

2003 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB255)

Received: **01/14/2004**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Neal Kedzie (608) 266-2635**

By/Representing: **Matt Phillips**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies: **PJH**

Submit via email: **YES**

Requester's email: **Sen.Kedzie@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Licensure of deaf and hard of hearing interpreters

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 01/15/2004	jdyer 01/15/2004		_____			
		jdyer 01/16/2004		_____			
/1			pgreensl 01/16/2004	_____	lemery 01/16/2004	lemery 01/16/2004	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	rnelson2 01/19/2004 mkunkel 01/20/2004	jdyer 01/21/2004 jdyer 01/21/2004	pgreensl 01/21/2004	_____ _____ _____ _____	sbasford 01/21/2004	sbasford 01/21/2004	
/3	mkunkel 01/28/2004 rnelson2 01/28/2004	jdyer 01/28/2004	rschluet 01/28/2004	_____ _____ _____	lnorthro 01/28/2004	lnorthro 01/28/2004	
/4	rnelson2 01/28/2004	jdyer 01/28/2004	rschluet 01/28/2004	_____ _____	sbasford 01/28/2004	sbasford 01/28/2004	

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/1		1/4 1/28 jld	pgreensl 01/16/2004	_____	lemery 01/16/2004	lemery 01/16/2004	

Handwritten signature and date: 1/28/04

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/3	mkunkel 01/28/2004 rnelson2 01/28/2004	jdyer 01/28/2004	rschluet 01/28/2004	_____	Inorthro 01/28/2004	Inorthro 01/28/2004	

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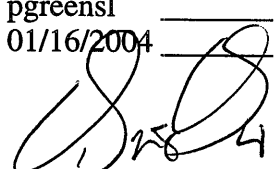
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/?	mkunkel	1/16 jld	1/15 PS	1/16 PS/gf			

FE Sent For:

<END>

Meeting
Council - 2nd or 3rd of week

Substitute Amendment to SB 255

Please make the following changes to the bill:

1. Provisional License – WITA Score 2:2

Amend page 4, lines 15 to 18 to indicate that a person has to be verified at a level 2 or higher in both transliterating and interpreting.

2. Educational Interpreters – Extra-Curricular Activities

Page 3, line 16. Clarify that educational interpreting includes all school-sponsored events.

3. Court Interpreter Clarification

Page 3, lines 12 and 13. Clarify that exemption only exists in court setting.

Please make the following additions to the bill:

1. Privileged Communications

Create language that would stipulate that communications facilitated by interpreters are considered privileged. Following is an example from the RID model legislation:

B. Privileged Communication - Communication between individuals who are deaf and hearing is owned by those individuals and therefore must be legally protected. The professional interpreter is simply facilitating the communication and cannot be held accountable for that information. The confidential communications between an interpreter and the consumers served are on the same basis as those between attorney/client; medical professional/patient or counselor/patient. As such, all legislation regulating the profession of interpreting must recognize this right of privileged communication between an interpreter and consumer, both deaf and hearing.

2. Deaf Consumer Opt-Out

Exempt from the provisions of the bill interpreters who are providing services for individuals who are deaf and who have signed a form indicating that they are aware of the law and are waiving the requirements and any liability. Interpreters and any 3rd party paying for services would also be required to sign form.

deaf consumer
waive

- 3rd party
person

interpreters
between A & B
so

result
interpreters

can't
be required to
say what
A or B
says

- other states

the 2
parishians
problem
- allow 2 to
waive & not
allow other
to sue

Dept create
waiver form

- model
- deaf + hearing
- deaf consumer can sign
form
any body who
paying any party

- So professional
can't be req
interpreter in
- not just 2

3. Grandfather Clause for New Residents

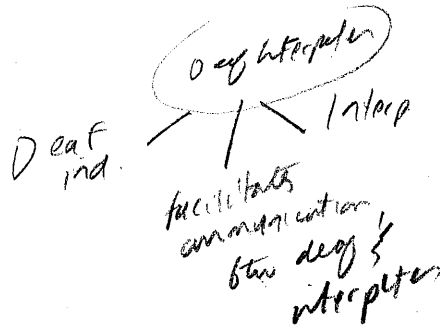
Create another grandfather clause, allowing anyone that moves to the state with a RID or NAD certification but no education background be eligible for state licensure within two years of moving into state.

same exempt - but 2 yrs from moving to state

4. Deaf Interpreters

Create a separate license for deaf interpreters. A deaf interpreter is an individual who provides interpretive services and who a doctor or an audiologist has verified to be deaf or hard of hearing and has submitted an audiogram to DRL with their application. To qualify for a provisional license, the deaf interpreter would need 48 credits from a College, University, Technical College or another appropriate training program on issues related to interpreting. In addition, the deaf interpreter would need to pass the RID written exam, be an associate or student member of RID and complies with the continuing education requirements of the certification maintenance program, and have 8 hours of training on the role and function of a deaf interpreter and 8 hours of training on the RID Code of Ethics (documentation of dates, locations and duration of training would be required). A deaf interpreter is exempt from the WITA provisions. To qualify for a permanent license, in addition to the previous requirements, the deaf interpreter would also have to have RID certification.

