

DEPARTMENT OF HEALTH

Amendment and Compilation of Chapter 11-218
Hawaii Administrative Rules

1. Chapter 218, Hawaii Administrative Rules, entitled "Communication Access Services for Persons Who Are Deaf, Hard of Hearing, and Deaf-Blind", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 218

COMMUNICATION ACCESS SERVICES FOR PERSONS WHO ARE
DEAF, HARD OF HEARING, AND DEAF-BLIND

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§11-218-1 Purpose and scope. The purpose of these rules is to establish guidelines for the use of communication access services by persons who are deaf, hard of hearing, or deaf-blind for effective communication in programs and activities of state departments and agencies. The optimal situation is one in which the state program or activity is able to communicate directly with the person who is deaf, hard of hearing, or deaf-blind. When direct communication is not possible, this chapter provides guidelines for hiring communication access providers. [Eff 5/17/91; am and comp 6/10/94; comp 4/3/97; am and comp 11/6/00; am and comp 12/24/01; am and comp 10/13/05; comp 7/23/07; comp 02/27/09; comp 10/27/11; comp] (Auth: HRS §348F-6) (Imp: HRS §348F-3)

§11-218-2 Interpretation. If any provision of these rules is inconsistent with requirements of the Americans with Disabilities Act of 1990, Public Law 101-336, as amended, and Section 504 of the Federal Rehabilitation Act of 1973, Public Law 93-112, as amended, the provision shall be construed to be

superseded or governed thereby. These rules shall be construed liberally and consistent with the purpose stated in section 11-218-1. [Eff 5/17/91; am and comp 6/10/94; am and comp 4/3/97; am and comp 11/6/00; comp 12/24/01; comp 10/13/05; comp 7/23/07; comp 02/27/09; comp 10/27/11; comp] (Auth: HRS §348F-6) (Imp: HRS §348F-3)

§11-218-3 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

“Board” means the disability and communication access board.

~~“Certified real-time captioner” means any person who holds any valid certifications awarded by either the National Court Reporters Association (NCRA) or a state board of certified shorthand reporters as defined in Appendix C “Recognized Certifications of a Certified Real-Time Captioner” (April 19, 2010).]~~

“Communication access services” means services rendered by a provider to facilitate communication between the person who is deaf, hard of hearing, or deaf-blind and hearing consumers. Communication access services include, but are not limited to, interpreter services, real-time captioning services, and computer-assisted notetaking services.

“Computer-assisted notetaker” means a person who provides computer-assisted notetaking services.

“Computer-assisted notetaking services” means services performed by a typist using a word processor on a computer~~[.—The services]~~ to provide a summary of a speaker’s words or notes for situations such as a meeting or a group discussion. The words are typed into a word processor and displayed onto a screen. Computer-assisted notetaking services are distinguished from real-time captioning services in that the words are typed simultaneously but not necessarily verbatim and that stenographic equipment and skills are not involved.

~~“Continuing Education Unit” means the equivalent of ten hours of participation in a state screening~~

~~agency pre-approved workshop, seminar, lecture, conference, class or other educational activity to increase knowledge, skills and competency relevant to the practice of sign language and interpreting.~~

~~“Continuing Education Program” means a state screening agency that establishes the criteria for the number of continuing education units required for HQAS interpreters to maintain their credential as defined in Appendix B “Hawaii Quality Assurance System Continuing Education Program”.~~]

“Credentials” means [any] certification or [classification] credential that is awarded to providers as defined in this section.

~~[“Person who is Deaf or hard of hearing” means any person who, with or without amplification, cannot hear and understand spoken language.~~

~~“Person who is Deaf-blind” means any person who, with or without the assistance of hearing or visual aids, has both auditory and visual disabilities that interfere with communication.]~~

“Hawaii State Sign Language Interpreter Credential” means a credential issued by the board to interpreters who pass the HQAS test or who possess a valid credential issued by an entity recognized by the board under section 11-218-14. Functional descriptions of credential levels are included in Appendix A.

“HQAS test” means the Hawaii Quality Assurance System interpreter screening instrument administered by the state screening agency.

“Hearing consumer” means any hearing individual that requires communication access services to communicate with one or more persons who are deaf, hard of hearing, or deaf-blind.

~~[“HQAS” means the Hawaii Quality Assurance System, an interpreter screening instrument administered by the state screening agency. Functional descriptions for HQAS levels are shown in Appendix C, “Functional Description of HQAS Levels” (May 20, 2010).~~

~~“HQAS +H” means the Hawaii Quality Assurance System in addition to the optional local Hawaii language competency test.]~~

“Interpreter services” means services rendered by a [~~locally-classified or~~] nationally-certified or state credentialed interpreter as defined in this section[-], to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, between a person who is deaf, hard-of-hearing, or deaf-blind and a hearing consumer.

“Nationally-certified interpreter” means any person who holds a valid [certificates] certificate or [credentials] credential awarded by the Registry of Interpreters for the Deaf, Inc. (RID) or [National Council on Interpreting (NCI), as defined in Appendix D “Registry of Interpreters for the Deaf, Inc. Description of Certifications” (April 19, 2010) or] the National Association of the Deaf, Inc. (NAD) [as defined in Appendix E, “National Association of the Deaf, Inc. Interpreter Assessment and Certification” (April 19, 2010)].

“Person who is deaf or hard of hearing” means any person who, with or without amplification, cannot hear and understand spoken language.

