

# Regulatory Analysis Form

This space for use by IRRC

**(1) Agency**

Department of Labor and Industry  
Office of Deaf and Hard of Hearing

**(2) I.D. Number (Governor's Office Use)**

12-71

IRRC Number: 2556

**(3) Short Title**

General Provisions

**(4) PA Code Cite**

34 Pa. Code Chapter 501

**(5) Agency Contacts & Telephone Numbers**

Primary Contact: Kenneth Puckett, Director, Office of Deaf and Hard of Hearing; 717-783-4912

Secondary Contact: William Gannon, Executive Director, Office of Vocational Rehabilitation; 717-787-7312

**(6) Type of Rulemaking (check one)**

- Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking Omitted

**(7) Is a 120-Day Emergency Certification Attached?**

- No  
 Yes: By the Attorney General  
 Yes: By the Governor

**(8) Briefly explain the regulation in clear and non-technical language.**

The Department of Labor and Industry (Department), Office of Deaf and Hard of Hearing (ODHH) proposes the amendments to implement the provisions of the Sign Language Interpreter and Transliterator State Registration Act (Act), the act of July 2, 2004 (P.L. 492, No. 57).

**(9) State the statutory authority for the regulation and any relevant state or federal court decisions.**

The Department proposes these regulations under the authority contained in the Act (63 P.S. §§ 1725.3(4), 1725.5(a)(1)(iii), (a)(2)(v), (d), 1725.8(a)(6), and 1725.9(c)(1)).

## Regulatory Analysis Form

**(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.**

The proposed regulations are required to implement the Act. The regulations are not required under court order or federal regulation.

**(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?**

The Act went into effect July 1, 2005. The Act requires the Office to register sign language interpreters and transliterators. The proposed regulations identify the examinations approved by the Office which test knowledge and proficiency in interpreting and transliterating required for registration by section 5(a)(1)(iii) and provide guidance to sign language interpreters and transliterator and individuals who utilize the services of interpreters and transliterators relating to their duties and obligations under the Act. The proposed regulations also establish the procedures for the filing and investigation of complaints and the imposition of administrative fines and penalties for violations and the holding of hearings concerning alleged violations.

**(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.**

Nonregulation would lead to confusion between how the Office operates and the expectations of the sign language interpreter and transliterator community and the customers they serve. The regulations are required to implement the Act's provisions.

**(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)**

Sign language interpreters, transliterators and individuals who are deaf and hard of hearing who utilize the services of interpreters and transliterators will benefit from these regulations. The proposed rulemaking will allow the Office to effectively administer the state registration process and provide clarity to the general public regarding the requirements of the Act.

## Regulatory Analysis Form

**(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)**

No one will be adversely affected by the regulations.

**(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)**

The following persons, groups or entities will be required to comply with the regulations: approximately 200 sign language interpreters and transliterators and employees of the Office.

**(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.**

Since July 2004, the Office has met with numerous organizations whose membership will be affected by the proposed regulations. The Office provided information regarding the regulatory process, answers to frequently asked questions regarding the requirements of the Act and received recommendations from the affected community.

The Office met and consulted with the following organizations: the Pennsylvania Registry of Interpreters for the Deaf, Pennsylvania Society for Advancement of the Deaf, Erie County Council for the Deaf, Pennsylvania Training and Technical Assistance Network, NE Technical Assistance Consortium, Office of Deaf and Hard of Hearing Advisory Council, Advisory Council for Persons who are Deaf and Hard of Hearing, Pennsylvania Department of Corrections, Pennsylvania Department of Education, Bureau of Special Education, Berks Deaf and Hard of Hearing Services Board, Office of Equal Employment, Tobyhanna Army Depot, American Sign Language Teacher Association, Pittsburgh Hearing and Deafness Services, Pittsburgh Association for the Deaf, NW Technical Assistance Consortium and the Educational Resources for Children with Hearing Loss.

**(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.**

Currently the only anticipated cost for the regulated community is the \$100.00 registration fee per interpreter to be paid every other year. No savings in cost are anticipated for the regulated community.

## Regulatory Analysis Form

**(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.**

No significant costs are anticipated. No savings are anticipated.

**(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.**

The Department cannot anticipate the costs of investigating, prosecuting and adjudicating alleged violations of the Act because there is no basis for comparison for this activity. The Office cannot predict the costs of monitoring compliance with the registration exclusions. Further, it is not expected that the levying of administrative fines will demonstrably offset costs. No savings are anticipated. See number 28.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>COSTS:</b>						
Regulated Community	\$19,100	\$1,200	\$20,000	\$1,200	\$20,000	\$1,200
Local Government						
State Government	\$27,400	\$12,100				
<b>Total Costs</b>	\$46,500	\$13,300	\$13,300	\$13,300	\$13,300	\$13,300
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>	\$0	\$0	\$0	\$0	\$0	\$0

(20a) Explain how the cost estimates listed above were derived.