report of test to verify that person is indeed deaf



B-NOTE
2003 - 2004 LEGISLATURE

LRB 44145
MDK/df

UES
1/20

SSA to

2003 SENATE BILL 255

Stays
S 0299/1

RM
NOT
RUN

September 23, 2003 - Introduced by Senators KEDZIE, STEPP and LASSA, cosponsored by Representatives LOTHIAN, KERKMAN, NASS, OWENS and HINES. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

Regen

creating an evidentiary privilege for such interpreters

- 1 AN ACT to create 440.032 and 440.08 (2) (a) 38j. of the statutes; relating to:
- 2 licensing interpreters for the deaf or hard of hearing, granting rule-making
- 3 authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under this bill, a person may not, for compensation, provide interpretation services for the deaf or hard of hearing unless the Department of Regulation and Licensing (DRL) has granted a license to the person. However, this prohibition does not apply to interpreters who are certified by the Wisconsin Supreme Court to act as qualified interpreters in court proceedings. The prohibition also does not apply to a person licensed by the Department of Public Instruction (DPI) as an educational interpreter for pupils who are deaf or hard of hearing.

The bill requires DRL to grant two different types of licenses. The first type of license may be renewed only twice by DRL after DRL initially grants the license. (Almost all professional and occupational licenses granted by DRL and boards in DRL must be renewed every two years under current law.) Under the bill, DRL must grant the first type of license to a person who pays a fee and provides evidence that he or she: 1) has an associate degree in interpretation for the deaf or hard of hearing or a certificate of completion of an education and training program regarding such interpretation; 2) is verified at specified levels in interpreting and transliterating in a program administered by DHFS; 3) has passed the written examination administered by the Registry of Interpreters for the Deaf, Inc. (RID); and 4) is an associate or student member of the RID and complies with the continuing education

SENATE BILL 255

requirements of the RID's certification maintenance program. A person who is granted a license must notify DRL within 30 days if the person's membership in the RID is revoked or invalidated, and DRL must then revoke the license.

The second type of license must be renewed every two years by the license holder, and, unlike the first type of license, may continue to be renewed after the second renewal. DRL must grant the second type of license to a person who pays a fee and provides evidence that he or she has received an associate degree in interpretation for the deaf or hard of hearing or has received a certificate of completion of an education and training program regarding such interpretation. In addition, he or she must submit evidence that he or she has one of the following valid certifications: 1) any certification granted by the RID or its successor; 2) certification level 4 or 5 granted by the National Association of the Deaf or its successor; or 3) any certification granted by any other organization that DRL determines is substantially equivalent to one of the foregoing certifications. A person who is granted such a license must notify DRL within 30 days if the person's certification is revoked or invalidated, and DRL must then revoke the license.

Also, until approximately two years after the bill's effective date, DRL may grant the second type of license to a person who was granted one of the certifications described above before the bill's effective date, but who has not received an associate degree in interpretation for the deaf or hard of hearing or has not received a certificate of completion of an education and training program regarding such interpretation. A person who is granted such a license must renew it every two years, and may continue to renew it after the second renewal.

The bill requires DRL to promulgate rules that establish a code of ethics that governs the professional conduct of all licensees. In promulgating the rules, DRL must consider including part or all of the code of ethics established by the RID or its successor, and must periodically review that code, and, if appropriate, revise the rules to reflect any revisions to the code. In addition, DRL may take disciplinary action, including suspending or revoking a license, against a licensee who violates the bill's requirements, including the code of ethics. Any person who violates the bill's requirements, including a licensee, may be fined not more than \$200, imprisoned for not more than six months, or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1

SECTION 1. 440.032 of the statutes is created to read:

SENATE BILL 255

Ⓢ INSERT 3-2 Ⓢ (b)

1 **440.032 Interpreting for the deaf or hard of hearing.** (1) DEFINITION In
2 this section "Wisconsin interpreting and transliterating assessment" means a
3 program administered by the department of health and family services to determine
4 and verify the level of competence of communication access services providers who
5 are not certified by the Registry of Interpreters for the Deaf, Inc., the National
6 Association of the Deaf, or other similar nationally recognized certification
7 organization.

or complies with the requirements of sub. (3)

8 (2) LICENSE REQUIRED. (a) No person may, for compensation, provide
9 interpretation services for the deaf or hard of hearing unless the person is licensed
10 by the department under sub. (3)

you client ✓

11 (b) This subsection does not apply to any of the following: INSERT 3-13 ✓

12 1. ~~Any person~~ ^{A person} certified by the supreme court to act as a qualified interpreter
13 in court proceedings under s. 885.38 (2)

