State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1904

02/25/2014 Authored by Allen, Liebling, Anzelc, Kahn and Savick
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

A bill for an act

relating to health; defining spoken language healthcare interpreter services; amending Minnesota Statutes 2012, section 144.058.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2012, section 144.058, is amended to read:

144.058 INTERPRETER SERVICES QUALITY INITIATIVE.

Subdivision 1. **Healthcare interpreter services registry.** (a) The commissioner of health shall establish a voluntary statewide roster, and develop a plan for a registry and certification process for interpreters who provide high quality, spoken language ~~health care~~ healthcare interpreter services. The roster, registry, and certification process shall be based on the findings and recommendations set forth by the Interpreter Services Work Group required under Laws 2007, chapter 147, article 12, section 13.

(b) By January 1, 2009, the commissioner shall establish a roster of all available interpreters to address access concerns, particularly in rural areas.

(c) By January 15, 2010, the commissioner shall:

(1) develop a plan for a registry of spoken language ~~health care~~ healthcare interpreters, including:

(i) development of standards for registration that set forth educational requirements, training requirements, demonstration of language proficiency and interpreting skills, agreement to abide by a code of ethics, and a criminal background check;

(ii) recommendations for appropriate alternate requirements in languages for which testing and training programs do not exist;

(iii) recommendations for appropriate fees; and

(iv) recommendations for establishing and maintaining the standards for inclusion in the registry; and

(2) develop a plan for implementing a certification process based on national testing and certification processes for spoken language interpreters 12 months after the establishment of a national certification process.

(d) The commissioner shall consult with the Interpreter Stakeholder Group of the Upper Midwest Translators and Interpreters Association for advice on the standards required to plan for the development of a registry and certification process.

(e) The commissioner shall charge an annual fee of $50 to include an interpreter in the roster. Fee revenue shall be deposited in the state government special revenue fund.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Advisory council for spoken language healthcare interpreters" means an advisory council to the commissioner of health, as defined by subdivision 20.

(c) "American Council on the Teaching of Foreign Languages (ACTFL)" means a national organization which provides language proficiency testing.

(d) "Associate healthcare interpreter (AHI)" means a credential conferred by CCHI.

(e) "Certified medical interpreter (CMI)" means an accredited certification conferred by the National Board of Certification for medical interpreters.

(f) "Certification Commission for Healthcare Interpreters (CCHI)" means a national organization which provides a nationally recognized and accredited certification for medical interpreters.

(g) "Certified healthcare interpreter (CHI)" means an accredited certification conferred by CCHI.

(h) "Client" means a healthcare team, patient, and their family members needing language assistance and receiving interpretation.

(i) "Code of ethics" means the National Code of Ethics for Interpreters in Health Care, as published by the National Council on Interpreting in Health Care (2004) and the International Medical Interpreters Association (published in 1987 and updated in 2006).

(j) "Commissioner" means the commissioner of health.

(k) "Continuing education" means a conference, workshop, or training which meets the requirements of subdivision 8.

(l) "Interpreting Stakeholder Group (ISG)" means a nonprofit organization of spoken language healthcare interpreters and stakeholders meeting regularly in Minnesota.

(m) "International Medical Interpreters Association (IMIA)" means a United States-based, international organization committed to the advancement of professional

medical interpreters as the best way to achieve equitable language access to health care for linguistically diverse patients.

(n) "Medical interpreter training program" means a program preparing interpreters to work as spoken language healthcare interpreters. Neither the IMIA nor NCIHC define minimum required hours for training.

(o) "National Board of Certification for Medical Interpreters" means a national organization which provides a nationally recognized and accredited certification for medical interpreters.

(p) "National Council on Interpreting in Health Care (NCIHC)" means a national organization which has developed a code of ethics and standards of practice for spoken language interpreters working in health care.

(q) "National standards for healthcare interpreter training program" means standards that reflect the broad agreement on the knowledge and skills any interpreter will need before entering into practice and interpreting independently.

(r) "Remote interpreting" means interpreting services provided by an interpreter who is interpreting via telephone or videoconferencing.

(s) "Spoken language healthcare interpreter" means a person who, in the context of a healthcare encounter, accurately and completely renders a message spoken in one language into a second language, remotely or face-to-face, and who follows the professional code of ethics.

