

**PROPOSED REGULATION OF THE AGING AND DISABILITY  
SERVICES DIVISION OF THE DEPARTMENT OF  
HEALTH AND HUMAN SERVICES**

**LCB File No. R151-09**

November 4, 2009

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-11, NRS 656A.082 and 656A.084.

A REGULATION relating to interpreters and Communication Access Realtime Translation providers; revising the requirements for engaging in practice as an interpreter and Communication Access Realtime Translation provider; revising the provisions governing disciplinary actions against interpreters and providers; and providing other matters properly relating thereto.

**Section 1.** Chapter 656A of NAC is hereby amended by adding thereto a new section to read as follows:

*“Division” means the Aging and Disability Services Division of the Department of Health and Human Services.*

**Sec. 2.** Section 40 of LCB File No. R210-08 is hereby amended to read as follows:

Sec. 40. 1. Except as otherwise provided in subsection 2 and NRS 656A.070, any person who provides interpreting, Communication Access Realtime Translation or realtime captioning services in this State shall:

(a) Register with the ~~[Office of Disability Services]~~ *Division* on a form provided by the ~~[Office]~~ *Division* pursuant to NRS 656A.100 or 656A.400, as appropriate;

(b) Provide proof of compliance with the requirements for each professional classification set forth in sections 41 to 49, inclusive, of this regulation, pursuant to which the applicant will be engaged;

(c) Operate only within the professional classifications for which he is registered;

(d) Comply with the provisions of this chapter and chapter 656A of NRS; and

(e) Comply with the code of ethics of the appropriate certifying body.

2. The provisions of this section may be temporarily waived by the ~~Office of Disability Services~~ *Division* when an emergency has been declared by a governmental entity ~~or~~ *or for good cause, including, without limitation, when the person has been assessed and is waiting to take the required examination or waiting for the results of such an examination.*

**Sec. 3.** Section 42 of LCB File No. R210-08 is hereby amended to read as follows:

Sec. 42. 1. To apply for and maintain registration as an interpreter in a community setting as an apprentice level interpreter, a person must:

(a) Have at least a high school diploma or a general equivalency diploma.

(b) Hold in good standing:


(1) Level 2 certification from the National Association of the Deaf;

(2) Level II certification from the American Consortium of Certified Interpreters; or

(3) A score of 3.5 to 3.9 on the Educational Interpreter Performance Assessment.

(c) Be a person who is deaf or hard of hearing in the process of becoming a certified deaf interpreter through the Registry of Interpreters for the Deaf or have successfully completed an accredited interpreter preparation program.

(d) Participate in the Associate Continuing Education Tracking program, with at least 75 contact hours of continuing education every 3 years.

(e) Participate in a plan of mentoring , *with at least 20 hours of mentoring every 3 years*, with a mentor who is certified with the Registry of Interpreters for the Deaf  *or with a mentor approved by the Division*. The plan of mentoring must be signed by the apprentice level interpreter and his mentor. *Any hours of mentoring which exceed the 20 hours of mentoring pursuant to this paragraph may be applied toward hours of continuing education.*

2. An apprentice level interpreter shall not engage in the practice of interpreting in a medical or legal setting.

3. An apprentice level interpreter shall only accept assignments:

(a) In which the apprentice is teamed with or accompanied by a certified interpreter at the skilled level or above; and

(b) With due caution and care commensurate with his skills and experience.

**Sec. 4.** Section 43 of LCB File No. R210-08 is hereby amended to read as follows:

Sec. 43. 1. To apply for and maintain registration as an interpreter in a community setting as a skilled interpreter, a person must:

(a) Have at least a high school diploma or a general equivalency diploma.