“Person who is deaf-blind” means any person who, with or without the assistance of hearing or visual aids, has both auditory and visual disabilities that interfere with communication.

“Provider” means any provider of communication access services including, but not limited to, a nationally-certified interpreter, a state credentialed interpreter, a certified real-time captioner, or a computer-assisted notetaker.

“Real-time captioner” means any person who holds any valid certifications awarded by either the National Court Reporters Association (NCRA) or a state board of certified shorthand reporters.

“Real-time captioning services” means services performed by a certified real-time captioner [~~in order~~] to facilitate communication for persons who are deaf, hard of hearing, and deaf-blind. The services

provide simultaneous transcription of a speaker's words by using a stenographic machine, a computer, and real-time captioning software, and by projecting the words onto a screen.

"State agency" means any department, office, board, or commission of the State, or the University of Hawaii.

"State screening agency" means the disability and communication access board [~~issuing credentials under the Hawaii Quality Assurance System which shall be honored statewide~~].

"State credentialed interpreter" means any person who holds a valid [~~HQAS credentials defined in Appendix C and~~] Hawaii State Sign Language Interpreter Credential awarded by the [state screening agency.] board. Credential levels and functional descriptions are described in Appendix A. [Eff 5/17/91; am and comp 6/10/94; am and comp 4/3/97; am and comp 11/6/00; am and comp 12/24/01; am and comp 10/13/05; comp 7/23/07; am and comp 02/27/09; am and comp 10/27/11; am and comp] (Auth: HRS §348F-6)
(Imp: HRS §348F-3)

§11-218-3.5 Rights of consumers to communication access services. Any person who is deaf, hard of hearing, or deaf-blind; or any hearing consumer; as provided in section 11-218-3; shall be provided communication access services when necessary to provide effective communication in any program or activity of a state agency. Persons who are deaf, hard of hearing, or deaf-blind who request communication access services for any program or activity may identify and request their preferred providers. The requirement for a certified or credentialed provider may be waived if the person who is deaf, hard of hearing, or deaf-blind indicates a preference for someone who does not have a credential or certification. The state agency shall document instances when a person requests a provider that does not have a credential or certification. [Eff and comp

] (Auth: HRS §348F-6) (Imp: HRS §348F-3)

§11-218-4 Credentials of providers. (a) The credentials of providers shall be based on the level and specialization determined by the national organizations or state screening agency which provide the credentials listed in §11-218-3. The board shall review criteria of the credentials awarded by national organizations and the state screening agency with input from the community. Documentation of completion of sign language courses or interpreter training programs shall not be substituted for credentials listed in section 11-218-3.

(b) Currently there are no known national or state organizations [~~or state screening agency~~] that award credentials for computer-assisted notetakers. It is recommended that [~~the~~] state agencies [~~utilize~~] hire persons who meet the following characteristics [~~in order~~] to provide computer-assisted notetaking services: ability to organize and summarize information; ability to type at least sixty words per minute; familiarity with the subject being discussed; experience working with persons who are deaf, hard of hearing, or deaf-blind; working knowledge of laptop computers and word processing software; and good auditory, verbal, and spelling skills.

(c) The validity of credentials shall be based on criteria for maintenance of credentials established by the appropriate national or state organizations that issue credentials as referenced in section 11-218-3. Providers shall furnish, upon request, documentation of credentials to the state agency when communication access services are contracted. [Eff 5/17/91; comp 6/10/94; comp 4/3/97; am and comp 11/6/00; am and comp 12/24/01; am and comp 10/13/05; comp 7/23/07; comp 2/27/09; comp 10/27/11; am and comp

] (Auth: HRS §348F-6) (Imp: HRS §348F-3)

§11-218-5 Repealed. [R 11/6/00]

§11-218-5.1 Fee schedule guidelines. [~~(a)~~ State agencies hiring providers as independent contractors on a fee for service basis may negotiate fees with the provider. Appendix A, "Recommended Fee Schedules for Providers" (July 21, 2011), located at the end of this chapter, is made a part of this chapter. The hourly rates listed in Appendix A are recommended rates for providers used by state agencies for one-time, ad-hoc, or single units of service. In addition, Appendix A includes recommendations for mileage, travel, and other allowable charges.

~~(b)~~ State agencies hiring providers as independent contractors for on-going or continuing assignments may negotiate fees and terms independent of the hourly rates shown in Appendix A. This paragraph shall not be construed to supersede the provisions of section 11-218-8.

~~(c)~~ The Board shall review the recommended fee schedules, annually or as needed, with consideration of the current market value of those services as well as input from consumers, providers, and state agencies.]

(a) The board shall issue a recommended fee schedule to guide state agencies in determining the cost of hiring communication access service providers. The recommended fee schedule may include recommendations for mileage, travel, cancellation, and other allowable provider fees. The guidelines shall be advisory only and state agencies may negotiate fees with the providers.

(b) In developing the recommended fee schedule, the board shall seek advice from consumers, providers, and state agencies.

(c) The board shall publish the recommended fee schedule on the board's website.

(d) The recommended fee schedule shall be reviewed periodically and may be amended as needed.