(t) "Registry" means a database of individual spoken language healthcare interpreters maintained by the commissioner listing spoken language healthcare interpreters in Minnesota who have established their professional qualifications in accordance with this section.

(u) "Roster" means a database of individual spoken language healthcare interpreters maintained by the commissioner.

(v) "Standards of Practice in Health Care Interpreting" means the standards of practice in health care as published by NCIHC (2005) and the IMIA (1995).

(w) "Working language" means a language into and out of which an interpreter listed on the roster or registry interprets.

Subd. 3. **Roster and registry requirements.** (a) The roster and registry must meet the obligations under this section, Title VI of the Civil Rights Act, and Executive Order 13166, by ensuring meaningful access to medical services by ensuring the availability of qualified language services to persons with limited English proficiency who are in need of healthcare services.

(b) In accordance with section 256B.0625, subdivision 18a, paragraph (d), spoken language healthcare interpreters must be listed in the roster or registry in order to receive medical assistance reimbursement.

(c) The roster and registry requirements in this section are effective August 1, 2014.

Subd. 4. **Spoken language interpreter practices and ethics.** (a) The practices of spoken language interpreters include, but are not limited to:

(1) interpreting accurately and completely while following the current best practices by NCIHC and the IMIA;

(2) explaining the role of the interpreter to the patient and provider; and

(3) managing the flow of communication to preserve accuracy and completeness of the communication.

The practices defined in this subdivision apply to all spoken language healthcare interpreters.

(b) The ethics of spoken language interpreters include, but are not limited to:

(1) adherence to the interpreter's code of ethics defined in subdivision 2, paragraph (i); and

(2) adherence to procedures and legal requirements to ensure patient confidentiality and informed consent.

Subd. 5. **Protected titles and restrictions on use.** (a) A person who is not listed on the roster or registry in Minnesota may not use the titles of rostered or registered spoken language healthcare interpreter.

(b) In Minnesota, use of the term "certified," in combination with any other terms used to indicate or imply the provision of spoken language healthcare interpreter services may only be used by those who are certified by the national board or CCHI.

Subd. 6. **Minimum qualifications for the roster.** To qualify for participation in the healthcare interpreter roster under this section, an applicant must:

(1) be at least 18 years old;

(2) have a high school diploma or equivalent;

(3) undergo a complete criminal background check, as determined by the commissioner; and

(4) affirm by signature, including electronic signature, that the applicant has read the Code of Ethics and Standards of Practice and agrees to abide by them.

Subd. 7. **Minimum qualifications for the registry.** (a) To qualify for participation in the healthcare interpreter registry, applicants must meet all roster qualifications and requirements in this paragraph or the requirement in paragraph (b). An applicant must:

(1) pass a test of spoken language proficiency in English and each other working language with a minimum score of advanced mid on the ACTFL oral proficiency interview test, or an equivalent test approved by the advisory council;

(2) pass an interpreting skills test approved by the advisory council; and

(3) successfully complete a minimum of 40 hours of an interpreter training program that follows the National Standards for Health Care Interpreter Training Programs (2011) established by NCIHC or a program that is accredited by the IMIA Accreditation Commission for Medical Interpreters Education.

(b) An applicant must provide proof of certification conferred by either the national board (CMI) or CCHI (CHI) or a comparable national certifying body approved by the advisory council.

(c) The registry must include, display, and allow searches of verified additional qualifications, including but not limited to an academic degree in translation and interpreting, any other academic degrees, and certification status.

Subd. 8. **Continuing education requirements for the registry.** To qualify for ongoing participation in the registry, applicants who are not CMI or CHI certified, or AHI credentialed, must complete a minimum of six hours per year of continuing education courses approved by the American Translators Association, IMIA, NCIHC, or other interpreter training program approved by a national accredited college or university, or other training program approved by the advisory council.

Subd. 9. **Applications for the roster or registry.** (a) An applicant for the roster or registry must submit to the commissioner a completed application form provided by the commissioner that includes:

(1) the applicant's name, Social Security number, business address and telephone number, or home address and telephone number if the applicant has a home office;

(2) the working languages for which the individual applicant interprets;

(3) a signature affirming that the applicant has read and agrees to abide by the code of ethics defined in subdivision 2, paragraph (i), and the standards of practice defined in subdivision 4;

(4) a release authorizing the commissioner to obtain criminal background information. The commissioner may contract with the commissioner of human services to obtain criminal history data from the Bureau of Criminal Apprehension;

(5) a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief; and

(6) documentation of a high school diploma or equivalent, or postsecondary degree.