(b) Hold in good standing:

(1) One of the following certifications from the Registry of Interpreters for the Deaf:

(I) National Interpreter certification;

(II) Certification of Interpretation; or

(III) Certification of Transliteration; or

- (2) Level III certification from the National Association of the Deaf;
- (3) Level III certification from the American Consortium of Certified Interpreters;

or

(4) *A score of 4.0 to 4.7 on the* Educational Interpreter Performance Assessment ~~between levels 4.0-4.7]~~ and ~~[be a certified educational interpreter with]~~ *an Educational Certificate: K-12, issued by* the Registry of Interpreters for the Deaf.

2. A skilled interpreter shall accept each assignment in a:

(a) Legal setting with due caution and care commensurate with his skills and experience. A skilled interpreter who does not hold supplemental certification to engage in the practice of interpreting in a legal setting may be used only in situations involving misdemeanors and is subject to voir dire by the court.

(b) Medical setting with due caution and care commensurate with his skills and experience.

(c) Postsecondary educational institution, as defined in NRS 394.099, with due caution and care commensurate with his skills and experience.

**Sec. 5.** Section 47 of LCB File No. R210-08 is hereby amended to read as follows:

Sec. 47. 1. To apply for and maintain registration as an interpreter in an educational setting as an apprentice level interpreter, a person must:

(a) Have at least a high school diploma or a general equivalency diploma.

(b) Hold in good standing a score of 3.0 on the Educational Interpreter Performance Assessment.

(c) Participate in a plan of mentoring , *with at least 20 hours of mentoring every 3 years*, with a mentor who is registered at an advanced level pursuant to section 49 of this

regulation ~~§~~ *or with a mentor approved by the Division.* If the mentor does not reside in this State, he is not required to be registered pursuant to this chapter and chapter 656A of NRS, but he must possess the appropriate certification status as an intermediate interpreter pursuant to section 48 of this regulation or an advanced interpreter pursuant to section 49 of this regulation. The plan of mentoring shall be signed by the apprentice level interpreter and the mentor. *Any hours of mentoring which exceed the 20 hours of mentoring pursuant to this paragraph may be applied toward hours of continuing education.*

(d) Have a professional development plan, prepared on a form provided by his local school district and approved in writing by his supervisor, which includes specific goals for professional development as an interpreter and includes 75 contact hours of continuing education every 3 years.

2. An apprentice level interpreter is not qualified to engage in the practice of interpreting in a community setting without holding the appropriate professional certification as set forth in sections 42 to 45, inclusive, of this regulation.

3. Except as otherwise provided in this subsection, an apprentice level interpreter may only engage in the practice of interpreting in the grade levels for which he is assessed. An apprentice level interpreter may engage in the practice of interpreting in a grade level for which he is not assessed if:

(a) He is acting as a substitute interpreter, but he may not do so for more than 10 consecutive working days.

(b) An interpreter is required pursuant to a pupil's individualized education program, as defined in NRS 388.524, and if the school has documentation showing that a reasonable attempt to find interpreting services for the pupil was made.

4. Except as otherwise provided in this subsection, an apprentice level interpreter may only engage in the practice of interpreting in a modality for which he is assessed. An apprentice level interpreter may engage in the practice of interpreting in a modality for which he is not assessed if:

(a) He is acting as a substitute interpreter, but he may not do so for more than 5 consecutive working days.

(b) An interpreter is required pursuant to a pupil's individualized education program, as defined in NRS 388.524, and if the school has documentation showing that a reasonable attempt to find interpreting services for the pupil was made.

**Sec. 6.** Section 48 of LCB File No. R210-08 is hereby amended to read as follows:

Sec. 48. 1. To apply for and maintain registration as an interpreter in an educational setting as an intermediate interpreter, a person must:

(a) Have at least a high school diploma or a general equivalency diploma.

(b) Hold in good standing a score of 3.1 to 3.9 on the Educational Interpreter Performance Assessment.

