

Form #3

2011 JUL 29 AM 9:21

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TITLE OF RULE BEING PROPOSED:_____

M.J. Lewis (DL)
Authorized Signature

FISCAL NOTE FOR PROPOSED RULES

Rule Title: **Establishment of Required Qualifications and Ethical Standards for Interpreters and Translators**

Type of Rule: X Legislative Interpretive Procedural

Agency: **Health and Human Resources**

Address: **WVCDHH**
Capitol Complex Building 6, Room 863
Charleston, WV 25305

Phone Number: **304-558-1031** Email: **Marissa.M.Johnson@wv.gov**

Fiscal Note Summary

Summarize in a clear and concise manner what effect this measure will have on costs and revenues of state government.

No fiscal impact.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

Effect of Proposal	Fiscal Year		
	2011 Increase/Decrease (use "-")	2012 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Equipment	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

Memorandum

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The proposed change alters the length of time for which a registration is issued from "not to exceed two years" to "not to exceed three years." This change will have no fiscal impact.

Date

Agency

Authorized Representative

110729

Department of Health and Human Resources

M.J. Lewis (IDL)

Michael J. Lewis, M.D., Ph.D.

Cabinet Secretary

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 29, 2011

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Commission for the Deaf and Hard of Hearing
Marissa Sanders, Executive Director
1900 Kanawha Blvd. E
Building 6, Room 863
Charleston, WV 25305
304-558-1031

LEGISLATIVE RULE TITLE: ESTABLISHMENT OF REQUIRED QUALIFICATIONS
AND ETHICAL STANDARDS FOR INTERPRETERS AND
TRANSLITERATORS (192-03)

1. Authorizing statute(s) citation WV Code §5-14-5

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 30, 2011

b. What other notice, including advertising, did you give of the hearing?
Email notification, announcements at public events.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
Public Comment Period Ended July 29, 2011

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 29, 2011

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Marissa Sanders

Executive Director

1900 Kanawha Blvd. E

Building 6, Room 863

Charleston, WV 25305

Phone: 304-558-1031

FAX: 304-558-0937

Email: Marissa.M.Johnson@wv.gov

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached No changes in language to rule.

**TITLE 192
LEGISLATIVE RULE
WEST VIRGINIA COMMISSION
FOR THE DEAF AND HARD OF HEARING**

**SERIES 3
ESTABLISHMENT OF REQUIRED QUALIFICATIONS
AND ETHICAL STANDARDS FOR INTERPRETERS AND TRANSLITERATORS**

Brief Summary of Proposed Changes

This proposed change to this rule alters the period for which a registration is issued from "not to exceed two years" (3.7.d) to "not to exceed three years" in order to align with the testing validation period.

**TITLE 192
LEGISLATIVE RULE
WEST VIRGINIA COMMISSION
FOR THE DEAF AND HARD OF HEARING**

**SERIES 3
ESTABLISHMENT OF REQUIRED QUALIFICATIONS
AND ETHICAL STANDARDS FOR INTERPRETERS AND TRANSLITERATORS**

Statement of Circumstances Which Require This Rule

The West Virginia Commission for the Deaf and Hard of Hearing (WVCDHH) has elected to adopt the Virginia Quality Assurance Screening (VQAS) as the minimum qualification for West Virginia interpreters and transliterators. In adopting the VQAS, all interpreters will be required to retest every three years to ensure that qualifications remain valid. However, the legislative rule requires that registrations be issued for a period "not to exceed two years" (3.7.d). The conflict in time frames will cause confusion for interpreters and may result in interpreters having to register every year rather than every two years. WVCDHH proposes to change the period of time for which registrations are issued to "not to exceed three years" to match the three-year validity of the qualification test.

**TITLE 192
LEGISLATIVE RULE
WEST VIRGINIA COMMISSION
FOR THE DEAF AND HARD OF HEARING**

2011 JUL 29 AM 9:21
STATE OF W. VA.

**SERIES 3
ESTABLISHMENT OF REQUIRED QUALIFICATIONS
AND ETHICAL STANDARDS FOR INTERPRETERS AND TRANSLITERATORS**

§192-3-1. General.