[Eff and comp 11/6/00; am and comp 12/24/01; am and

comp 10/13/05; am and comp 7/23/07; am and comp
2/27/09; am and comp 10/27/11; am and comp
] (Auth: HRS §348F-6) (Imp: HRS
§348F-3)

§11-218-6 Cancellation of services. [~~Fees shall be determined in accordance with the time of cancellation of services:~~

- ~~(1) For assignments less than two hours in duration, and if a cancellation notice is given at least twenty-four hours in advance, no fee shall be assessed. If the cancellation notice is given less than twenty-four hours in advance, the full charge for the requested period shall be assessed.~~
- ~~(2) For assignments two hours or more but less than four hours in duration, and if a cancellation notice is given at least forty-eight hours in advance, no fee shall be assessed. If the cancellation notice is given less than forty-eight hours in advance, the full charge for the requested period shall be assessed.~~
- ~~(3) For assignments four hours or more in duration, and if a cancellation notice is given at least seventy-two hours in advance, no fee shall be assessed. If the cancellation notice is given less than seventy-two hours in advance, the minimum two hour fee plus one-half of the fee for the remaining scheduled time shall be assessed. If the cancellation notice is given less than forty-eight hours in advance, the full fee shall be assessed.]~~
- ~~(4) If an essential person who is deaf, hard of hearing, or deaf-blind, or a hearing consumer of interpreting or other communication access services fails to appear, this shall be considered a~~

~~cancellation and the provider hired for that assignment shall be paid the full fee for the requested period by the state agency.~~

~~(5) If a provider fails to appear, no fee shall be paid by the state agency.~~

~~(6) For assignments where two providers are scheduled and one fails to appear, the solo provider shall be paid the full fee plus 30 per cent of the hourly rate.]~~

(a) State agencies shall follow the cancellation policies and procedures of a referral agency when contracting for the services of a communication access provider. State agencies are encouraged to review such policies and procedures prior to contracting with a referral agency.

(b) When a state agency contracts with a provider without the use of an interpreter referral agency, the state agency is responsible to confirm the cancellation fee policies and procedures with the provider at the same time the communication access service fees are confirmed. If a provider does not have cancellation fee policies and procedures, it is recommended that the state agency and provider follow the cancellation fee guidelines that accompany the recommended fee schedule issued pursuant to §11-218-5.1. [Eff 5/17/91; comp 6/10/94; comp 4/3/97; am and comp 11/6/00; comp 12/24/01; am and comp 10/13/05; comp 7/23/07; comp 02/27/09; comp 10/27/11; am and comp] (Auth: HRS §348F-6) (Imp: HRS §348F-3)

§11-218-7 Repealed. [R 11/6/00]

§11-218-7.1 Repealed. [R 11/6/00]

§11-218-7.2 Repealed. [R 11/6/00]

§11-218-8 Provision of services. [~~(a) Any person meeting any one of the definitions of nationally-certified or state credentialed interpreter, certified real-time captioner, or computer-assisted notetaker provided in section 11-218-3 may be hired as a provider of interpreter services, real-time captioning services, or computer-assisted notetaking services.~~

~~(b) Any state agency shall acquire the services of a provider with the appropriate credentials when one is necessary for a person who is deaf, hard of hearing, or deaf-blind to effectively participate in an activity or program of that agency. A state agency shall hire the preferred provider of the person who is deaf, hard of hearing, or deaf-blind when possible. If no preference is stated, providers with the highest level of credentials shall be hired first, followed by lesser levels of credentials, in the order listed in Appendix A.~~

~~(c) For assignments of more than one and one-half hours in length, and with continuous work (for example, a workshop or meeting), the state agency shall request two providers for the total time of the assignment to actively work for alternate periods of twenty minutes each. If only one provider is available and hired for an assignment with continuous work of more than one and one-half hours in length, the state agency shall ensure that the provider is given breaks as necessary or as negotiated prior to the assignment.~~

~~(d) Any person who is deaf, hard of hearing, or deaf-blind shall inform the state agency of the need for communication access services, allowing reasonable time to hire providers.]~~

(a) Any person who is deaf, hard of hearing, or deaf-blind shall inform a state agency of the need for communication access services, allowing reasonable time to hire providers.

(b) A state agency shall hire the preferred qualified providers of the person who is deaf, hard of hearing, or deaf-blind to provide effective communication when possible. If no preference is

stated, providers with the highest level of credentials shall be hired first, followed by providers with lesser levels of credentials.

(c) A state agency shall acquire the services of a provider or providers with the appropriate credentials when necessary for a person who is deaf, hard of hearing, or deaf-blind to effectively participate in an activity or program of that agency.

(d) For assignments of continuous work (for example, a workshop or meeting), the state agency shall request a minimum of two providers to actively and alternately work for the total time of the assignment.

(e) If only one provider is available and hired for an assignment with continuous work of more than one and one-half hours in length, the state agency shall ensure that the provider is given breaks as necessary or as negotiated prior to the assignment.

(f) If a person who is deaf, hard of hearing, or deaf-blind cannot benefit from conventional communication access services, then additional providers, including a provider who is deaf, hard of hearing, or deaf-blind, shall be used to relay information between the consumer and the hearing provider to achieve effective communication.