(b) The applicant must submit with the application all fees required by subdivision 14.

(c) In addition to the requirements listed in paragraph (a), an applicant for the roster or registry must submit to the commissioner documentation demonstrating completion of the requirements in subdivisions 7 and 8, including but not limited to:

(1) certificates demonstrating completion of the education, training, or continuing education requirements;

(2) transcripts showing the completion of required courses and any postsecondary degree; and

(3) reports of scores on tests of language proficiency or interpreting skills tests for health care.

(d) The applicant must sign a waiver authorizing the commissioner to obtain the applicant's records in this or any state in which the applicant has engaged in interpreting services.

(e) The commissioner may require an applicant to provide additional information necessary to clarify information submitted in an application. An applicant has 30 days to respond.

Subd. 10. **Action on applications for the roster or registry.** (a) In acting on an application for the roster or registry, the commissioner shall determine if the applicant meets the requirements for the roster or registry. The commissioner may investigate information provided by an applicant to determine whether the information is accurate and complete.

(b) The commissioner shall notify an applicant of action taken on the application and if the application is denied, the grounds for denying the application.

Subd. 11. **Change of name and address.** A spoken language healthcare interpreter who changes their name or address must inform the commissioner, in writing, of the change within 30 days. A change in name must be accompanied by a copy of a marriage certificate or court order. All notices or other correspondence mailed to or served on an interpreter by the commissioner at the interpreter's address on file with the commissioner shall be considered as having been received by the interpreter.

Subd. 12. **Procedures.** (a) The advisory council or commissioner shall be exempt from the rulemaking requirements of chapter 14 for approval of spoken language proficiency tests, interpreting training courses, medical interpreting examinations, interpreting skills tests, and any commissioner-approved exemptions from tests, courses, or examinations.

(b) The commissioner shall establish, in writing, internal operating procedures for: (1) receiving, accepting, and processing applications; (2) granting status on the roster or registry; (3) investigating complaints; and (4) imposing enforcement actions. The written internal operating procedures may include procedures for sharing application and

complaint information with government agencies in this and other states. Procedures for sharing application and complaint information must be consistent with the requirements for handling government data under chapter 13.

(c) The commissioner shall publish on the Minnesota Department of Health Web site the tests, courses, or examinations approved as meeting the requirements of subdivision 7 within two weeks of approval.

Subd. 13. **Administrative expenditures.** The commissioner is authorized to use the roster cumulative receipt balance deposited in the state government special revenue funds since 2011 to conduct the activities and cover expenditures of implementing the roster and registry that are not covered by the initial biennial application fee for interpreters on the registry and roster.

Subd. 14. **Fees.** (a) The initial biennial application fee for interpreters on the registry and roster is $100.

(b) Beginning August 1, 2016, the initial biennial fee for the roster will increase to $..... Beginning August 1, 2016, the initial biennial fee for the registry will increase to $.....

(c) The biennial registration renewal fee for the roster is $.....

(d) The biennial renewal fee for the registry is $.....

(e) The renewal late fee for the registry is $50.

(f) A copy of a certificate of good standing or registration verification is $25.

(g) The commissioner shall use fees collected under this section for the purpose of ensuring that healthcare patients have access to accurate, complete, and ethical interpretive services in the state.

(h) The legislature may not transfer money generated by fees under this section from the state government special revenue fund to the general fund. Surcharges collected by the commissioner of health under section 16E.22 are not subject to this paragraph.

Subd. 15. **Roster or registry renewal.** (a) To renew participation in the roster, an applicant must:

(1) biennially complete a renewal application on a form provided by the commissioner and submit the biennial renewal fee; and

(2) submit additional information if requested by the commissioner to clarify information presented in the renewal application. The additional information must be submitted within 30 days after the commissioner's request.

(b) To renew participation in the registry, an applicant who is not CMI or CHI certified, or AHI credentialed, must complete the requirements in paragraph (a), complete

the continuing education requirements of subdivision 8, and submit evidence of attending continuing education courses, as required in subdivision 9.

(c) To renew participation in the registry, an applicant who is CMI or CHI certified, or AHI credentialed, must complete the requirements in paragraph (a) and must submit evidence of an active certification or credential.

