

DEPARTMENT OF HEALTH, OFFICE OF ADMINISTRATION

SUBJECT: Advisory Board for Interpreters Between Hearing Individuals and Individuals Who Are Deaf, Deafblind, Hard of Hearing, and Oral Deaf, and Rules for Licensure of Qualified and Provisional Interpreters

DESCRIPTION: The following revisions are proposed to the rules for the Advisory Board for Interpreters:

1. Add the phrase hereinafter referred to as “Interpreter” to the definitions of Licensed Provision Interpreter and Licensed Qualified Interpreter and delete any reference to Licensed Qualified Interpreter when the rule is actually referring to both types of interpreters.
2. Clarify the requirements of Initial Licensure and Renewal Applications.
3. Add a section on “teaming” to the Summary of Credentials. This section allows for a less qualified interpreter to work with a more qualified interpreter to build his or her skill level.
4. Move around some of the settings in the proficiency levels based on recommendations from an ad hoc committee comprised of an advisory board member and some members of the interpreting community. The ad hoc committee decided to continue to meet for the remainder of the calendar year to continue to improve upon the proficiency level requirements.
5. Allow a board member to file a complaint based in information received verbally or anonymously. The board member would have to recuse from the hearing on the matter and other evidence would have to substantiate the complaint.
6. Add a credentialing category that allows the board to approve credentials other than those enumerated. This is allowed by statute and has already been done by the advisory board.

PUBLIC COMMENT: A public hearing was held on September 3, 2015. The Public Comment period expired on September 3, 2015. The Department received the following comments and the Department provided the following responses:

Comment	Response
Linda Stauffer, Licensed Qualified Interpreter	
1. This email is to let you know that I have reviewed the proposed changes and I am in support of all proposed changes.	Thank you for the comment.
Val Deen, Licensed Qualified Interpreter	
1. On the recommendation of	Thank you for these Comments. Currently,

Comment	Response
<p>changing the levels for different assignments that a QAST 1 could accept:</p> <p>It say level one could do Parent/Teacher meetings which often end up leading to things on the IEP which should most definitely should have a higher level interpreter with more experience and higher skills. We are discussing someone's education and there for their future.</p> <p>Also it mentions Orientation being that a level one only gets 50 percent of the information I don't believe this is suitable for a level one when we are discussing a person's ability to make a living for themselves. Also Orientations are often more than one person and not where you can stop and ask for clarification. When only about 50 percent of the information is interpreted this is not suitable for work when the client will be responsible for all the information.</p>	<p>a Subcommittee of the Advisory Board for Interpreters is considering which level of licensure is appropriate for particular settings. These comments will be sent on to that subcommittee to be considered.</p>
<p>2. The mentoring of having a lower skill interpreter working with a higher skill interpreter sounds great. However, how will this be monitored? How do we know that people will not just placed their without the interpreter willing to do the extra. I would like to see where there is a form or something to prove there was some mentoring going on. Also the interpreter who meets requirements, are they being asked if they are willing to handle the extra load of mentoring and picking up any slack.</p>	<p>As with all oversight by the Advisory Board for Interpreters, this will be a Complaint driven monitoring system. As with any other violation of our Rules, it can be reported and investigated.</p> <p>No higher level interpreter will be required to serve as a mentor to a lower level interpreter; however, if they do choose to do so, it will be their responsibility to ensure adequate communication is taking place.</p> <p>The purpose of this Rule change is to help lower level interpreters increase their skill level at a faster pace.</p>
<p>3. (5) RID Credentials. This seems to be very miss leading of saying that they can do legal in/out of Courtroom. Arkansas already has a law for in the courtroom. I feel that people will look</p>	<p>RID credential holders who are certified may do work in and out of Courtroom; however, they must be certified by the AOC, as you say.</p>

Comment	Response
<p>to this licensure and figure that they can do Legal in Courtrooms with no problem. I believe this is misleading.</p>	<p>This is specified in the Rules immediately following (5) RID Credentials. It states, in bold and italics:</p> <p><i>**All in court cases must adhere to Act 237: An Act to Amend the Process for Appointment, Certification, and Regulation of Court Interpreters; and for other purposes.</i></p>
<p>4. C. Complaint Process It says with specific time, place, and persons this sounds great for a specific assignments but what about schools districts? You may know the school district but not the specific interpreters.</p>	<p>A complaint will be taken and investigated provided the person gives as much specific information as possible. We will change the language to reflect this. Because this is to clarify current practice, it is not considered a substantive change.</p>