(g) A qualified sign language interpreter is an interpreter who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. [Eff 5/17/91; am and comp 6/10/94; am and comp 4/3/97; am and comp 11/6/00; am and comp 12/24/01; am and comp 10/13/05; comp 7/23/07; comp 02/27/09; comp 10/27/11; am and comp]
(Auth: HRS§348F-6) (Imp: HRS §348F-3)

~~**[§11-218-8.1 Role of a provider who is deaf, hard of hearing, or deaf-blind.** If a person who is deaf, hard of hearing, or deaf-blind cannot benefit from conventional communication access services, then a team of two providers shall be hired upon request to~~

~~ensure effective communication. The second provider, who is deaf, hard of hearing, or deaf-blind, would relay information between the consumer and the hearing provider, using a three-way communication.] [Eff and comp 11/6/00; comp 12/24/01; am and comp 10/13/05; comp 7/23/07; comp 02/27/09; comp 10/27/11; R] (Auth: HRS §348F-6) (Imp: HRS §348F-3)~~

~~**§11-218-9 Rights of consumers to communication access services.** Any person meeting any one of the definitions of person who is deaf, hard of hearing, or deaf-blind or hearing consumer as provided in section 11-218-3 shall be provided communication access services as requested in any program or activity of a state agency. Persons who are deaf, hard of hearing, or deaf-blind who request communication access services for any program or activity may identify and request their preferred provider. The requirement for credentials may be waived if the person who is deaf, hard of hearing, or deaf-blind indicates preference for someone who does not have credentials. The state agency shall certify and document that the person who is deaf, hard of hearing, or deaf-blind specified a provider without credentials.] [Eff 5/17/91; am and comp 6/10/94; am and comp 4/3/97; am and comp 11/6/00; comp 12/24/01; am and comp 10/13/05; comp 7/23/07; comp 02/27/09; comp 10/27/11; R] (Auth: HRS §348F-6) (Imp: HRS §348F-3)~~

~~**§11-218-9.5 Code of ethics.** Services of [~~HQAS interpreters~~] a Hawaii state credentialed interpreter shall be rendered in a manner consistent with Appendix [~~F, "The Hawaii Quality Assurance System Code of Ethics" (October 19, 2000).~~] B. [~~RID, NAD, NCRA, or NAD-RID NCI certified interpreters~~] shall follow their respective code of ethics.] Services of a nationally credentialed interpreter or other communication access~~

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provider shall be rendered [~~by providers~~] in a manner consistent with [~~Appendix F, or~~] their respective certification's code of ethics. [Eff and comp 11/6/00; am and comp 12/24/01; am and comp 10/13/05; comp 7/23/07; comp 02/27/09; am and comp 10/27/11; am and comp] (Auth: HRS §348F-6) (Imp: HRS §348F-3)

§11-218-10 Repealed. [R 6/10/94]

§11-218-11 Repealed. [R 6/10/94]

§11-218-12 Application and renewal of credential[s]. [~~Every application for credentials shall be made upon forms available from the appropriate national organizations or the state screening agency which provides credentials, as indicated in section 11-218-3. Fees accompanying the application, if any, shall be set by these organizations.~~

~~It is the responsibility of the provider to maintain current credentials.]~~

(a) A candidate for a Hawaii State Sign Language Interpreter Credential shall complete an application form available from the board and upon payment of a fee as listed in 11-218-13.5.

(b) Upon receipt of the application, fee, verification of successful passing of the HQAS test or presentation of a valid credential issued by an entity and honored by the board under 11-218-14, and completion of viewing a video on ethics, the board shall issue a Hawaii State Sign Language Interpreter Credential in accordance with Appendix A. The credential shall be valid until December 31 of the subsequent calendar year.

(c) Issuance of a Hawaii State Sign Language Interpreter Credential shall automatically enroll the credential holder in the continuing education program.

(d) A person who possesses a valid Hawaii State Sign Language Interpreter Credential may apply for a renewal of the credential by submitting a renewal application form available from the board by November 30 of the year of expiration of his or her credential.

(e) Upon receipt of the application fee as listed in 11-218-13.5 and verification of completion of required continuing education units in the continuing education program, the board shall issue a Hawaii State Sign Language Interpreter Credential.

(f) A one-time extension of three months per renewal cycle to complete the continuing education units to renew a credential shall be permitted with the payment of an extension fee as listed in 11-218-13.5. When an interpreter is on extension, the interpreter is still considered a credentialed interpreter.

(g) The renewal credential shall become valid in January of the subsequent year for two years. [Eff 5/17/91; am and comp 6/10/94; comp 4/3/97; am and comp 11/6/00; am and comp 12/24/01; comp 10/13/05; comp 7/23/07; comp 02/27/09; comp 10/27/11; am and comp] (Auth: HRS §348F-6) (Imp: HRS §348F-3)

§11-218-12.5 Continuing Education Program. (a) The board shall operate a continuing education program to allow holders of a Hawaii State Sign Language Interpreter Credential to maintain the credential instead of retaking the HQAS test.

(b) Enrollment in the continuing education program shall be automatic with the issuance of a Hawaii State Sign Language Interpreter Credential.

(c) The requirements for the continuing education program shall be 3.0 continuing education units per two-year cycle for credential level Tier 4

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or Tier 5 and 3.5 continuing education units per two-year cycle for credential level Tier 3.

(d) A continuing education unit is the equivalent of ten hours of participation in a state screening agency pre-approved workshop, seminar, lecture, conference, class or other educational activity to increase knowledge, skills and competency relevant to the practice of sign language and interpreting.

(e) Continuing education unit requirements shall be pro-rated for the initial credential cycle.

(f) Continuing education units earned that exceed the required number for renewal of the credential cannot be transferred to the new cycle.