Cost estimates were determined by doing a financial analysis of actual costs and also by interviewing staff regarding the amount of time they spend working on this program.

## Regulatory Analysis Form

**(20b) Provide the past three year expenditure history for programs affected by the regulation.**

Program	FY -3	FY -2	FY -1	Current FY
ODHH	\$ 0	\$0	\$ 15,900	\$ 27,400

**(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.**

There are no adverse effects and costs.

**(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.**

Non-regulatory alternatives cannot create a legally enforceable standard and therefore were not considered. These regulations provide information and guidance to a new Act and previously unregulated community.

**(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.**

Alternative regulatory schemes were not considered.



## Regulatory Analysis Form

**(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.**

There are no comparable federal standards.

**(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?**

Comparison to other states' provisions is impractical because statutory requirements and systems differ from state to state.

**(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.**

No.

**(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.**

It is not anticipated that any other meetings will be scheduled. *See* number 16.

## Regulatory Analysis Form

**(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.**

The proposed regulations require individuals to register with the Office in order to provide or offer to provide sign language interpreting and transliterating services, hold themselves as qualified sign language interpreters or transliterators or use similar titles or designations. Individuals will be required to submit applications for registration and renewal of registrations and maintain a registration card or identification card. Additionally, the Office will be required to create and maintain the forms necessary for registration and renewal and maintain records relating to registration status, hearings and discipline. Physicians' offices will be required to complete and maintain records relating to patient notification under section 4(b) of the Act. Additionally, unregistered sign language interpreters and transliterators providing services at the request of an individual who is deaf or hard of hearing will be required to maintain for two years a copy of the client's written confirmation acknowledging that the interpreter or transliterator is not registered under the Act.

**(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.**

There is no need for special provisions.

**(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?**

The proposed regulations will be effective when published in the *Pennsylvania Bulletin* as a final-form regulation. These regulations will require no new licenses, permits or approvals.

**(31) Provide the schedule for continual review of the regulation.**

The Department will continue to monitor the regulation's impact and effectiveness.



**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU**

**(Pursuant to Commonwealth Documents Law)**

Copy below is hereby approved as to form and legality. Attorney General  
BY: *Amey M. Elwell*  
DEPUTY ATTORNEY GENERAL  
DATE OF APPROVAL  
**JUN 21 2006**  
Check if applicable  
Copy not approved.  
Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:  
Department of Labor & Industry  
(AGENCY)  
DOCUMENT / FISCAL NOTE NO. 12-71  
DATE OF ADOPTION:  
BY: *Stephen M. Schmerin*  
TITLE: **Secretary**  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to form and legality. ~~Executive~~ or Independent Agencies.  
BY: *Andrew C. Clark*  
APR 07 2006  
DATE OF APPROVAL  
Executive Deputy General Counsel  
 Check if applicable. No Attorney General approval or objection within 30 days after submission.

# Proposed Rulemaking

34 PA. CODE CHAPTER 501

Registration of Sign Language Interpreters and Transliterators

## PROPOSED RULEMAKING

### DEPARTMENT OF LABOR AND INDUSTRY

#### [34 Pa. Code Chapter 501]

#### **Registration of Sign Language Interpreters and Transliterators**

Under section 3(4) of the Sign Language Interpreters and Transliterators State Registration Act (Act), 63 P.S. § 1725.3(4), the Office for the Deaf and Hard of Hearing (Office) within the Department of Labor and Industry (Department) is submitting proposed rulemaking for registration of sign language interpreters and transliterators.

#### *Statutory Authority*

The Office is empowered to promulgate regulations that are necessary to carry out the Act's provisions. 63 P.S. § 1725.3(4). The Act also provides specific authority for to approve a registration examination and to promulgate rulemaking addressing fees, disciplinary violations and registration reactivation, (63 P.S. §§ 1725.5(a)(1)(iii), (d), 1725.8(a)(6), 1725.9(c)(1)).

#### *Background*

Act Number 57 of 2004 was approved on July 2, 2004 and took effect on August 31, 2004. The Act requires the Office to register sign language interpreters and transliterators who meet the Act's testing requirements. Registration renewal is to occur every 2 years. The Act also allows the Office to charge fees, initiate discipline, impose administrative fines for violations, suspend, deny or revoke registrations and to hold hearings concerning alleged violations. The Department may seek an injunction or criminal action against persons engaged in sign language interpretation or transliterator services or representing themselves as being registered without being registered under the Act.