1.1. Scope. -- This rule is intended to ensure that the West Virginia commission for the deaf and hard of hearing shall establish, maintain and coordinate a statewide service to provide courts, legislative bodies, state and local government entities and others with a list of qualified and certified interpreters and transliterators for the deaf and a list of qualified and certified teachers of American Sign Language. Furthermore, the commission shall establish required qualifications and ethical standards for interpreters and transliterators, a mechanism for approval of interpreters and transliterators, the monitoring and investigation of interpreters and transliterators and the suspension and revocation of approvals. The commission may conduct interpreter evaluations and collect and expend funds. These goals are set out in W. Va. Code §5-14-5.

1.2. Authority. -- W. Va. Code §5-14-5.

1.3. Filing Date. -- May 22, 2009.

1.4. Effective Date. -- May 29, 2009

1.5. Applicability. -- This rule applies to all persons or entities as defined in W. Va. Code §5-14-5 and to all other persons or entities engaging in the provision of interpreting and transliterating for the deaf or hard of hearing in West Virginia including but not limited to the following:

1.5.a. Certified Interpreters (CI) and Certified Translationists (CT) certified by the Registry of Interpreters for the Deaf (RID);

1.5.b. Certified Deaf Interpreters (CDI) certified by Registry of Interpreters for the Deaf (RID);

1.5.c. Certified Interpreters level III, IV, and V certified by the National Association of the Deaf (NAD);

1.5.d. Certified interpreters certified by the National Council on Interpreting (NCI), levels NIC, NIC Advanced and NIC Master;

1.5.e. Qualified community interpreters and transliterators, uncertified; interpreting services can be provided only if the deaf or hard of hearing client(s) request

or approve of the services;

1.5.f. Educational interpreters working in public schools in compliance with the standards set by West Virginia Department of Education (WVDE) Board Policy 5202.

1.6. Enforcement. -- This rule is enforced by the Secretary of the West Virginia Department of Health and Human Resources through the commission for the deaf and hard of hearing.

§192-3-2. Definitions.

2.1. Certified Deaf Interpreter (CDI). -- A certification level assigned by RID to individuals who have demonstrated a minimum of one (1) year experience working as an interpreter, completion of at least eight (8) hours of training on the RID Code of Ethics, and eight (8) hours of training in general interpretation as it relates to the interpreter who is deaf or hard of hearing and has been certified by RID.

2.2. Certificate of Interpretation (CI). -- A certification level assigned by the RID to individuals who are fully certified and have demonstrated the ability to interpret between American Sign Language and spoken English in both sign-to-voice and voice-to-sign. The interpreter's ability to translate is not considered in this certification. Individuals who have a CI are recommended for a broad range of interpreting assignments.

2.3. Certificate of Transliteration (CT). ---- A certification level assigned by the RID to individuals who have demonstrated the ability to transliterate between English-based sign language and spoken English in both sign-to-voice and voice-to-sign. The transliterator's ability to interpret is not considered in this certification. Individuals who have a CT can be used for a broad range of transliteration assignments.

2.4. Certified Interpreter. -- An interpreter who is certified by RID, NAD or NCI and who maintains that certification through the RID Certification Maintenance Program.

2.5. Certification Maintenance Program (CMP). -- The vehicle through which the continued skill development of certified interpreters is monitored. Certification maintenance is a way of ensuring that interpreters maintain their skill level and keep up with developments in the interpreting field, thereby assuring consumers that a certified interpreter provides quality interpreting services. Participation in the RID certification maintenance program is required of all certified interpreters.

2.6. Commission. -- West Virginia commission for the deaf and hard of hearing.

2.7. Deaf. -- The hearing of an individual is nonfunctional for the ordinary purposes of life.

2.8. Educational Interpreter Performance Assessment (EIPA). -- A diagnostic tool which is language free and can use either American Sign Language, English or other manual sign systems. The EIPA is designed specifically for interpreters working with

children and young adults in a K-12 educational setting.

2.9. Hard of Hearing. -- Individuals who have some hearing and are sometimes able to use it for communication purposes.

2.10. Interpreter Service Directory. -- A directory of interpreters and transliterators that is published by the commission for use by the public when hiring interpreters and transliterators. Inclusion in the directory is voluntary.

2.11. Interpreting. -- The process of conveying English into grammatically-correct American Sign Language and the process of conveying American Sign Language into English.

2.12. National Association of the Deaf (NAD). -- This national organization certified interpreters until November 2002. The NCI was jointly formed by RID and NAD to certify interpreters.

2.13. NAD Level III Interpreter (Generalist). -- The NAD certification level for a generalist interpreter. This certification is maintained with RID. The test is no longer offered.