14 2. A person licensed by the department of public instruction as an educational
15 interpreter for pupils who are deaf or hard of hearing, if the person's interpretation
16 services are limited to ~~educational~~ ^{clients who are} interpreting for ~~pupils who are deaf or hard of~~ ^{the clients.}

at school or school sponsored events

17 ~~Interpreting~~ ¹³
18 (3) LICENSURE REQUIREMENTS. (a) ^{1.} The department shall grant a license as an
19 interpreter for the deaf or hard of hearing to a person who submits an application on
20 a form provided by the department, pays the fee specified in s. 440.05 (1), and
21 submits evidence satisfactory to the department that the person has received an
22 associate degree in interpretation for the deaf or hard of hearing or has received a
23 certificate of completion of an education and training program regarding such
24 interpretation, and the person has one of the following:

INSERT 3-17 ✓

SENATE BILL 255

1 ~~10~~^a Any valid certification granted by the Registry of Interpreters for the Deaf,
2 Inc., or its successor.

3 ~~10~~^b A valid certification level 4 or 5 granted by the National Association of the
4 Deaf or its successor.

5 ~~10~~^c Any valid certification granted by any other organization that the
6 department determines is substantially equivalent to a certification specified in
7 subd. 1. ~~10~~ INSERT 4-7 ✓

8 (b) 1. The department shall grant a license as an interpreter for the deaf or hard
9 of hearing to a person who submits an application on a form provided by the
10 department, pays the fee specified in s. 440.05 (1), and submits evidence satisfactory
11 to the department that the person satisfies all of the following:

12 a. The person has received an associate degree in interpretation for the deaf
13 or hard of hearing or has received a certificate of completion of an education and
14 training program regarding such interpretation.

15 b. The person is verified by the Wisconsin interpreting and transliterating
16 assessment as follows: ~~if the person is verified as level 1 in interpreting, the person
17 is verified as level 2 or higher in transliterating, and if the person is verified as level
18 1 in transliterating, the person is verified as level 2 or higher in interpreting.~~ *both interpreting and* ✓

19 c. The person has passed the written examination administered by the Registry
20 of Interpreters for the Deaf, Inc.

21 d. The person is an associate or student member of the Registry of Interpreters
22 for the Deaf, Inc., and complies with the continuing education requirements of the
23 certification maintenance program of the registry. ✓

24 ~~10~~^{1 2 3} A license granted under subd. 1. may be renewed twice and is not valid upon
25 the expiration of the 2nd renewal period. ✓

INSERT 4-23 ✓
INSERT 4-25 ✓

SENATE BILL 255

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~~(3)~~ ^{5 ← (3)} NOTIFICATION REQUIRED. A person who is licensed under sub. ~~(3)~~ ⁽⁴⁾ shall notify
 the department in writing within 30 days if ^{the} person's certification ^{or membership} specified in sub. ~~(3)~~ ⁽⁴⁾
~~(a) or membership specified in sub. (3)(b)~~ is revoked or invalidated. The ^{that is required for the license}
 department shall revoke a license granted under sub. ~~(3)~~ if such a certification or
 membership is revoked or invalidated. ⁽⁴⁾

~~(3)~~ ^{6 ← (3)} LICENSE RENEWAL. The renewal dates for licenses granted under sub. ~~(3)~~ ⁽⁴⁾ are
 specified in s. 440.08 (2) (a). Renewal applications shall be submitted to the
 department on a form provided by the department and shall include the renewal fee
 specified in s. 440.08 (2) (a) and evidence satisfactory to the department that the
 person's certification ^{or membership} specified in sub. ~~(3)~~ ⁽⁴⁾ ~~or membership specified in sub. (3)(b)~~ ^{that is required for the license}
~~(a)~~ has not been revoked or invalidated. ⁽⁴⁾

~~(3)~~ ^{7 ← (3)} RULE MAKING. (a) The department may not promulgate rules that impose
 requirements for granting a license that are in addition to the requirements specified
 in sub. ~~(3)~~ ⁽⁴⁾.
 (b) The department shall promulgate rules that establish a code of ethics that
 governs the professional conduct of persons licensed under sub. ~~(3)~~ ⁽⁴⁾. In promulgating
 rules under this paragraph, the department shall consider including as part or all
 of the rules part or all of the code of ethics established by the Registry of Interpreters
 for the Deaf, Inc., or its successor. The department shall periodically review the code
 of ethics established by the Registry of Interpreters for the Deaf, Inc., or its successor,
 and, if appropriate, revise the rules promulgated under this paragraph to reflect
 revisions to that code of ethics.

~~(3)~~ ^{8 ← (3)} DISCIPLINARY PROCEEDINGS AND ACTIONS. Subject to the rules promulgated
 under s. 440.03 (1), the department may make investigations and conduct hearings
 to determine whether a violation of this section or any rule promulgated under this

SENATE BILL 255

INSERT 6-10 ✓

1 section has occurred and may reprimand a person who is licensed under sub. (3) or
2 may deny, limit, suspend, or revoke a license granted under sub. (3) if it finds that
3 the applicant or licensee has violated this section or any rule promulgated under this
4 section.