#### *Compliance with Executive Order 1996-1, Regulatory Review and Promulgation*

Since July 2004, the Office has met with numerous organizations whose membership will be affected by Act Number 57 of 2004 and its proposed regulations. The Office provided information regarding the regulatory process, answers to frequently asked questions regarding the requirements of the Act and received recommendations from the affected community.

The Office met and consulted with the following organizations: the Pennsylvania Registry of Interpreters for the Deaf; Pennsylvania Society for Advancement of the Deaf, Erie County Council for the Deaf, Pennsylvania Training and Technical Assistance Network, NE Technical Assistance Consortium, Office of Deaf and Hard of Hearing Advisory Council, Advisory Council for Persons who are Deaf and Hard of Hearing, Pennsylvania Department of Corrections, Pennsylvania Department of Education, Bureau of Special Education; Berks Deaf and Hard of Hearing Services Board, Office of Equal Employment, Tobyhanna Army Depot, American Sign Language Teacher Association; Pittsburgh Hearing and Deafness Services; Pittsburgh Association for the Deaf; NW Technical Assistance Consortium and the Educational Resources for Children with Hearing Loss.

### ***Purpose***

The proposed rulemaking is necessary to implement and clarify the Act's provisions concerning the registration and renewal process, the approved registration examination, fees, the circumstances under which non-registered individuals are permitted to provide services, discipline, reactivation of suspended registrations and the complaint and appeal process.

### ***Summary of Proposed Rulemaking***

#### *§ 501.1. Definitions.*

This section provides definitions for the Office-approved examinations which test knowledge and proficiency of interpreting and transliterating required for registration under section 5 of the Act. (63 P.S. § 1725.5). These tests are the NAD-RID NIC; the RID Generalist examination and the NAD National Interpreter Certification test. The NAD-RID NIC is a national certification instrument developed jointly by the Registry of Interpreters of the Deaf ("RID") and the National Association of the Deaf ("NAD"). The NAD-RID NIC will ultimately phase out the use of the RID Generalist examination and the NAD National Interpreter Certification test for national certification. However, the certification bestowed on individuals who previously passed these examinations will remain valid. As such, the examinations will remain viable. Definitions are also provided for the "RID," "NAD," the "Act," the "Department," the "Office," the "Secretary" and "Year."

*§ 501.2. Fees.*

The Office has the discretion to set fees. The Office will utilize the initial \$100.00 fee set by section 5(d) of the Act for registration and renewal. (63 P.S. § 1725.5(d)). An additional fee of \$50 is required for late renewal. Under section 9(c) of the Act, an additional reactivation after suspension fee of \$100.00 is set. (63 P.S. § 1725.9(c)).

*§ 501.3. Examination.*

This section adopts the NAD National Interpreter Certification, RID Generalist and NAD-RID NIC examinations under section 5(a)(1)(iii) of the Act. (63 P.S. § 1725.5(a)(1)(iii)). It also provides procedures for an applicant to take the examination.

*§ 501.4. Registration.*

This section also enumerates the requirements for registration and the Office's duty to issue registrations. The Office may also deny a registration for failure to comply with the requirements of the Act and regulations and for the violations enumerated in the Act. (63 P.S. §§ 1725.8(a), 1725.9(a)(1)).

*§ 501.5 Exemptions.*

This section clarifies the circumstances under which non-registered individuals may provide interpreting or transliterating services under section 4(b) of the Act. (63 P.S. § 1725.4(b)). The exemption in subsection (a) applies to interpreting and transliterating services provided in a religious setting under section 4(b)(1) of the Act (63 P.S. § 1725.4(b)(1)). The proposed rulemaking clarifies that the services must be related to the religious worship services or religious education. The exemption does not apply to services provided for a religious entity or religiously-affiliated school unrelated to religious education.

The exemption in subsection (b) applies to nationally-certified individuals from outside the Commonwealth providing services within the Commonwealth under section 4(b)(4) of the Act (63 P.S. § 1725.4(b)(4)). The proposed rulemaking requires these individuals to provide notice to the office of the time, date, nature and duration of the services they intend to provide and to further provide evidence of current certification by the RID, NAD, or NAD-RID NIC. Additionally, the Office will provide notification when an individual has provided 14 days of services.

Subsection (c) addresses the provision of interpreting or transliterating services by a non-registered individual who provides services at the request of a deaf or hard or hearing individual under section (b)(5) of the Act (63 P.S. § 1725.4(b)(5)). The interpreter must provide notice to the client that the individual is not registered with the Office. Additionally, the client is required to sign a form stating that he understands the individual is not registered with the Office. The non-registered interpreter shall maintain a copy of the client's signed statement for a period of 2 years.