(g) The board shall prepare a continuing education program manual for each credential holder with policies and procedures for accruing continuing education units. [Eff and comp]

(Auth: HRS §348F-6) (Imp: HRS §348F-3)

§11-218-12.6 Provisional credential. (a) Upon application and payment of a fee, the state screening agency may issue a provisional credential to a provider of interpreter services who possesses a credential issued by an entity other than the credentials recognized by the state, provided that the credential is valid and was issued within two years preceding the application.

(b) Upon application and payment of a fee, the state screening agency may issue a provisional credential to a provider of interpreter services who possesses an Educational Interpreter Performance Assessment certification at a level 4.0 or higher and who provides evidence of consistent work as a sign language interpreter within one year preceding the application.

(c) The provisional credential shall be equivalent to the lowest level credential issued by the state screening agency and shall be valid for no longer than one credential cycle. [Eff and comp]

] (Auth: HRS §348F-6) (Imp: HRS §348F-3)

~~[§11-218-13 **Validity of credentials.** The validity of credentials shall be based on criteria for maintenance of credentials established by the appropriate national organizations or the state screening agency which provides credentials as indicated in section 11-218-3. The continuing education program for HQAS interpreters shall be administered by the state screening agency. Appendix B is the continuing education program for HQAS interpreters. It is the responsibility of the provider to furnish, upon request, documentation of credentials to the state agency when communication access services are contracted.] [Eff 5/17/91; am and comp 6/10/94; comp 4/3/97; am and comp 11/6/00; am and comp 12/24/01; comp 10/13/05; comp 7/23/07; comp 02/27/09; am and comp 10/27/11; R]~~
(Auth: HRS §348F-6) (Imp: HRS §348F-3)

~~§11-218-13.4 [**Test Procedures and Grievances.**] **Test procedures and grievances.** [The HQAS shall be administered by the state screening agency. Candidate grievances shall be filed in writing to the disability and communication access board executive director. The disability and communication access board executive director shall reply in writing within 30 days. If the candidate is not satisfied with the response of the executive director, then the candidate may request a reply from the disability and communication access board. The board shall consider all relevant comments and materials of record before taking final action.]~~

~~(a) The HQAS test shall be administered by the state screening agency.~~

~~(b) To apply for the HQAS test, a candidate shall submit an application form and pay the test~~

application fee. Upon confirmation of the completed application and required fee, the state screening agency shall schedule a performance test.

(c) The performance test shall be scored by a panel of independent evaluators. Candidates shall be notified by the state screening agency when evaluator scores have been aggregated.

(d) If a candidate does not achieve a desired score on performance test A, the candidate may take performance test B, but not sooner than six months after taking performance test A and upon payment of a new test application fee. If the candidate does not achieve a desired score on performance test B, the candidate may take performance test C, but not sooner than six months after taking performance test B and upon payment of a new test application fee. If the candidate does not achieve a desired score on performance test C, the candidate may take performance test A again, but not sooner than six months after taking performance test C and upon payment of a new test application fee. If the candidate does not achieve a desired score on performance test A the second time, the candidate may take performance test B again, but not sooner than six months after taking performance test A the second time and upon payment of a new test application fee. If the candidate does not achieve a desired score on performance test B the second time, the candidate may take performance test C again, but not sooner than six months after taking performance test B the second time and upon payment of a new test application fee. A candidate may not take the same version of the performance test more than two times.

(e) If a candidate has a grievance regarding the test procedure, the grievance shall be filed in writing to the executive director of the state screening agency before the candidate's test is submitted to the independent evaluators. The executive director shall reply in writing within thirty days. If the candidate is not satisfied with the response of the executive director, then the candidate may request a reply from the board. The

board shall consider all relevant comments and materials of record before taking final action.

(f) If a candidate disagrees with the score received, the candidate may request to have the test re-scored and pay a second test fee as listed in 11-218-13.5 within three months of receiving the aggregated test score.

(g) After a candidate passes the HQAS test, and before the state screening agency will issue a Hawaii State Sign Language Interpreter Credential to the candidate, the candidate shall take and pass the code of professional conduct test. The code of professional conduct test shall be administered and scored by the state screening agency at no cost to the candidate. [Eff and comp 10/13/05; comp 7/23/07; am and comp 02/27/09; comp 10/27/11; am and comp

] (Auth: HRS §348F-6] (Imp: HRS

§348F-3)

§11-218-13.5 [Non Refundable and Non Transferable Fees.] Refundable and non transferable fees. (a) The [disability and communication access] board shall establish a fee to be charged to each candidate applying for the HQAS [credentials or renewals.] test, a Hawaii State Sign Language Interpreter Credential, renewal of a Hawaii State Sign Language Interpreter Credential, or a provisional credential.

- [-(1) Fees collected under this section shall be deposited in the special fund.
- (2) Candidate fees for the HQAS or HQAS+H test including the written and interpreting/transliterating performance test shall be \$200 with increased increments of \$50 over a two year period to \$300 to begin after the effective date of the rules.
- (3) A candidate must pass the written test to take the interpreting/transliterating performance test. If the candidate fails the written test, then the candidate may

~~retake the next scheduled written test. If the candidate fails the written test three times, then the candidate shall reapply and submit a HQAS or HQAS+H test fee.~~

- ~~(4) Candidate fees shall be used to pay for the costs of the independent evaluators' services of the performance test. If a candidate wishes to appeal the test scores, the candidate may request for a second set of evaluations with the payment of a second candidate fee.~~
- ~~(5) For renewal of HQAS credential, an application fee shall be \$100 for the continuing education program.]~~

(b) Fees collected under this section shall be deposited in the disability and communication access board special fund.