5 (3) PENALTY. A person who violates this section or any rule promulgated under
6 this section may be fined not more than \$200 or imprisoned for not more than 6
7 months or both.

8 SECTION 2. 440.08 (2) (a) 38j. of the statutes is created to read:

9 440.08 (2) (a) 38j. Interpreter for the deaf or hard of hearing: September 1 of
10 each odd-numbered year; \$53.

11 SECTION 3. Nonstatutory provisions.

12 (1) WAIVER OF CERTAIN LICENSURE REQUIREMENTS.

13 (a) Notwithstanding section 440.032 ~~of the statutes~~ (4)(a) 1. of the statutes, as created by this
14 act, the department of regulation and licensing shall grant a license as an interpreter
15 for the deaf and hard of hearing to a person who, not later than the first day of the
16 24th month beginning after the effective date of this paragraph, pays the fee
17 specified in section 440.05 (1) of the statutes and submits evidence satisfactory to the
18 department that the person has any of the following:

19 1. Any valid certification that was granted by the Registry of Interpreters for
20 the Deaf, Inc., or its successor, before the effective date of this subdivision.

21 2. A valid certification level 4 or 5 granted by the National Association of the
22 Deaf or its successor before the effective date of this subdivision.

23 3. Any valid certification that was granted by another organization before the
24 effective date of this subdivision, if the department determines that the other

SENATE BILL 255

1 certification is substantially similar to a certification specified in subdivision 1. or

2 2.

3 (b) A license granted under paragraph (a) is considered to be granted under
4 section 440.032 ~~(3)~~ ^{of 1.} (a) of the statutes, as created by this act.

a.r.
↓

5 **SECTION 4. Effective date.**

6 (1) This act takes effect on the first day of the 7th month beginning after
7 publication.

8 (END)

INSERT 7-4 ✓

d-note
↓

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0299/lins
MDK:.....

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INSERT 3-2:

④ (a) "Client" means a deaf or hard-of-hearing person for whom a person provides interpretation services.

INSERT 3-13:

if, if the person's interpretation services are limited to court proceedings ✓

INSERT 3-17:

(3) WAIVERS ✓ (a) A person who is not licensed by the department under sub. (4) ✓ may provide interpretation services for a client, or a group of clients, if the client, or any member of the group, consents in writing on a form that contains all of the following:

1. A description of the circumstances for which interpretation services are to be provided.
2. A statement that the client is aware of the licensure requirements of this section ✓ and that the client consents to waiver of the requirements.
3. The signatures of the client, the person providing the interpretation services, and, if applicable, any ^{3rd} ~~third~~ party, or representative of a ^{3rd} ~~third~~ party, who is paying for the services.

(b) A waiver under par. (a) ✓ is valid only for the circumstances that are described under par. (a) 1.

INSERT 4-7:

④ 2. The department shall grant a license as an interpreter for the deaf or hard of hearing to a person who submits an application on a form provided by the department and pays the fee specified in s. 440.05 (1), if the person has a certification



INS 4-7
cont

1

specified in sub. 1 a. and if the person provides to the department the diagnosis, audiogram, and evidence specified in par. (b) 2. a., b., and c. ✓

2

3

INSERT 4-23:

4

2. The department shall grant a license as an interpreter for the deaf or hard of hearing to a person who satisfies the requirements specified in subd. 1., except for the requirements specified in subd. 1. a. and b., if the person provides the following to department:

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8

a. A diagnosis by a physician or audiologist that the person is deaf or hard of hearing and an audiogram that is the basis for the diagnosis.

9

10

b. Evidence satisfactory to the department that the person has completed 48 credit hours in an educational or training program on issues related to providing interpretation services for the deaf or hard of hearing.

11

12

13

c. Evidence satisfactory to the department that the person has completed 8 hours of training on the role and function of interpreters for the deaf and hard of hearing and 8 hours of training on the code of ethics established by the Registry of Interpreters for the Deaf, Inc., or its successor, including evidence documenting the dates, locations, and durations of the training.

14

15

16

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INSERT 4-25:

19

(c) The department shall grant a license as an interpreter for the deaf or hard of hearing to a person who has not received an associate degree in interpretation for the deaf or hard of hearing or a certificate of completion of an education and training program regarding such interpretation, but who otherwise satisfies the requirements in par. (a) 1., if the person provides evidence satisfactory to the department that the person did not establish residence in this state until after the first day of the 24th month beginning after the effective date of this paragraph

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1

[revisor inserts date], and that the person had, before the first day of the 24th month beginning after the effective date of this paragraph [revisor inserts date], one of the certifications specified in par. (a) 1. a., b., or c.