Subsection (d) clarifies that an individual under section 4(b)(7) of the Act (63 P.S. § 1725.4(b)(7)) who provides interpreting or transliterating services in a school-related activity, who is employed by a public or private elementary or secondary school must achieve a score of at least 70% on the EIPA or be registered with the Office in order to provide services.

Subsection (e) constitutes an exemption for interpreting and transliterating services provided in physician offices under section 4(b)(8) of the Act. (63 P.S. § 1725.4(b)(8)). A non-registered individual may provide interpreting and transliterating services in a physician's office. However, the patient must be informed that the individual is not registered and informed of the patient's right to request or provide a registered interpreter. The physician's office shall provide a written notice of the patient's rights. The patient shall sign a statement indicating notification the individual is not registered and that the patient has the right to request or provide the services of a registered interpreter. Additionally, the patient shall be informed that a request for the services of a registered interpreter after the commencement of the office visit may result in a delay of the physician's services. Physician's offices shall provide the notice to a patient who is deaf or hard or hearing at each visit. Additionally, the physician's office shall maintain a copy of the signed statement in the patient's health care file.

#### *§ 501.6. Complaints.*

This section outlines the Office's duty to investigate alleged violations of the Act and the procedure for a person to file a complaint.

#### *§ 501.7. Hearings/appeals.*

This section enumerates the hearing and appeal process for adjudicating alleged violations of the Act and for the imposition of disciplinary measures under sections 8 and 9 of the Act. (63 P.S. §§ 1725.8, 1725.9).

Subsection (a) provides that a respondent has the right to notice, hearing and adjudication under 2 Pa.C.S. (relating to administrative law and procedure).

Hearings will be conducted under 1 Pa. Code Part II (relating to the General Rules of Administrative practice and procedure) and this section.

Subsection (b) requires the service of an order to show cause under 1 Pa. Code § 35.14 (relating to orders to show cause). A respondent may file an answer, pursuant to subsection (c), in accordance with 1 Pa. Code § 35.37 (relating to answers to orders to show cause).

Under subsections (d) and (e), the Office will designate a presiding officer to conduct a hearing and prepare a proposed report and order. The presiding officer will have the powers enumerated in 1 Pa. Code §§ 35.185-35.190 (relating to presiding officers).

Subsection (f) contains the procedures for appealing the proposed report and order to the Secretary under section 10 of the Act (63 P.S. § 1725.10). A party seeking an appeal shall file exceptions within 20 days of service of the proposed report and order. The presiding officer will certify and transmit the record to the Secretary. The other party may file a response within 20 days. Either party may seek reopening of the record. If a timely appeal is filed, the Secretary or the Secretary's designee will issue a final order. The Secretary or designee may reopen the record and order additional briefs. The proposed report and order will become a final order if a timely appeal is not made under this section.

*§ 501.8. Request for reconsideration of registration denial.*

Under subsection (a), the Office may deny a registration application if the applicant does not meet the registration requirements of section 5(a) of the Act (63 P.S. § 1725.5(a)) or for the grounds contained in section 8(a) of the Act (63 P.S. § 1725.8(a)).

An applicant may seek reconsideration of a denial with the Office by filing a written request under subsections (b) and (c). The Office will review the request. If it again denies the application, it will provide reasons for the denial under subsection (d). If the request is granted, the Office will issue a registration if the applicant pays the renewal fee and completes the application under section 5(a)(1) of the Act. (63 P.S. § 1725.5(a)(1))

Under subsection (f), an applicant may request a hearing and seek appeal of an adverse order under the procedures enumerated in § 501.6 (relating to hearings/appeals).



*§ 501.9. Biennial registration renewal.*

Section 5(b)(4) of the Act (63 P.S. § 1725.5(b)(4)) provides that registrations may be issued for a period not to exceed 2 years. Accordingly, subsection (a) provides that registrations are to be renewed on a biennial basis. Practicing or holding forth the ability to practice with an expired registration is prohibited under this subsection.

Subsection (b) provides that the biennial registration will expire on December 31 of even-numbered years.

Subsection (c) contains the renewal requirements which include the submission of a completed application and payment of the required fees prior to the expiration of the current biennial period.

Subsection (d) provides that biennial registration forms and other forms or literature to be distributed by the Office are to be forwarded to the last-known mailing address provided to the Board by the registrant. The provision further provides that failure of the Office to send, or of the registrant to receive, a biennial registration application does not relieve the registrant of the biennial registration responsibility.

The Office will issue a biennial registration, under subsection (d) to an individual meeting these requirements.