Subd. 16. **Late fee.** An application submitted after the renewal deadline date must include the late fee specified in subdivision 14.

Subd. 17. **Renewal notice.** Renewal is on a biennial basis. Approximately 60 days before the expiration date, the commissioner shall send out a renewal notice to the rostered or registered spoken language healthcare interpreter's last known address. The notice must include a renewal application and notice of fees required for renewal. If the interpreter does not receive the renewal notice, the interpreter is still required to meet the deadline for renewal to qualify for continuous status on the roster or registry.

Subd. 18. **Reporting continuing education contact hours.** Within one month following registry expiration, each spoken language healthcare interpreter who is not CMI or CHI certified, or AHI credentialed, shall submit verification that the interpreter has met the continuing education requirements of subdivision 8 on the continuing education report form provided by the commissioner. The continuing education report form may require the following information:

(1) the title of the continuing education activity;

(2) a brief description of the continuing education activity;

(3) the sponsor, presenter, or author;

(4) the location and attendance dates;

(5) the number of contact hours; and

(6) the interpreter's notarized affirmation that the information is true and correct.

Subd. 19. **Auditing continuing education reports.** (a) The commissioner may audit a percentage of the continuing education reports based on random selection. An interpreter who is not CMI or CHI certified, or AHI credentialed, shall maintain all documentation required by subdivision 18 for two years after the last day of the biennial roster or registry period in which the contact hours were earned.

(b) All renewal applications that are received after the expiration date may be subject to a continuing education report audit.

(c) Any interpreter who is not CMI or CHI certified, or AHI credentialed, against whom a complaint is filed may be subject to a continuing education report audit.

(d) The interpreter shall make the following information available to the commissioner for auditing purposes:

(1) a copy of the completed continuing education report form for the continuing education reporting period that is the subject of the audit including all supporting documentation required by subdivision 18;

(2) a description of the continuing education activity prepared by the presenter or sponsor that includes the course title or subject matter, date, place, number of program contact hours, presenters, and sponsors;

(3) documentation of self-study programs by materials prepared by the presenter or sponsor that includes the course title, course description, name of sponsor or author, and the number of hours required to complete the program;

(4) documentation of university, college, or vocational school courses by a course syllabus, listing in course bulletin, or equivalent documentation that includes the course title, instructor's name, course dates, number of contact hours, and course content, objectives, or goals; and

(5) verification of attendance by:

(i) a signature of the presenter or a designee at the continuing education activity on the continuing education report form or a certificate of attendance with the course name, course date, and interpreter's name;

(ii) a summary or outline of the educational content of an audio or video educational activity to verify the interpreter's participation in the activity if a designee is not available to sign the continuing education report form;

(iii) verification of self-study programs by a certificate of completion or other documentation indicating that the individual has demonstrated knowledge and has successfully completed the program; or

(iv) verification of attendance at a university, college, or vocational course by an official transcript.

Subd. 20. **Advisory council for spoken language interpreters.** (a) The commissioner shall appoint a nine-member advisory council for spoken language health care interpreters consisting of:

(1) one public member as defined in section 214.02;

(2) three interpreters who are residents of the state and are on the roster or registry, and each of whom interprets a different language from among the two less commonly spoken non-English languages;

(3) one member representing a health maintenance organization or healthcare insurer;

(4) one member, who is not employed as an interpreter, representing a Minnesota hospital and health system that employs interpreters;

(5) one member representing an interpreter agency;

(6) one member with expertise in spoken proficiency assessment or in interpreter skills assessment representing an accredited institution with a postsecondary education program providing interpreting courses or interpreter skills assessment; and

(7) one member designated by the board of the Interpreting Stakeholder Group.

(b) Appointments to the advisory council for spoken language healthcare interpreters must be made in the manner provided in section 15.0597. The appointing authority shall seek to achieve geographical representation from greater Minnesota and the metro area and equal gender distribution.

(c) Membership terms shall be as specified in section 214.09, subdivision 2. Council members shall be compensated at the rate in section 214.09, subdivision 3. Removal and vacancies shall be executed as provided by section 214.09, subdivision 4. Members shall not serve more than two consecutive terms.