4

INSERT 6-10:

5

SECTION 1. 905.043 of the statutes is created to read:

6

905.043 Deaf or hard-of-hearing interpreter-client privilege. (1)

7

DEFINITIONS. In this section:

8

(a) "Client" means a deaf or hard-of-hearing person for whom a deaf or hard-of-hearing interpreter provides interpretation services.

10

(b) A communication or information is "confidential" if not intended to be disclosed to 3rd persons other than those present while a deaf or hard-of-hearing interpreter provides interpretation services for a client.

13

(c) "Deaf or hard-of-hearing interpreter" means a person licensed as an interpreter for the deaf or hard of hearing under s. 440.032 (4).

15

(2) **GENERAL RULE OF PRIVILEGE.** A client has a privilege to prevent a deaf or hard-of-hearing interpreter from disclosing confidential communications made with the assistance of interpretation services provided by the deaf or hard-of-hearing interpreter.

19

(3) **WHO MAY CLAIM THE PRIVILEGE.** The privilege may be claimed by the client. The deaf or hard-of-hearing interpreter may claim the privilege but only on behalf of the client. The authority of the deaf or hard-of-hearing interpreter to do so is presumed in the absence of evidence to the contrary.

23

INSERT 7-4:

24

SECTION 2. Initial applicability.



1 (1) The treatment of section 905.043[✓] of the statutes first applies to
2 communications made on the effective date of this subsection.[✓]

(end ins)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0299/1dn

MDK: A:...

4 RPN ^{JA} JLD

Sen. Kedzie:

Note that I made some changes to the language that was suggested. For example, see proposed s. 440.032 (3),[✓] regarding waiver of the license requirements, in which the substitute amendment requires specifying the circumstances in which services are provided and limits the waiver to those circumstances. I think it's important to impose some limit on the effectiveness of a waiver. There may be other ways to do so. Please let me know if you have any thoughts on this issue.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

* The proposal to give a blanket privilege for all confidential communications that an interpreter receives as the result of interpreting between a person who is deaf or hard of hearing seems unnecessary and is in conflict with current law and supreme court rules. Under current law, s. 905.015,[✓] stats., allows a person to prevent an interpreter from disclosing information that is privileged, such as information the person disclosed through an interpreter to an attorney or a doctor.^g However, those privileges are limited and have specific exceptions, such as information about committing a crime or regarding the mental condition of a person in proceedings regarding guardianship. In addition, supreme court rule 63.05 requires a court interpreter to keep confidential all privileged or confidential information, but the notes to that rule state that this privilege does not apply to information that indicates probable imminent harm to someone or to a crime being committed.

Thus, the privileges that have been in place for a long period of time and that were created based on encouraging persons to disclose information in limited situations, such as when talking to a doctor, a minister, or a lawyer, have limits on their applicability. This proposal has no such limits. An interpreter covered by this proposal would be required to maintain confidential certain information that another statute or rule require him or her to not keep confidential. In addition, if the interpreter is interpreting information in a setting that is not privileged, say to a friend, that friend could reveal the information even though the interpreter could not.

Robert P. Nelson
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0299/1dn
MDK&RPN:jld:pg

January 16, 2004

Sen. Kedzie:

Note that I made some changes to the language that was suggested. For example, see proposed s. 440.032 (3), regarding waiver of the license requirements, in which the substitute amendment requires specifying the circumstances in which services are provided and limits the waiver to those circumstances. I think it's important to impose some limit on the effectiveness of a waiver. There may be other ways to do so. Please let me know if you have any thoughts on this issue.

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The proposal to give a blanket privilege for all confidential communications that an interpreter receives as the result of interpreting between a person who is deaf or hard of hearing seems unnecessary and is in conflict with current law and supreme court rules. Under current law, s. 905.015, stats., allows a person to prevent an interpreter from disclosing information that is privileged, such as information the person disclosed through an interpreter to an attorney or a doctor. However, those privileges are limited and have specific exceptions, such as information about committing a crime or regarding the mental condition of a person in proceedings regarding guardianship. In addition, supreme court rule 63.05 requires a court interpreter to keep confidential all privileged or confidential information, but the notes to that rule state that this privilege does not apply to information that indicates probable imminent harm to someone or to a crime being committed.

Thus, the privileges that have been in place for a long period of time and that were created based on encouraging persons to disclose information in limited situations, such as when talking to a doctor, a minister, or a lawyer, have limits on their applicability. This proposal has no such limits. An interpreter covered by this proposal would be required to maintain confidential certain information that another statute or rule require him or her to not keep confidential. In addition, if the interpreter is interpreting information in a setting that is not privileged, say to a friend, that friend could reveal the information even though the interpreter could not.

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State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs02994

MDK:jld:pg

2

P-Note

+RPN

1/21
3 PM

SENATE SUBSTITUTE AMENDMENT,
TO 2003 SENATE BILL 255

RM
has
been
RNN

Reger

1 AN ACT *to create* 440.032, 440.08 (2) (a) 38j. and 905.043 of the statutes;
2 relating to: licensing interpreters for the deaf or hard of hearing, creating an
3 evidentiary privilege for communications with those interpreters, granting rule-making authority,
4 and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 440.032 of the statutes is created to read:

6 **440.032 Interpreting for the deaf or hard of hearing. (1) DEFINITIONS.**

7 In this section:

8 (a) "Client" means a deaf or hard-of-hearing person for whom a person
9 provides interpretation services.