*§ 501.10. Reactivation of registration.*

This section provides the requirements for reactivation of a suspended registration under section 9(c) of the Act (63 P.S. § 1725.9(c)). These requirements are: the time period of the suspension term has to be completed; all terms and conditions of the suspension order were complied with; the individual did not violate the Act or this chapter during the suspension; the individual pays reactivation and renewal fees; and the individual complies with the renewal requirements of subsection (c).

*§ 501.11. Change of address/name.*

In accordance with section 6 of the Act (63 P.S. § 1725.6), a registrant shall notify the office of any change of name or mailing address within 15 days of the change. Additionally, a registrant shall notify the office of any change in personal and professional information.

### ***Affected persons.***

The Office estimates that approximately 200 individuals will register under this Act. These registrants will be impacted by the Act's requirements which include a demonstration of competency to provide interpreting and transliterating services and the registration fee. Pennsylvanians who are deaf or hard of hearing who rely on interpreting and transliterating services will benefit from uniform standards relating to knowledge and proficiency.

A physician's office will have to complete and maintain records and provide notification to patients to comply with the exclusion provided in section (4)(b)(8) of the Act (63 P.S. § 1725.4(b)(8)) and § 501.3(d) of the proposed rulemaking. A physician's office will have to allow a patient to utilize a registrant, if requested.

### ***Fiscal Impact***

It is anticipated that there will be costs to the Department as a result of this proposed rulemaking. These costs should be offset by the registration and renewal fees contained in the rulemaking. It is anticipated that the Department will receive \$20,000 in initial registration fees.

The Department cannot anticipate the costs of investigating, prosecuting and adjudicating alleged violations because there is no basis for comparison for this activity. The Office cannot predict the costs of monitoring compliance with the registration exclusions provided in § 501.4. It is not expected that the levying of administrative fines will demonstrably offset costs.

### ***Paperwork Requirements***

The Office will have to develop forms for registration and renewals and for filing complaints. It will develop a registration card or identification for registrants. Related forms include registration denial, notifications concerning reconsideration. The Office will have to keep records indicating registration status, hearings and discipline. Many of these records have to be accessible to the public under section 3(3) of the Act (63 P.S. § 1725.3(3)).

Applicants will have to provide documentation to register and renew registrations, including certification requirements under § 501.3. A physician's office will have to complete and keep records concerning patient notification under § 501.4(d).

### ***Sunset Date***

A sunset date is not appropriate for this proposed rulemaking. The Office will periodically monitor this proposed rulemaking and submit amendments as needed.

### ***Effective Date***

The proposed rulemaking will be effective upon publication of a final-form regulation in the *Pennsylvania Bulletin*.

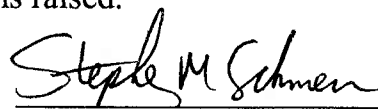
### ***Contact person.***

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Catherine N. Wojciechowski, Deputy Chief Counsel, 10<sup>th</sup> Floor, Labor and Industry Building, 7<sup>th</sup> and Forster Streets, Harrisburg, PA 17120; Telephone: 717-787-4186; Fax: 717-783-1303; E-mail: [cwojciechowski@state.pa.us](mailto:cwojciechowski@state.pa.us) within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

### ***Regulatory Review***

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 10, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Labor Relations and Labor and Industry Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.



Stephen M. Schmerin,  
*Secretary*

### ***Fiscal Note***

Annex A

**TITLE 34. LABOR AND INDUSTRY**

**PART IX. OFFICE OF THE DEAF AND HARD OF HEARING**

**CHAPTER 501. REGISTRATION OF SIGN LANGUAGE  
INTERPRETERS AND TRANSLITERATORS**

**§ 501.1. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Act*- The Sign Language Interpreter and Transliterators State Registration Act (63 P.S. §§ 1725.1-1725.12).

*Department*- The Department of Labor and Industry of the Commonwealth.

*NAD* – National Association of the Deaf, 814 Thayer Avenue, Silver Spring, MD 20910. A nationally-recognized certification organization for interpreters and transliterators.

*NAD National Interpreter Certification Test* – The written and performance examinations conducted by the NAD for Level IV or V certification as a sign language interpreter or transliterator.

*NAD-RID NIC* – The National Interpreter Certification test which is the knowledge, interview and performance examination conducted for national certification as a sign language interpreter or transliterator.

*Office*- The Office for the Deaf and Hard of Hearing within the Department, 1521 North 6<sup>th</sup> Street, Harrisburg, PA 17102.

*RID* – Registry of Interpreters of the Deaf, 333 Commerce Street, Alexandria, VA 22314. A nationally recognized certification organization for interpreters and transliterators.