(c) Fees for the HQAS test are as follows:

- (1) The candidate fee for the HQAS test shall be \$360.
- (2) Candidate fees shall be used to pay for independent evaluator services.
- (3) If a candidate applies to take the test but cancels at least two weeks before the scheduled test date, the candidate's fee shall be refunded in full or transferred to a future test. If a candidate cancels less than two weeks before the scheduled test date, the candidate's fee shall not be refundable.
- (4) If a candidate wishes to appeal the test scores, the candidate may request a second set of evaluators with payment of a second candidate fee.

(d) Fees for the Hawaii State Sign Language Interpreter Credential are as follows:

- (1) The fee for the issuance of a new state credential shall be \$50 with the credential to expire on December 31 of the following calendar year.
- (2) The fee for renewal of a Hawaii State Sign Language Interpreter Credential shall be \$50

biennially upon the completion of the required continuing education units pursuant to these rules.

(3) No fee will be charged for a replacement credential.

(4) The fee for a one-time extension to renew the credential shall be \$50.

(e) The fee for a provisional credential shall be \$50. [Eff and comp 12/24/01; am and comp 10/13/05; am and comp 7/23/07, comp 02/27/09; am and comp 10/27/11; am and comp] (Auth: HRS §§348F-7 to 348F-8) (Imp: HRS §§348F-7 to 348F-8)

§11-218-14 [Reciprocal recognition.] Recognition of credentials issued by other entities. [State

~~agencies are]~~ The board is encouraged to recognize and honor providers with current and valid credentials [from jurisdictions] issued by entities other than the [State of Hawaii for a period of six months or until a state screening or testing is conducted.] State. The board shall examine the parity of credentials issued by other entities to determine if and at what level a provider with another credential may qualify for a Hawaii State Sign Language Interpreter Credential. These credentials shall be considered current and valid if they were awarded not more than two years prior to the date of hire, unless otherwise indicated by the documentation of such credentials. A provider with a credential issued by another entity that is recognized by the board may be issued a Hawaii State Sign Language Interpreter Credential for one credential cycle upon application as set forth in section 11-218-12. The provider must renew a credential through completion of the continuing education program as set forth in section 11-218-12.5.

[Eff 5/17/91; am and comp 6/10/94; am and comp 4/3/97; am and comp 11/6/00; am and comp 12/24/01; am and comp 10/13/05; comp 7/23/07, comp 02/27/09; comp 10/27/11; am and comp] (Auth: HRS §348F-6) (Imp: HRS §348F-3)

§11-218-15

§11-218-15 Severability. If any provision of this chapter or the application thereof to any person or circumstance is for any reason held to be unconstitutional or invalid, the remaining portion of these rules or the application thereof to any person or circumstance shall not be affected." [Eff 5/17/91; comp 6/10/94; comp 4/3/97; comp 11/6/00; comp 12/24/01; am and comp 10/13/05; am and comp 7/23/07, comp 02/27/09; comp 10/27/11, comp]
(Auth: HRS §348F-6) (Imp: HRS §348F-3)

2. Material, except source notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 11-218, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ and filed with the Office of the Lieutenant Governor.

BRUCE S. ANDERSON, Ph.D.
Director of Health

APPROVED AS TO FORM:

Deputy Attorney General

**APPENDIX A
HAWAII STATE SIGN LANGUAGE INTERPRETER CREDENTIAL
FUNCTIONAL DESCRIPTIONS**

Hawaii State Sign Language Interpreter Credential Tier V

A Tier V Interpreter-transliterator can function expressively and receptively in virtually all situations. While no restrictions are indicated, all interpreters must demonstrate professional judgment in accepting assignments.

A Hawaii State Sign Language Interpreter Credential Tier V is issued to an individual who passes the Hawaii Quality Assurance System test at a Level V.

Hawaii State Sign Language Interpreter Credential Tier IV

A Tier IV Interpreter-transliterator can function expressively and receptively in most complex and technical situations. This interpreter may accept assignments for one-on-one and group sessions, as well as workshops and platform assignments. This interpreter is qualified for most medical and dental appointments, and limited legal interpreting, including client/lawyer meetings, and traffic or small claims court.

All interpreters must demonstrate professional judgment in accepting assignments.

A Hawaii State Sign Language Interpreter Credential Tier IV is issued to an individual who passes the Hawaii Quality Assurance System test at a Level IV.

Hawaii State Sign Language Interpreter Credential Tier III

A Tier III Interpreter-transliterator is a qualified interpreter at the entry level. This interpreter may accept assignments for many group sessions and workshops and most one-on-one situations.

All interpreters must demonstrate professional judgment in accepting assignments.

A Hawaii State Sign Language Interpreter Credential Tier III is issued to an individual who passes the Hawaii Quality Assurance System test at a Level III.

Provisional Credential

A Provisional Credential is issued to a provider of interpreter services who possesses (1) a credential issued by a jurisdiction or entity other than the credentials recognized by the state, provided that the credential is valid and was issued within two (2) years preceding the application; or (2) an Educational Interpreter Performance Assessment certification at a level 4.0 or higher and who provides evidence of consistent work as a sign language interpreter within one (1) year preceding the application. The provisional credential shall be equivalent to the lowest level credential issued by the state screening agency and shall expire on December 31 of the year following the date of application.