10 (b) "Wisconsin interpreting and transliterating assessment" means a program
11 administered by the department of health and family services to determine and
12 verify the level of competence of communication access services providers who are

1 not certified by the Registry of Interpreters for the Deaf, Inc., the National
2 Association of the Deaf, or other similar nationally recognized certification
3 organization.

letter

except as provided in par. (b),

4 (2) LICENSE REQUIRED. (a) ~~No~~ ^{L.C.} person may, for compensation, provide
5 interpretation services for a client unless the person is licensed by the department
6 under sub. (4) or complies with the requirements of sub. (3).

7 (b) No license is required under this ~~this subsection does not apply to~~ any of the following:

8 1. A person certified by the supreme court to act as a qualified interpreter in
9 court proceedings under s. 885.38 (2) ~~if~~ ^{for} the person's interpretation services are
10 ~~limited to court proceedings~~

11 2. A person licensed by the department of public instruction as an educational
12 interpreter ^{to interpret} ~~for clients who are pupils, if the person's interpretation services are~~
13 ~~limited to interpreting~~ at school or school-sponsored events ~~for the client~~ ^{plain period}

14 (3) WAIVERS. (a) A person who is not licensed by the department under sub.
15 (4) may provide interpretation services for a client, or a group of clients, if the client,
16 or any member of the group, consents in writing on a form that contains all of the
17 following:

18 1. A description of the circumstances for which interpretation services are to
19 be provided.

20 2. A statement that the client is aware of the licensure requirements of this
21 section and that the client consents to waiver of the requirements.

22 3. The signatures of the client, the person providing the interpretation services,
23 and, if applicable, any 3rd party, or representative of a 3rd party, who is paying for
24 the services.

1 (b) A waiver under par. (a) is valid only for the circumstances that are described
2 under par. (a) 1.

3 (4) LICENSURE REQUIREMENTS. (a) 1. The department shall grant a license as
4 an interpreter for the deaf or hard of hearing to a person who submits an application
5 on a form provided by the department, pays the fee specified in s. 440.05 (1), and
6 submits evidence satisfactory to the department that the person has received an
7 associate degree in interpretation for the deaf or hard of hearing or has received a
8 certificate of completion of an education and training program regarding such
9 interpretation, and the person has one of the following:

10 a. Any valid certification granted by the Registry of Interpreters for the Deaf,
11 Inc., or its successor.

12 b. A valid certification level 4 or 5 granted by the National Association of the
13 Deaf or its successor.

14 c. Any valid certification granted by any other organization that the
15 department determines is substantially equivalent to a certification specified in
16 subd. 1. a. or b.

17 2. The department shall grant a license as an interpreter for the deaf or hard
18 of hearing to a person who submits an application on a form provided by the
19 department and pays the fee specified in s. 440.05 (1), if the person has a certification
20 specified in subd. 1. a. and if the person provides to the department the diagnosis,
21 audiogram, and evidence specified in par. (b) 2. a., b., and c.

22 (b) 1. The department shall grant a license as an interpreter for the deaf or hard
23 of hearing to a person who submits an application on a form provided by the
24 department, pays the fee specified in s. 440.05 (1), and submits evidence satisfactory
25 to the department that the person satisfies all of the following:

at ✓

1 a. The person has received an associate degree in interpretation for the deaf
2 or hard of hearing or has received a certificate of completion of an education and
3 training program regarding such interpretation.

4 b. The person is verified by the Wisconsin interpreting and transliterating
5 assessment ~~at~~ level 2 or higher in both interpreting and transliterating.

6 c. The person has passed the written examination administered by the Registry
7 of Interpreters for the Deaf, Inc.

8 d. The person is an associate or student member of the Registry of Interpreters
9 for the Deaf, Inc., and complies with the continuing education requirements of the
10 certification maintenance program of the registry.

11 2. The department shall grant a license as an interpreter for the deaf or hard
12 of hearing to a person who satisfies the requirements specified in subd. 1., except for
13 the requirements specified in subd. 1. a. and b., if the person provides the following
14 to department:

15 a. A diagnosis by a physician or audiologist that the person is deaf or hard of
16 hearing and an audiogram that is the basis for the diagnosis.

17 b. Evidence satisfactory to the department that the person has completed 48
18 credit hours in an educational or training program on issues related to providing
19 interpretation services for the deaf or hard of hearing.

20 c. Evidence satisfactory to the department that the person has completed 8
21 hours of training on the role and function of interpreters for the deaf and hard of
22 hearing and 8 hours of training on the code of ethics established by the Registry of
23 Interpreters for the Deaf, Inc., or its successor, including evidence documenting the
24 dates, locations, and durations of the training.