*RID Generalist examination* – The written and performance examination conducted by the RID for certification as a sign language interpreter or transliterator.

*Secretary-* The Secretary of the Department or the Secretary's designee.

*Year-* A calendar year.

**§ 501.2. Fees.**

(a) The Office will charge the following fees:

- |     |  |        |
|-----|--|--------|
| (1) | Registration   | \$100. |
| (2) | Biennial renewal of existing registration            | \$100. |
| (3) | Surcharge for late renewal of biennial registration. | \$50.  |
| (4) | Reactivation following suspension.                   | \$100. |
| (5) | Registration identification card replacement.        | \$10.  |

**§ 501.3. Examination.**

(a) All of the following examinations are approved as the examination which tests knowledge and proficiency under section 5(a)(1)(iii) of the Act (63 P.S. § 1725.5(a)(1)(iii)):

- (1) NAD National Interpreter Certification.
- (2) RID Generalist Examination.
- (3) NAD-RID NIC.

(b) An applicant for any of the approved examinations shall obtain applications directly from and pay the required examination fee directly to the examination provider.

**§ 501.4. Registration.**

(a) An applicant for registration shall submit all of the following to the office:

- (1) Proof of receiving a passing score on any of the approved examinations. This may include proof of current certification by the NAD, RID, or NAD-RID NIC.

- (2) A completed registration application. Applications may be obtained from the office or the Department website (*Editor's note: To be placed in final-form regulation*).
  - (3) The required registration fee under § 501.2 (relating to fees). Checks shall be made payable to the Commonwealth of Pennsylvania.
- (b) The Office will issue a paper or electronic registration to a registrant if the registrant complies with subsection (c) and meets the requirements of section 5(a) of the Act. (35 P.S. § 1725.5(a)).
- (c) The Office may deny an application for registration if the applicant:
- (1) Does not comply with this section.
  - (2) Fails to meet the requirements of section 5(a) of the Act (63 P.S. § 1725.5(a)), or
  - (3) Committed a violation enumerated in section 8(a) of the Act (63 P.S. § 1725.5(a)(8)).
- (d) The Office will comply with the procedures contained in § 501.7 (relating to request for reconsideration of registration denial) if an application for registration is denied.

**§ 501.5. Exemptions.**

- (a) An individual engaged in interpreting or transliterating services in a religious setting is exempt from registration under section 4(b)(1) of the Act (63 P.S. § 1725.4(b)(1)) if the services are provided either:
- (1) During a worship service conducted by a religious entity.
  - (2) Exclusively for religious-study purposes for a religious entity or religiously affiliated school.
- (b) An individual who does not reside in the Commonwealth is exempt from registration under section 4(b)(4) of the Act (63 P.S. § 1725.4(b)(4)) in accordance with all of the following:
- (1) The individual possesses current certification from a national certifying body.



(2) The individual provides interpreting or transliterating services in this Commonwealth for no longer than 14 days each year.

(3) The individual provides all of the following to the Office before the interpreting or transliterating service is provided:

(i) Written notice of the time, date, nature and duration of each sign language or transliterating service that the individual intends to provide within this Commonwealth.

(ii) Proof of current certification.

(4) The Office will provide notice to a sign language interpreter or transliterator that he has provided 14 days of services during the year and that the individual is prohibited from providing any further interpreting or transliterating services within the Commonwealth during the year unless the individual registers with the Office in accordance with Section 5 of the Act (63 P.S. § 1725.5).

(c) An individual engaged in interpreting or transliterating at the request of a client who is deaf or hard of hearing is exempt from registration under section 4(b)(5) of the Act (63 P.S. § 1725.4(b)(5)) in accordance with all of the following:

(1) The individual notifies the client that the individual is not registered with the Office.

(2) The client signs written confirmation that the individual is not registered.

(3) The individual providing services shall maintain a copy of the client's signed statement for 2 years.

(d) An individual is exempt from registration under section 4(b)(7) of the Act (63 P.S. § 1725.4(b)(7)) for a school-related activity if the individual meets all of the following:

(1) Is engaged in interpreting or transliterating services in a school-related activity.

(2) Is currently employed by a public or private elementary or secondary school.

(3) Received a score of at least 70% on the EIPA.

(e) An individual is exempt from registration under section 4(b)(8) of the Act (63 P.S. 1725.4(b)(8)) if the individual provides sign language interpreting or transliterating services to a patient who is deaf or hard of hearing in a physician's office in accordance with all of the following:

(1) The patient signs a written confirmation that the individual providing the interpreting or transliterating services is not registered and that the patient has the right to request or provide an interpreter or transliterator who is registered with the Office. This confirmation must be completed during every office visit.