(c) Participate in a plan of mentoring , *with at least 20 hours of mentoring every 3 years*, with a mentor who is registered as an advanced interpreter pursuant to section 49 of this regulation ~~or~~ *or with a mentor approved by the Division*. If the mentor does not reside in this State, he is not required to be registered pursuant to this chapter and chapter 656A of NRS, but he must possess the appropriate certification status as an advanced interpreter pursuant to section 49 of this regulation. The plan of mentoring shall be signed by the apprentice level interpreter and the mentor. *Any hours of mentoring which exceed the 20*

*hours of mentoring pursuant to this paragraph may be applied toward hours of continuing education.*

(d) Have a professional development plan, prepared on a form provided by his local school district and approved in writing by his supervisor, which includes specific goals for professional development as an interpreter and includes 75 contact hours of continuing education every 3 years.

2. An intermediate interpreter is not qualified to engage in the practice of interpreting in a community setting without holding the appropriate professional certification as set forth in sections 42 to 45, inclusive, of this regulation.

3. Except as otherwise provided in this subsection, an apprentice level interpreter may only engage in the practice of interpreting in the grade levels for which he is assessed. An apprentice level interpreter may engage in the practice of interpreting in a grade level for which he is not assessed if:

(a) He is acting as a substitute interpreter, but he may not do so for more than 10 consecutive working days.

(b) An interpreter is required pursuant to a pupil's individualized education program, as defined in NRS 388.524, and if the school has documentation showing that a reasonable attempt to find interpreting services for the pupil was made.

4. Except as otherwise provided in this subsection, an apprentice level interpreter may only engage in the practice of interpreting in a modality for which he is assessed. An apprentice level interpreter may engage in the practice of interpreting in a modality for which he is not assessed if:

(a) He is acting as a substitute interpreter, but he may not do so for more than 5 consecutive working days.

(b) An interpreter is required pursuant to a pupil's individualized education program, as defined in NRS 388.524, and if the school has documentation showing that a reasonable attempt to find interpreting services for the pupil was made.

**Sec. 7.** Section 49 of LCB File No. R210-08 is hereby amended to read as follows:

Sec. 49. 1. To apply for and maintain registration as an interpreter in an educational setting as an advanced interpreter, a person must have at least a high school diploma or a general equivalency diploma and:

(a) Hold in good standing a score of 4 or more on the Educational Interpreter Performance Assessment; ~~or~~

(b) Be registered as a skilled interpreter or an advanced interpreter in a community setting pursuant to section 43 or 44 of this regulation, as applicable, apply with the Registry of Interpreters for the Deaf to receive an Educational Certificate: K-12, and participate in the Certification Maintenance Program ~~or~~; *or*

*(c) Meet the certification requirements for community interpreters as set forth in section 43, 44 or 45 of this regulation.*

2. An advanced interpreter must have a professional development plan, prepared on a form provided by his local school district and approved in writing by his supervisor, which includes specific goals for professional development as an interpreter.

3. An advanced interpreter may engage in the practice of interpreting in any grade level.

4. An advanced interpreter may only engage in the practice of interpreting:



(a) In a modality for which he is assessed, if he is only assessed by the Educational Interpreter Performance Assessment.

(b) Except as otherwise provided in this paragraph, in a modality for which he is certified. An advanced interpreter may engage in the practice of interpreting in a modality for which he is not certified if he is acting as a substitute interpreter, but he may not do so for more than 5 consecutive working days.

**Sec. 8.** Section 50 of LCB File No. R210-08 is hereby amended to read as follows:

Sec. 50. 1. ~~Registration with the Office of Disability Services as an interpreter or Communication Access Realtime Translation provider must be renewed annually on a form prescribed by the Office of Disability Services.~~ An interpreter and Communication Access Realtime Translation provider ~~is required to~~ *shall* inform the ~~Office~~ *Division* of any changes in contact information or *in assessment or* certification status. The ~~Office~~ *Division* may revoke the registration of an interpreter or Communication Access Realtime Translation provider whose certification is revoked by his certifying body.

2. An interpreter or Communication Access Realtime Translation provider may, within 2 years after revocation of his registration pursuant to this section, request that the ~~Office~~ *Division* restore the registration.