The proposed effective date is February 10, 2016.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION:

Ark. Code Ann. § 20-14-809 authorizes the Department to adopt rules related to Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf



Arkansas Department of Health

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Governor Mike Beebe

Nathaniel Smith, MD, MPH, Interim Director and State Health Officer

Summary of Amendments to the Rules and Regulations for the Advisory Board for Interpreters Between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, and Oral Deaf

The following revisions to the Rules for the Advisory Board for Interpreters are proposed:

- To add the phrase hereinafter referred to as "Interpreter" to the definitions of Licensed Provisional Interpreter and Licensed Qualified Interpreter and to delete any reference to Licensed Qualified Interpreter when the Rule is actually referring to both types of Interpreters.
- To clarify the requirements for Initial Licensure and Renewal Applications.
- To add a section on "teaming" to the Summary of Credentials. This section allows for a less qualified Interpreter to work with a more qualified Interpreter to build his or her skill level.
- To move around some of the settings in the Proficiency Levels based on recommendations from an *ad hoc* committee comprised of an Advisory Board member and some members of the Interpreting Community. The *ad hoc* committee decided to continue to meet for the remainder of the calendar year to continue to improve upon the proficiency level requirements.
- To allow a Board Member to file a complaint based on information received verbally or anonymously. The Board Member would have to recuse from the hearing on the matter and other evidence would have to substantiate the complaint.
- To add a credentialing category that allows the Board to approve credentials other than those enumerated. This is allowed by Statute and has already been done by the Advisory Board.

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Department of Health
DIVISION Office of Administration
DIVISION DIRECTOR Ann Purvis
CONTACT PERSON Elizabeth Pitman
ADDRESS 4815 West Markham, Slot 31, Little Rock, AR 72205
PHONE NO. (501) 280-4034 FAX NO. (501) 661-2357 E-MAIL sarah.pitman@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Robert Brech
PRESENTER E-MAIL robert.brech@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Rules Governing the Advisory Board for Interpreters Between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, and Oral Deaf & Rules for Licensure of Qualified and Provisional Interpreters

2. What is the subject of the proposed rule? Governance of the Advisory Board for Interpreters and Licensure Requirements and Standards for Qualified and Provisional Interpreters

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? _____

When does the emergency rule _____

expire?

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes

No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. § 20-14-801 et seq.

7. What is the purpose of this proposed rule? Why is it necessary? This amendment (1) adds the phrase "hereinafter referred to as 'Interpreter'" to the definitions of Qualified Licensed Interpreter and Qualified Provisional Interpreter to clarify that where the term "interpreter" is used, it refers to both types of licensed interpreters; (2) clarifies the requirements for initial licensure and renewal applications; (3) adds a section that allows "teaming" of interpreters with different qualification levels; (4) allows a Board member to file a complaint based on information received verbally or anonymously; and (5) incorporates the statutory provision that allows the Board to approve credentials other than those enumerated in the Statute.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). www.healthy.arkansas.gov

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: September 3, 2015

Time: 9:00 a.m.

ADH, 4815 West Markham Street,
Room 2508

Place: Little Rock, AR 72205

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

September 3, 2015, at 4:30 p.m.

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Health
DIVISION Administrative
PERSON COMPLETING THIS STATEMENT Elizabeth Pitman
TELEPHONE NO. (501) 280-4034 **FAX NO.** (501) 661-2357 **EMAIL:** sarah.pitman@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rules Governing the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, and Oral Deaf & Rules Governing the Licensure of Provisional and Qualified Interpreters

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

(b) The reason for adoption of the more costly rule;

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue 0
Federal Funds 0
Cash Funds 0

Next Fiscal Year

General Revenue 0
Federal Funds 0
Cash Funds 0

Total 0

Total 0

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue 0
Federal Funds 0
Cash Funds 0
Special Revenue 0
Other (Identify) 0

Total 0

Next Fiscal Year

General Revenue 0
Federal Funds 0
Cash Funds 0
Special Revenue 0
Other (Identify) 0

Total 0

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
 - (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
 - (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
 - (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.