2.14. NAD Level IV Interpreter (Advanced). -- The NAD certification level for an advanced interpreter who excels in voice-to-sign interpretation and demonstrates little difficulty in sign-to-voice interpretation. This certification is maintained with RID. The test is no longer offered.

2.15. NAD Level V Interpreter (Master). -- The NAD certification level for a master interpreter who rarely demonstrates difficulty in any interpreting situation. This certification is maintained with RID. The test is no longer offered.

2.16. National Council on Interpreting (NCI). -- Formed by NAD and RID to develop the NIC test for certification of interpreters and transliterators. Offers certification levels NIC, NIC Advanced and NIC Master.

2.17. National Interpreter Certification (NIC). -- National Council on Interpreting (NCI) test to replace the RID CI and CT and NAD Levels III, IV and V certifications.

2.18 Non-certified/ Non-screened. -- Interpreters and Translators who are learning sign language and are not yet certified or licensed.

2.19. Oral Transliteration Certificate (OTC). -- A generalist certificate assigned by the RID to individuals with capability to demonstrate using silent oral techniques and natural gesture, the ability to transliterate a spoken message from a person who hears to a person who is deaf or hard of hearing. Also demonstrates the ability to understand and repeat the message and intent of the speech and mouth movements of the person who is deaf or hard of hearing.

2.20. Qualified Interpreters. -- An interpreter certified by NAD, RID, or NCI, or an

interpreter whose qualifications are otherwise demonstrated and accepted by the executive director as proving a level of interpretive skills suitable to the situation and the individuals using the interpretive service.

2.21. Registry of Interpreters for the Deaf (RID). -- This national organization certifies interpreters and transliterators and provides CMP services for certified interpreters and transliterators.

2.22. Registry. -- Registry of certified and qualified interpreters working in West Virginia compiled and maintained by the Commission.

2.23. Specialist Certificate: Legal (SC:L). -- A certification level assigned by the RID to individuals who have demonstrated specialized knowledge of legal settings and greater familiarity with language used in the legal system. Generalist certification and documented training and experience are prerequisites for this certificate. Holders of the SC:L can be used for a broad range of assignments in a legal setting.

2.24. Translating. -- The process of spoken English into English-based sign language and conveying English-based sign language into spoken English.

§192-3-3. Registry of interpreters working in West Virginia.

3.1. General Requirements. -- The secretary shall be responsible for maintaining a registry of all interpreters and transliterators working in West Virginia.

3.2. Registry. -- The commission shall establish a registry of all certified and qualified interpreters and transliterators working in West Virginia. All interpreters working in the public school systems, including personnel classified as an interpreter shall register.

3.3. Registry Requirements. -- All interpreters and transliterators of the deaf working in West Virginia shall register with the Commission.

3.4. Exceptions. -- The following individuals are exempt from registration:

3.4.a. An individual engaged in interpreting or transliterating at a worship service conducted by a religious entity and services for educational purposes for a religiously affiliated school;

3.4.b. An individual engaged in sign language interpreting or transliterating during an emergency, when a delay in registering might lead to injury or loss to the individual requiring the services;

3.4.c. An individual engaged in interpreting or transliterating as part of a supervised internship or practicum at an accredited college or university or RID, NAD or other organization providing supervised internships;

3.4.d. An individual who is certified by NAD, RID, or NCI from outside West

Virginia who provides interpreting or transliterating services in West Virginia for a period not to exceed ten calendar days per calendar year;

3.4.e. An individual who engages in interpreting or transliterating strictly as a volunteer without paid compensation.

3.5. Application. -- An individual may apply to the commission to be a registered sign language interpreter or transliterator. The applicant shall submit to the commission all of the following:

3.5.a. A completed application form;

3.5.b. A resume with three references;

3.5.c. Copies of all certifications held;

3.5.d. Copy of current RID membership card;

3.5.e. Copies of transcripts or certifications from an interpreter training program, if applicable.

3.6. Review. -- The commission shall review each completed application and shall issue a sign language interpreter/transliterator registration to the applicant when the commission is satisfied that all of the following criteria have been met:

3.6.a. The information provided with the application is valid;

3.6.b. The applicant possesses the general fitness, competence, and reliability, as outlined in the NAD- RID Code of Professional Conduct, sufficient to satisfy the commission that the applicant is worthy of registration. Registration may be denied to any applicant who has falsified credentials to the commission, employers or clients; failed to document qualifications; had certification suspended or revoked by NAD, RID, NIC or any other certifying authority; or failed to follow the NAD- RID Code of Professional Conduct.