**Sec. 9.** Section 52 of LCB File No. R210-08 is hereby amended to read as follows:

Sec. 52. 1. If the ~~Office of Disability Services~~ *Division* or a recipient of services from an interpreter or Communication Access Realtime Translation provider, who is party to and aware of any act or circumstance that constitutes grounds for disciplinary action against an interpreter or Communication Access Realtime Translation provider, desires to pursue disciplinary action against that interpreter or Communication Access Realtime

Translation provider, the person must file a complaint with the **[Office] Division** specifying the charge against the interpreter or Communication Access Realtime Translation provider. A complaint may not be accepted from a recipient of interpreting or Communication Access Realtime Translation services who knowingly and willingly used an unregistered interpreter or Communication Access Realtime Translation provider.

2. Unless the **[Office] Division** determines that a complaint is without merit, the **[Office] Division** will:

(a) Direct the complaint to his certifying body;

(b) Assign an investigative committee to determine whether a charge against an interpreter or Communication Access Realtime Translation provider justifies disciplinary action. The investigative committee will be composed of not less than three members of the Communication Access Council or its designees, at least one of whom is an interpreter or Communication Access Realtime Translation provider; ~~or~~

(c) Utilize the services of a mediator certified by the Registry of Interpreters for the Deaf to resolve complaints between parties ~~H~~; *or*

*(d) Intervene on behalf of the complainant and the interpreter or Communication Access Realtime Translation provider.*

3. Before assigning the complaint to an investigative committee, the **[Office] Division** must provide the interpreter or Communication Access Realtime Translation provider, as applicable, with a copy of the complaint. If the **[Office] Division** determines that a complaint is without merit, the **[Office] Division** may provide the interpreter or Communication Access Realtime Translation provider with a copy of the complaint, including the name of the person who filed the complaint.

4. Following an investigation, the investigative committee will present its evaluation and recommendations to the ~~{Office}~~ *Division*. The ~~{Office}~~ *Division* will review the findings of the committee to determine whether to take further action against the interpreter or Communication Access Realtime Translation provider.

5. If the ~~{Office}~~ *Division* determines after investigation that an interpreter or Communication Access Realtime Translation provider has violated the provisions of this chapter or chapter 656A of NRS, and there is no certifying body to report to, the ~~{Office}~~ *Division* will notify the Attorney General of its findings and any disciplinary action taken.

6. A member of the ~~{Office}~~ *Division* who participates in an investigation will not participate in the review conducted or in a subsequent hearing or action which is related to the investigation.

**Sec. 10.** Section 53 of LCB File No. R210-08 is hereby amended to read as follows:

Sec. 53. 1. If the ~~{Office of Disability Services}~~ *Division* proceeds with disciplinary action against an interpreter or Communication Access Realtime Translation provider, it will set a time and place for a disciplinary hearing. The ~~{Office}~~ *Division* will notify the interpreter or Communication Access Realtime Translation provider of:

(a) The specific complaint against the interpreter or Communication Access Realtime Translation provider;

(b) The time and place set for the disciplinary hearing; ~~and~~

(c) *The date set for resolution of the complaint; and*

(d) The sanctions which the ~~{Office}~~ *Division* may impose for the conduct in which the interpreter or Communication Access Realtime Translation provider allegedly engaged.

2. The ~~{Office}~~ *Division* will serve the notice not less than 20 days before the date set for the disciplinary hearing, and will serve notice in the manner set forth in section 54 of this regulation.

3. During a disciplinary hearing conducted pursuant to this section:

(a) Formal rules of evidence will not be applied;

(b) Proof of actual injury need not be established; and

(c) The ~~{Office}~~ *Division* will consider a certified copy of the record of a court or a certifying body showing a conviction, plea of nolo contendere, or the suspension, revocation, limitation, modification, denial or surrender of certification to practice as an interpreter or Communication Access Realtime Translation provider as conclusive evidence of its occurrence.

**Sec. 11.** Section 27 of LCB File No. R210-08 is hereby repealed.