person who submitted the complaint.

D. 1. If the interpreter or person desires to contest administratively a decision made after the informal conference, the licensed interpreter or other person shall inform the Director in writing within thirty (30) calendar days after such person receives the decision resulting from the informal conference.

2. If the licensed interpreter or other person fails to request an informal conference within the time specified in this section, the field citation, the proposed assessment of the administrative penalty, or the decision made after an informal conference shall be deemed a final order of the Board and shall not be subject to further administrative reviews.

E. If a fine is paid to satisfy an assessment based on the findings of a violation, payment of the fine shall be represented as a satisfactory resolution of the matter for the purpose of public disclosure.

F. An interpreter or other person, in lieu of contesting a field citation pursuant to this section, may transmit to the Board the amount assessed in the citation as an administrative penalty, within thirty (30) days after service of the field citation. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged.

G. 1. If an interpreter or other person has notified the Director within ten (10) business days of the issuance of the assessment or field citation that such interpreter or other person intends to contest the decision made after the informal conference, the Board shall hold a hearing to be held in accordance with the Administrative Procedures Act and adjudicating such matters for judgment only upon clear and convincing evidence as required by the Oklahoma Licensed Interpreter Act with the Board having all of the powers granted therein.

2. After the hearing, the Board shall issue a decision based on findings of the fact, affirming, modifying or vacating the citation, or directing other appropriate relief which shall include, but need not be limited to, a notice that the failure of the interpreter or other person to comply with any provision of the Board's decision may subject such interpreter or person to the imposition of the sanctions authorized by the Oklahoma Licensed Interpreter Act.

H. After the exhaustion of the review procedures provided for in this section, the Board may bring an action for judicial review and administrative penalty and obtain an order compelling the cited person to comply with any order issued pursuant to this section.

I. Failure of a licensee to pay a fine within thirty (30) days of the date of assessment, unless the field citation is being appealed, may result in action being taken by the Board. When a citation is not contested and a fine is not paid, the full amount of

the assessed fine shall be added to the fee for the renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

J. The Board shall promulgate rules covering the issuance of field citations, the assessment of administrative penalties and other duties specified by this section pursuant to this section which give due consideration to the appropriateness of the penalty with respect to the following factors:

1. The gravity of the violation;

2. The good faith of the person being charged; and

3. The history of previous violations.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3319 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma Licensed Interpreters for the Deaf and Hard-of-Hearing Fund" which shall consist of all monies received by the Oklahoma Board of Licensed Interpreters for the Deaf and Hard-of-Hearing as provided by statute. The fund shall be a continuing fund not subject to fiscal year limitations. Monies accruing to the credit of the fund are hereby appropriated and may be expended by the Board for carrying out the provisions of the Oklahoma Licensed Interpreter Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims

submitted by the Board to the Director of State Finance for audit and payment.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3320 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board and its employees, independent contractors, appointed committee members, or other agents shall keep confidential, all information obtained:

1. During an investigation of citizen complaints into allegations of violations of the Oklahoma Licensed Interpreter Act, including:

a. any review or investigation made to determine whether to allow an applicant to take an examination, or

b. whether the Board shall grant a license, or provisional license; and

2. In the course of conducting an investigation, including:

a. investigative reports provided to the Board by a registrant, and

b. examinations and test scores.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3321 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board is hereby authorized to promulgate, adopt, amend, and repeal rules consistent with the provisions of the Oklahoma Licensed

Interpreter Act for the purpose of governing the establishment and levying of administrative fines and the examination and licensure of interpreters.

SECTION 22. This act shall become effective November 1, 2009.

Passed the House of Representatives the 3rd day of March, 2009.

_____
Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2009.

_____
Presiding Officer of the Senate