3.7. Registration. -- A sign language interpreter/ transliterator registration issued by the commission shall be:

3.7.a . Issued only in the name of the applicant;

3.7.b. Issued in electronic or paper form;

3.7.c. Nontransferable;

3.7.d. Issued for a period not to exceed ~~two~~ three years.

3.8. Renewal. -- A registrant may renew a registration by submitting to the office in the information required in subsection 3.5.

3.9. Change of Personal Information. -- A registrant shall notify the commission of any change of name or mailing address within ten days of the change.

3.10. Violations. -- The commission shall have the authority to remove from the registry on any registrant for any or all of the following:

3.10.a. Obtaining registration or renewal of a registration through fraud, deceit or misrepresentation;

3.10.b. Conviction of a felony or crime in West Virginia or any other jurisdiction, relating to the provision of interpreting or transliterating services;

3.10.c. Be the subject of disciplinary or other administrative action taken against this registrant by NAD, RID or NCI, including the suspension of certification;

3.10.d. Commit fraud, gross negligence or misconduct related to provision of interpreting or transliterating services;

3.10.e. Violate nationally established codes of ethics as related to the provision of interpreting and transliterating services. For interpreters and transliterators, the appropriate standard is the NAD- RID Code of Professional Conduct. For interpreters in educational settings, the appropriate standard is the EIPA Guidelines for Professional Conduct.

3.11. Action. -- When it is determined a violation has occurred, the commission may:

3.11.a. Indefinitely suspend, suspend for a certain term, refuse to issue, refuse to renew or revoke a registration;

3.11.b. Issue a reprimand;

3.11.c. Request the registrant to take a refresher educational course or training.

3.12. Reapplication. -- An individual whose registration has been suspended may reapply to the commission to have it reactivated, pursuant to the regulations adopted by the commission.

3.13. Appeals. -- An individual aggrieved by a decision of the executive director of the commission may appeal the decision to the chair of the commission. The request for a hearing shall be made in writing to the chair of the commission. The chair will appoint a committee to hear the appeal and decide on the validity of the appeal. This committee shall meet within sixty days of the request for a hearing and shall render a decision within ninety days of the request.

3.14. Confidentiality. -- The register will be published as part of the mandate to maintain and coordinate a statewide service for the courts, state and local legislative

bodies, and others with a list of qualified interpreters and transliterators.

3.14.a. Any interpreter who wishes to have his or her name and contact information omitted from the public registry, may do so by requesting an unpublished listing in the register.

3.14.b. Unpublished listings will be available to commission staff only.

§192-3-4. Qualifications for Interpreters and Transliterations

4.1. Certified Interpreters and Transliterations. -- All certified interpreters and transliterations in good standing with their certifying organization and RID shall be recognized as qualified by the commission.

4.2. State Certified Interpreters. -- Interpreters certified by another state will be recognized as qualified.

4.3. Educational Interpreters and Transliterations -- All educational interpreters and transliterations employed in public schools in West Virginia who are in compliance with standards set by the West Virginia Board of Education Policy 5202 shall be recognized as qualified.

4.4. Non-certified/ Non-screened Interpreters and Transliterations. -- Any interpreter or transliterator who is not certified and is not an employee of a public educational facility shall be recognized as qualified for an assignment only if certified interpreters are unavailable and provided both the deaf or hard of hearing client and the service provider are satisfied with the interpreting or transliterating service. Because different assignments may require different levels of qualification, a non-certified/ non-screened interpreter or transliterator who is considered qualified for one assignment may not be qualified for a different assignment.

4.5. Deaf Interpreters. -- Deaf or hard of hearing interpreters who have demonstrated a minimum of one year experience working as an interpreter and completed training required by RID shall be considered qualified interpreters.

§192-3-5. Evaluations of Interpreters and Transliterations.

5.1. Evaluations. -- The commission shall collaborate with national organizations to provide evaluation opportunities to interpreters and transliterations.

5.2. The commission is a local test administrator (LTA) for the EIPA program. EIPA evaluations shall be available to educational interpreters and transliterations working for public schools in West Virginia, pursuant to regulations adopted by the commission.

5.3. National certification testing shall be offered by the commission in conjunction with RID and NCI, as determined by both organizations and the commission.

5.4. Application fees for evaluations shall be set by the national organizations

providing certification or evaluation.

5.5. The commission may assess additional fees or travel reimbursement for test administration.