(d) The advisory council shall:

(1) advise the commissioner regarding definitions and standards for the roster and registry of spoken language healthcare interpreters;

(2) advise the commissioner regarding approval of:

(i) spoken language proficiency tests and exemptions from the tests;

(ii) courses for interpreter training and noncredit equivalent courses;

(iii) medical interpreting examinations and exemptions from the exams;

(iv) interpreting skills tests and exemptions from the tests; and

(v) any other type of exemptions;

(3) provide for distribution of information regarding the roster and registry for spoken language healthcare interpreters, and provide for distribution of information about openings on the committee to interpreters on the roster and registry and to the Interpreting Stakeholder Group (ISG), and the Upper Midwest Translators and Interpreters Association;

(4) advise the commissioner on applications and recommend granting or denying renewal on the roster or registry;

(5) advise the commissioner on issues related to receiving and investigating complaints, conducting hearings, and imposing disciplinary action in relation to complaints against persons on the roster or registry, including but not limited to a fine or barring from the roster or registry for a specific duration;

(6) advise the commissioner regarding approval of education programs which meet the criteria in subdivisions 7 and 8; and

(7) perform other duties authorized for advisory councils under chapter 214 and as directed by the commissioner.

(e) Notwithstanding section 15.059, the advisory council does not expire.

Subd. 21. **Prohibited conduct.** The commissioner may deny an application or impose disciplinary or corrective action including but not limited to removal from the roster or registry, suspension, reprimands, imposition of a fine, conditional sanctions, or limitation against any spoken language healthcare interpreter. The following conduct is prohibited and is grounds for disciplinary or corrective action:

(1) failure to provide spoken language interpreting services consistent with the Code of Ethics and Standards of Practice as defined in this section;

(2) conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no-contest plea, in any court in Minnesota or any other jurisdiction in the United States, demonstrably related to engaging in spoken language healthcare interpreter services. Conviction includes a conviction for an offense which, if committed in this state, would be deemed a felony;

(3) conviction of violating any state or federal law, rule, or regulation that directly relates to the practice of spoken language healthcare interpreters;

(4) engaging in sexual contact with a spoken language healthcare interpreter client, engaging in contact that may be reasonably interpreted by a client as sexual, engaging in any verbal behavior that is seductive or sexually demeaning to the client, or engaging in sexual exploitation of a client or former client;

(5) advertising that is false, fraudulent, deceptive, or misleading;

(6) conduct likely to deceive, defraud, or harm the public or demonstrating a willful or careless disregard for the health, welfare, or safety of a spoken language healthcare interpreter services client; or any other practice that may create danger to any client's life, health, or safety, and in which case, proof of actual injury need not be established;

(7) adjudication as mentally incompetent or as a person who is dangerous to self or adjudication pursuant to chapter 253B as chemically dependent, developmentally disabled, mentally ill and dangerous to the public, or as a sexual psychopathic personality or sexually dangerous person;

(8) reporting for duty as a spoken language healthcare interpreter while intoxicated or under the influence of alcohol or any prohibited drug that impairs performance;

(9) revealing protected healthcare information from, or relating to, a spoken language healthcare interpreter services client except when otherwise required or permitted by law;

(10) violating or failing to comply with an order issued by the commissioner or advisory council;

(11) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(12) splitting fees or promising to pay a portion of a fee to any other provider of professional services;

(13) failure to make reports as required by this section, or to cooperate with an investigation by the board or commissioner;

(14) obtaining money, property, or services from a spoken language healthcare interpreter services client through the use of undue influence, harassment, duress, deception, or fraud;

(15) obtaining money, property, or services from a healthcare provider, other than reasonable fees for services provided to the spoken language healthcare interpreter services client, through the use of undue influence, harassment, duress, deception, or fraud; and

(16) revocation, suspension, restriction, limitation, or other disciplinary action against any healthcare license, certificate, registration, or right to practice of the spoken language healthcare interpreter in this or another state or jurisdiction for offenses that would be subject to disciplinary action in this state, or failure to report to the office that charges regarding the practitioner's license, certificate, registration, or right of practice have been brought in this or another state or jurisdiction.

Subd. 22. **Investigation of complaints.** The commissioner shall initiate an investigation upon receiving a complaint or other oral or written communication that alleges or implies that a person has violated subdivision 21. The commissioner shall follow the procedures in section 214.10.

Subd. 23. **Authority to contract with health professional services program.** The commissioner shall have the authority to contract with the health professional services program under section 214.28 to provide services to spoken language healthcare interpreters. The health professional services program does not affect the commissioner's authority to discipline violations of subdivision 21.