1 3. A license granted under subd. 1. or 2. may be renewed twice and is not valid
2 upon the expiration of the 2nd renewal period.

3 (c) The department shall grant a license as an interpreter for the deaf or hard
4 of hearing to a person who has not received an associate degree in interpretation for
5 the deaf or hard of hearing or a certificate of completion of an education and training
6 program regarding such interpretation, but who otherwise satisfies the
7 requirements in par. (a) 1., if the person provides evidence satisfactory to the
8 department that the person did not establish residence in this state until after the
9 first day of the 24th month beginning after the effective date of this paragraph
10 [revisor inserts date], and that the person had, before the first day of the 24th month
11 beginning after the effective date of this paragraph [revisor inserts date], one of
12 the certifications specified in par. (a) 1. a., b., or c.

13 (5) NOTIFICATION REQUIRED. A person who is licensed under sub. (4) shall notify
14 the department in writing within 30 days if the person's certification or membership
15 specified in sub. (4) that is required for the license is revoked or invalidated. The
16 department shall revoke a license granted under sub. (4) if such a certification or
17 membership is revoked or invalidated.

18 (6) LICENSE RENEWAL. The renewal dates for licenses granted under sub. (4) (a)
19 are specified in s. 440.08 (2) (a). Renewal applications shall be submitted to the
20 department on a form provided by the department and shall include the renewal fee
21 specified in s. 440.08 (2) (a) and evidence satisfactory to the department that the
22 person's certification or membership specified in sub. (4) that is required for the
23 license has not been revoked or invalidated.

1 **(7) RULE MAKING.** (a) The department may not promulgate rules that impose
2 requirements for granting a license that are in addition to the requirements specified
3 in sub. (4).

4 (b) The department shall promulgate rules that establish a code of ethics that
5 governs the professional conduct of persons licensed under sub. (4). In promulgating
6 rules under this paragraph, the department shall consider including as part or all
7 of the rules part or all of the code of ethics established by the Registry of Interpreters
8 for the Deaf, Inc., or its successor. The department shall periodically review the code
9 of ethics established by the Registry of Interpreters for the Deaf, Inc., or its successor,
10 and, if appropriate, revise the rules promulgated under this paragraph to reflect
11 revisions to that code of ethics.

12 **(8) DISCIPLINARY PROCEEDINGS AND ACTIONS.** Subject to the rules promulgated
13 under s. 440.03 (1), the department may make investigations and conduct hearings
14 to determine whether a violation of this section or any rule promulgated under this
15 section has occurred and may reprimand a person who is licensed under sub. (4) or
16 may deny, limit, suspend, or revoke a license granted under sub. (4) if it finds that
17 the applicant or licensee has violated this section or any rule promulgated under this
18 section.

19 **(9) PENALTY.** A person who violates this section or any rule promulgated under
20 this section may be fined not more than \$200 or imprisoned for not more than 6
21 months or both.

22 **SECTION 2.** 440.08 (2) (a) 38j. of the statutes is created to read:

23 440.08 (2) (a) 38j. Interpreter for the deaf or hard of hearing: September 1 of
24 each odd-numbered year; \$53.

25 **SECTION 3.** 905.043[✓] of the statutes is created to read:

1 **905.043 Deaf or hard-of-hearing interpreter-client privilege. (1)**

2 DEFINITIONS. In this section:

3 (a) "Client" means a deaf or hard-of-hearing person for whom a deaf or
4 hard-of-hearing interpreter provides interpretation services.

5 (b) A communication or information is "confidential" if not intended to be
6 disclosed to 3rd persons other than those present while a deaf or hard-of-hearing
7 interpreter provides interpretation services for a client.

8 (c) "Deaf or hard-of-hearing interpreter" means a person licensed as an
9 interpreter for the deaf or hard of hearing under s. 440.032 (4).

10 (2) ~~GENERAL RULE OF PRIVILEGE. A client has a privilege to prevent a deaf or~~ ✓

11 ~~and any person present when the interpretation services were provided~~

12 hard-of-hearing interpreter) from disclosing confidential communications made
13 with the assistance of interpretation services provided by the deaf or
14 hard-of-hearing interpreter.

15 (3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the client.

16 The deaf or hard-of-hearing interpreter may claim the privilege but only on behalf

✓ 17 of the client. The authority of the deaf or hard-of-hearing interpreter to do so is
18 presumed in the absence of evidence to the contrary.

Insert 7-17 →
19 **SECTION 4. Nonstatutory provisions.**

20 (1) WAIVER OF CERTAIN LICENSURE REQUIREMENTS.

21 (a) Notwithstanding section 440.032 (4) (a) 1. of the statutes, as created by this
22 act, the department of regulation and licensing shall grant a license as an interpreter
23 for the deaf and hard of hearing to a person who, not later than the first day of the
24 24th month beginning after the effective date of this paragraph, pays the fee
25 specified in section 440.05 (1) of the statutes and submits evidence satisfactory to the
26 department that the person has any of the following:

1 1. Any valid certification that was granted by the Registry of Interpreters for
2 the Deaf, Inc., or its successor, before the effective date of this subdivision.