(2) The physician's office informs the patient in writing that a request for a registered interpreter or transliterator made after the commencement of the office visit may result in a delay of physician services.

(3) The physician's office shall maintain a copy of the patient's signed statement in the patient's health care file.

#### **§ 501.6. Complaints.**

(a) Upon the receipt of a written complaint or upon its own initiative, the Office may investigate allegations of violations of section 8 of the Act (63 P.S. § 1725.8).

(b) Complaints shall contain:

(1) Name and address of complainant.

(2) Name and address, if known, of the individual against whom the complaint is filed.

(3) A statement of the facts forming the basis of the complaint or conclusion that there has been a violation of the Act.

(4) The name of any witnesses and other information that may be pertinent to an investigation.

(c) Complaints shall be submitted to the Office of Deaf and Hard of Hearing which may commence an investigation.

#### **§ 501.7. Hearings/appeals.**

(a) Actions under sections 8 and 9 of the Act (63 P.S. §§ 1725.8 and 1725.9) will be taken subject to the right of notice, hearing and adjudication in accordance with

2 Pa.C.S. (relating to administrative law and procedure). Hearings shall be conducted under 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and this section.

(b) The Office will serve the registrant with an order to show cause under 1 Pa. Code § 35.14 (relating to orders to show cause). The order to show cause shall contain notification that the registration may be subject to action and the grounds for the action. The order to show cause shall contain notification that the respondent is to respond in writing within 30 days after the date of the service of the order or in accordance with another date designated by the Office.

(c) The registrant may respond in writing to the allegations of the order to show cause under 1 Pa. Code § 35.37 (relating to answers to orders to show cause). If made, the answer shall be filed with the Office within 30 days after the date of the order to show cause or within another time period specified by the Office.

(d) The Office will provide the opportunity for a recorded hearing on the allegations. The Office will designate a presiding officer to conduct the hearing under 1 Pa. Code §§ 35.185- 35.190 (relating to presiding officers).

(e) The presiding officer will prepare and issue a proposed report and order under 1 Pa. Code §§ 35.201-35.207 (relating to proposed reports generally). The presiding officer will serve the proposed report upon counsel of record or to the parties in the hearing. The proposed report shall contain the Department address where an appeal may be filed.

(f) A party may appeal the proposed report and order to the Secretary within 20 days of service of the proposed report under section 10 of the Act (63 P.S. § 1725.10). Appeals are governed by all of the following:

(1) A party desiring to appeal to the Secretary shall file exceptions to the proposed report and order within 20 days of service in accordance with 1 Pa. Code § 35.211 (relating to procedure to except to proposed report). The party may seek the reopening of the record to present testimony or evidence by filing a request with the exceptions.

(2) A party may file a written response to the exceptions within 20 days of service of the exceptions. The party may seek the reopening of the record to present testimony or evidence by filing a request with the response.

(3) If a timely appeal is filed, the presiding officer will transmit the proposed report and order and the certified record to the Secretary.

(4) If a timely appeal is filed, the Secretary will issue the final order under 1 Pa. Code § 35.226 (relating to final orders). The Secretary may reopen the record and order additional briefs.

(5) The presiding officer's proposed report and order will be the Department's final order under section 11 of the Act (63 P.S. § 1725.11) if a timely appeal is not made under this section.

(g) This section supplements 1 Pa. Code §§ 35.14, 35.37, 35.185-35.190, 35.201-35.207, 35.211 and 35.226.

**§ 501.8. Request for reconsideration of registration denial.**

(a) The Office may deny an application for registration if an applicant does not meet the registration requirements of section 5(a) of the Act (63 P.S. § 1725.5(a)) or for the grounds contained in section 8(a) of the Act (63 P.S. § 1725.8(a)).

(b) An applicant for registration whose application was denied by the Office may file a request for reconsideration with the Office.

([b]c) The request for reconsideration shall be in writing and include all of the following:

(1) Applicant's name and address.

(2) The facts supporting the applicant's request for reconsideration.

(3) Supporting documentation demonstrating that the applicant meets the requirements for registration under section 5(a)(2) of the Act (63 P.S. 1725.5(a)(2)).

(d) The Office will review the request for reconsideration and issue a written determination containing its decision. If reconsideration is denied, the Office will provide a summary of the reasons in the determination.

(e) If the request is granted, the Office will issue a registration to the applicant if the applicant pays the renewal fee and completes the application under section 5(a)(1) of the Act (63 P.S. § 1725.5(a)(1)).