APPENDIX B STATE OF HAWAII CREDENTIALLED INTERPRETERS CODE OF PROFESSIONAL CONDUCT

(Note: To ensure consistency in conduct between State of Hawaii credentialed interpreters and nationally certified interpreters, the following Code of Professional Conduct mirrors the Code of Professional Conduct, formerly known as the Ethics Code, of the National Registry of Interpreters of the Deaf (RID). References to RID are replaced with references to the Disability and Communication Access Board (DCAB) and references to organizational and voting issues of RID are deleted.)

Scope

The Disability and Communication Access Board (DCAB) upholds high standards of professionalism and ethical conduct for interpreters. Embodied in this Code of Professional Conduct are seven tenets setting forth guiding principles, followed by illustrative behaviors.

The tenets of this Code of Professional Conduct are to be viewed holistically and as a guide to professional behavior. This document provides assistance in complying with the code. The guiding principles offer the basis upon which the tenets are articulated. The illustrative behaviors are not exhaustive, but are indicative of the conduct that may either conform to or violate a specific tenet or the code as a whole.

When in doubt, the reader should refer to the explicit language of the tenet. If further clarification is needed, questions may be directed to the Disability and Communication Access Board.

This Code of Professional Conduct is sufficient to encompass interpreter roles and responsibilities in every type of situation (e.g., educational, legal, medical). A separate code for each area of interpreting is neither necessary nor advisable.

Philosophy

The American Deaf community represents a cultural and linguistic group having the inalienable right to full and equal communication and to participation in all aspects of society. Members of the American Deaf community have the right to informed choice and the highest quality interpreting services. Recognition of the communication rights of America's women, men, and children who are deaf is the foundation of the tenets, principles, and behaviors set forth in this Code of Professional Conduct.

Function of the Guiding Principles

It is the obligation of every interpreter to exercise judgment, employ critical thinking, apply the benefits of practical experience, and reflect on past actions in the practice of their profession. The guiding principles in this document represent the concepts of confidentiality, linguistic and professional competence, impartiality, professional growth and development, ethical business

practices, and the rights of participants in interpreted situations to informed choice. The driving force behind the guiding principles is the notion that the interpreter will do no harm.

When applying these principles to their conduct, interpreters remember that their choices are governed by a “reasonable interpreter” standard. This standard represents the hypothetical interpreter who is appropriately educated, informed, capable, aware of professional standards, and fair-minded.

Tenets

1. Interpreters adhere to standards of confidential communication.
2. Interpreters possess the professional skills and knowledge required for the specific interpreting situation.
3. Interpreters conduct themselves in a manner appropriate to the specific interpreting situation.
4. Interpreters demonstrate respect for consumers.
5. Interpreters demonstrate respect for colleagues, interns, and students of the profession.
6. Interpreters maintain ethical business practices.
7. Interpreters engage in professional development.

Applicability

- A. This Code of Professional Conduct applies to interpreters credentialed by the Disability and Communication Access Board.
- B. Federal, state or other statutes or regulations may supersede this Code of Professional Conduct. When there is a conflict between this code and local, state, or federal laws and regulations, the interpreter obeys the rule of law.
- C. This Code of Professional Conduct applies to interpreted situations that are performed either face-to-face or remotely.

Definitions

For the purpose of this document, the following terms are used:

Colleagues: Other interpreters.

Conflict of Interest: A conflict between the private interests (personal, financial, or professional) and the official or professional responsibilities of an interpreter in a position of trust, whether actual or perceived, deriving from a specific interpreting situation.

Consumers: Individuals and entities who are part of a situation that requires the services of a sign language interpreter. This includes individuals who are deaf, deaf-blind, hard of hearing, and hearing.

1.0 CONFIDENTIALITY

Tenet: Interpreters adhere to standards of confidential communication.

Guiding Principle: Interpreters hold a position of trust in their role as linguistic and cultural facilitators of communication. Confidentiality is highly valued by consumers and is essential to protecting all involved.

Each interpreting situation (e.g., elementary, secondary, and post-secondary education, legal, medical, mental health) has a standard of confidentiality. Under the reasonable interpreter standard, professional interpreters are expected to know the general requirements and applicability of various levels of confidentiality. Exceptions to confidentiality include, for example, federal and state laws requiring mandatory reporting of abuse or threats of suicide, or responding to subpoenas.

Illustrative Behavior – Interpreters:

- 1.1 Share assignment-related information only on a confidential and “as-needed” basis (e.g., supervisors, interpreter team members, members of the educational team, hiring entities).
- 1.2 Manage data, invoices, records, or other situational or consumer-specific information in a manner consistent with maintaining consumer confidentiality (e.g., shredding, locked files).
- 1.3 Inform consumers when federal or state mandates require disclosure of confidential information.

2.0 PROFESSIONALISM

Tenet: Interpreters possess the professional skills and knowledge required for the specific interpreting situation.

Guiding Principle: Interpreters are expected to stay abreast of evolving language use and trends in the profession of interpreting as well as in the American Deaf community. Interpreters accept assignments using discretion with regard to skill, communication mode, setting, and consumer needs. Interpreters possess knowledge of American Deaf culture and deafness-related resources.