(f) An applicant may seek a hearing and appeal the denial of registration under sections 10 and 11 of the Act (63 P.S. §§ 1725.10, 1725.11). The Office and Department will conduct hearings and resolve appeals under § 501.6 (relating to hearings/appeals).

**§ 501.9. Biennial registration renewal.**

- (a) A registrant shall renew the registration biennially to retain the right to continue to provide interpreting or transliterating services, or offer to provide sign language interpreting or transliterating services, or hold himself out as a qualified sign language interpreter or a qualified transliterator or use similar titles or designations under the Act.
- (b) Registration for a biennium expires December 31 of every even-numbered year.
- (c) To renew a registration, a registrant shall submit to the office before the expiration of the renewal period a completed renewal application supplied by the Office along with the required renewal fee and any late or reactivation fees under § 501.2 (relating to fees).
- (d) Biennial registration forms and other forms or literature to be distributed by the Office shall be forwarded to the last mailing address given to the Office by the registrant. Failure of the Office to send, or of the registrant to receive, a biennial registration application does not relieve the registrant of the biennial registration responsibility.
- (e) The Office shall issue a nontransferable biennial registration to a registrant who renews registration under this section.

**§ 501.10. Reactivation of registration.**

An individual may reactivate a suspended registration under section 9(c) of the Act (63 P.S. § 1725.9(c)) if all of the following is met:

- (1) The suspension term certain has fully elapsed.
- (2) The individual has complied with all the terms and conditions of the suspension order.
- (3) The individual has not violated the Act or this chapter during the suspension term.
- (4) The individual pays the reactivation fee under § 501.2(4) (relating to fees).
- (5) The individual complies with the renewal requirements of Section 501.108.

**§ 501.11. Change of address/name/information.**

A registrant shall notify the Office of any change of name, mailing address or other personal or professional information within 15 days of making the change.





DEPARTMENT OF  
**LABOR & INDUSTRY**  
COMMONWEALTH OF PENNSYLVANIA

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July 10, 2006

The Honorable Alvin C. Bush, Chairman  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harristown 2  
333 Market Street  
Harrisburg, PA 17101

**Re: Proposed Rulemaking**  
**Department of Labor & Industry**  
**Interpreters and Transliterators, No. 12-71**

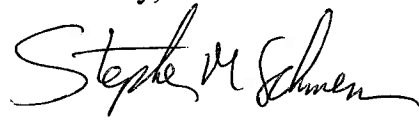
Dear Chairman Bush:

Enclosed is a proposed rulemaking package consisting of a face sheet, preamble, annex and regulatory analysis form prepared by the Department of Labor and Industry. The Department's Office for the Deaf and Hard of Hearing is submitting proposed rulemaking for registration of sign language interpreters and transliterators under section 3(4) of the Sign Language Interpreters and Transliterators State Registration Act. 63 P.S. § 1725.3(4). The regulations will provide for a registration examination, fees, exemptions, disciplinary violations, registration reactivation and registration renewal, among other things.

The rulemaking will amend the Pennsylvania Code (34 Pa. Code Chapter 501). Comments, suggestions or questions should be directed to Catherine N. Wojciechowski, Deputy Chief Counsel, 10<sup>th</sup> Floor, Labor and Industry Building, 7<sup>th</sup> and Forster Streets, Harrisburg, PA 17120, Telephone: 717-787-4186; Fax: 717-783-1303; E-mail: [cwojciechowski@state.pa.us](mailto:cwojciechowski@state.pa.us).

The Department's staff will provide your staff with any assistance required to facilitate your review of this proposal.

Sincerely,

A handwritten signature in cursive script that reads "Stephen M. Schmerin". The signature is written in black ink and is positioned above the printed name.

Stephen M. Schmerin

SMS/

Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 12-71  
SUBJECT: REGISTRATION OF SIGN LANGUAGE INTERPRETERS  
AND TRANSLITERATORS  
AGENCY: DEPARTMENT OF LABOR & INDUSTRY

**TYPE OF REGULATION**

- X Proposed Regulation  
Final Regulation  
Final Regulation with Notice of Proposed Rulemaking Omitted  
120-day Emergency Certification of the Attorney General  
120-day Emergency Certification of the Governor  
Delivery of Tolled Regulation  
a. With Revisions                      b. Without Revisions

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
7/10/06	<i>M. Eckhart</i>	HOUSE COMMITTEE ON LABOR RELATIONS
7/10/06	<i>Barb Dyzand</i>	
7/10/06	<i>Nanda K. Traster</i>	SENATE COMMITTEE ON LABOR & INDUSTRY
7/10/06	<i>Bruce K...</i>	
7/10/06	<i>Kathryn A. Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
7/10/06	<i>C. Lee ...</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)