Illustrative Behavior – Interpreters:

- 2.1 Provide service delivery regardless of race, color, national origin, gender, religion, age, disability, sexual orientation, or any other factor.
- 2.2 Assess consumer needs and the interpreting situation before and during the assignment and make adjustments as needed.
- 2.3 Render the message faithfully by conveying the content and spirit of what is being communicated, using language most readily understood by consumers, and correcting errors discreetly and expeditiously.
- 2.4 Request support (e.g., certified deaf interpreters, team members, language facilitators) when needed to fully convey the message or to address exceptional communication challenges (e.g., cognitive disabilities, foreign sign language, emerging language ability, or lack of formal instruction or language).
- 2.5 Refrain from providing counsel, advice, or personal opinions.
- 2.6 Judiciously provide information or referral regarding available interpreting or community resources without infringing upon consumers' rights.

3.0 CONDUCT

Tenet: Interpreters conduct themselves in a manner appropriate to the specific interpreting situation.

Guiding Principle: Interpreters are expected to present themselves appropriately in demeanor and appearance. They avoid situations that result in conflicting roles or perceived or actual conflicts of interest.

Illustrative Behavior – Interpreters:

- 3.1 Consult with appropriate persons regarding the interpreting situation to determine issues such as placement and adaptations necessary to interpret effectively.
- 3.2 Decline assignments or withdraw from the interpreting profession when not competent due to physical, mental, or emotional factors.
- 3.3 Avoid performing dual or conflicting roles in interdisciplinary (e.g., educational or mental health teams) or other settings.
- 3.4 Comply with established workplace codes of conduct, notify appropriate personnel if there is a conflict with this Code of Professional Conduct, and actively seek resolution where warranted.

- 3.5 Conduct and present themselves in an unobtrusive manner and exercise care in choice of attire.
- 3.6 Refrain from the use of mind-altering substances before or during the performance of duties.
- 3.7 Disclose to parties involved any actual or perceived conflicts of interest.
- 3.8 Avoid actual or perceived conflicts of interest that might cause harm or interfere with the effectiveness of interpreting services.
- 3.9 Refrain from using confidential interpreted information for personal, monetary, or professional gain.
- 3.10 Refrain from using confidential interpreted information for the benefit of personal or professional affiliations or entities.

4.0 RESPECT FOR CONSUMERS

Tenet: Interpreters demonstrate respect for consumers.

Guiding Principle: Interpreters are expected to honor consumer preferences in selection of interpreters and interpreting dynamics, while recognizing the realities of qualifications, availability, and situation.

Illustrative Behavior – Interpreters

- 4.1 Consider consumer requests or needs regarding language preferences, and render the message accordingly (interpreted or transliterated).
- 4.2 Approach consumers with a professional demeanor at all times.
- 4.3 Obtain the consent of consumers before bringing an intern to an assignment.
- 4.4 Facilitate communication access and equality, and support the full interaction and independence of consumers.

5.0 RESPECT FOR COLLEAGUES

Tenet: Interpreters demonstrate respect for colleagues, interns, and students of the profession.

Guiding Principle: Interpreters are expected to collaborate with colleagues to foster the delivery of effective interpreting services. They also understand that the manner in which they relate to colleagues reflects upon the profession in general.

Illustrative Behavior – Interpreters:

- 5.1 Maintain civility toward colleagues, interns, and students.
- 5.2 Work cooperatively with team members through consultation before assignments regarding logistics, providing professional and courteous assistance when asked and monitoring the accuracy of the message while functioning in the role of the support interpreter.
- 5.3 Approach colleagues privately to discuss and resolve breaches of ethical or professional conduct through standard conflict resolution methods; file a formal grievance only after such attempts have been unsuccessful or the breaches are harmful or habitual.
- 5.4 Assist and encourage colleagues by sharing information and serving as mentors when appropriate.
- 5.5 Obtain the consent of colleagues before bringing an intern to an assignment.

6.0 BUSINESS PRACTICES

Tenet: Interpreters maintain ethical business practices.

Guiding Principles: Interpreters are expected to conduct their business in a professional manner whether in private practice or in the employ of an agency or other entity. Professional interpreters are entitled to a living wage based on their qualifications and expertise. Interpreters are also entitled to working conditions conducive to effective service delivery.

Illustrative Behavior – Interpreters:

- 6.1 Accurately represent qualifications, such as certification, educational background, and experience, and provide documentation when requested.
- 6.2 Honor professional commitments and terminate assignments only when fair and justifiable grounds exist.
- 6.3 Promote conditions that are conducive to effective communication, inform the parties involved if such conditions do not exist, and seek appropriate remedies.
- 6.4 Inform appropriate parties in a timely manner when delayed or unable to fulfill assignments.
- 6.5 Reserve the option to decline or discontinue assignments if working conditions are not safe, healthy, or conducive to interpreting.

- 6.6 Refrain from harassment or coercion before, during, or after the provision of interpreting services.
- 6.7 Render pro bono services in a fair and reasonable manner.
- 6.8 Charge fair and reasonable fees for the performance of interpreting services and arrange for payment in a professional and judicious manner.

7.0 PROFESSIONAL DEVELOPMENT

Tenet: Interpreters engage in professional development.

Guiding Principle: Interpreters are expected to foster and maintain interpreting competence and the stature of the profession through ongoing development of knowledge and skills.

Illustrative Behavior – Interpreters:

- 7.1 Increase knowledge and strengthen skills through activities such as:
 - pursuing higher education;
 - attending workshops and conferences;
 - seeking mentoring and supervision opportunities;
 - participating in community events; and
 - engaging in independent studies.
- 7.2 Keep abreast of laws, policies, rules, and regulations that affect the profession.