3 2. A valid certification level 4 or 5 granted by the National Association of the
4 Deaf or its successor before the effective date of this subdivision.

5 3. Any valid certification that was granted by another organization before the
6 effective date of this subdivision, if the department determines that the other
7 certification is substantially similar to a certification specified in subdivision 1. or
8 2.

9 (b) A license granted under paragraph (a) is considered to be granted under
10 section 440.032 (4) (a) 1. of the statutes, as created by this act.

11 **SECTION 5. Initial applicability.**

12 (1) The treatment of section 905.043 of the statutes first applies to
13 communications made on the effective date of this subsection.

14 **SECTION 6. Effective date.**

15 (1) This act takes effect on the first day of the 7th month beginning after
16 publication.

17 (END)

d-note
↓

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0299/2ins
RPN:jld:pg

1
2
3
4
5
6

insert 7-17:

(4) EXCEPTIONS There is no privilege under this section to communications that
are exceptions to a privilege under s. 905.03 (4), 905.04 (4), 905.045 (4), 905.05 (3),
or 905.065 (4).

(end ins 7-17)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0299/2dn

~~SL~~zjld:pg

↑
RPC

Matt:

(>
↑
paren

The intent of the new language added to create an exception to the privilege (s. 905.043 (4) is to subject the interpreter to the same exceptions to a privileged communication as the receiver of the information. Thus, if the interpreter is providing interpretation services between a patient and a physician, the exceptions to the physician-patient privilege in s. 905.04 (4) would also apply to the interpreter. For example, the interpreter could not claim a privilege if the communication was relevant to proceedings to hospitalize the patient for mental illness (see s. 905.04 (4) (a)). If this is unclear as drafted, please let me know.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0299/2dn
RPN:jld:pg

January 21, 2004

Matt:

The intent of the new language added to create an exception to the privilege (s. 905.043 (4)) is to subject the interpreter to the same exceptions to a privileged communication as the receiver of the information. Thus, if the interpreter is providing interpretation services between a patient and a physician, the exceptions to the physician-patient privilege in s. 905.04 (4) would also apply to the interpreter. For example, the interpreter could not claim a privilege if the communication was relevant to proceedings to hospitalize the patient for mental illness (see s. 905.04 (4) (a)). If this is unclear as drafted, please let me know.

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E-mail: robert.nelson@legis.state.wi.us

Kunkel, Mark

From: Phillips, Matt
Sent: Tuesday, January 27, 2004 4:40 PM
To: Kunkel, Mark



SSA draft
changes.doc

50299

On page 2 line 8

(b) No License is required under this subsection for any of the following:

1. A person interpreting in a court proceeding if the interpreter is certified by the supreme court to act as a qualified interpreter in court proceedings under s. 885.38 (2)
2. A person interpreting at a school or at any school-sponsored event if the interpreter is licensed by the department of public instruction as an educational interpreter.

Title 5 – Section 48 - Maine

① refer to interp. licensed under bill, instead of "priv'd interp."

3. **Privileged communication.** Except when a court in the exercise of sound discretion determines the disclosure necessary to the proper administration of justice, a privileged interpreter may not disclose any aspect of a confidential communication facilitated by that interpreter unless all clients of the privileged interpreter privy to that communication consent to the disclosure. [1991, c. 406, §2 (rpr).]

② shd apply in cases where s. 905.015 doesn't apply

Page 4, line 21 – “hours of training on the role and function of interpreters for the deaf and hard of hearing and 8 hours of training on the code of ethics established by the Registry of

Change to:

“hours of training on the role and function of deaf interpreters and 8 hours of training on the code of ethics established by the Registry of”

Page 4 – 8 and 9 or its successor?

Deaf interpreter license is ongoing in future



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0299/2
MDK&RPN:jld:pg 3

D-NOTE

Rm has been run

NOW
Today
2 pm

SENATE SUBSTITUTE AMENDMENT,
TO 2003 SENATE BILL 255

Regen

1 AN ACT to create 440.032, 440.08 (2) (a) 38j. and 905.043 of the statutes;
2 relating to: licensing interpreters for the deaf or hard of hearing, creating an
3 evidentiary privilege for communications with those interpreters, granting
4 rule-making authority, and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 440.032 of the statutes is created to read:

6 **440.032 Interpreting for the deaf or hard of hearing. (1) DEFINITIONS.**

7 In this section:

8 (a) "Client" means a deaf or hard-of-hearing person for whom a person
9 provides interpretation services.

10 (b) "Wisconsin interpreting and transliterating assessment" means a program
11 administered by the department of health and family services to determine and
12 verify the level of competence of communication access services providers who are

or its successor

1 not certified by the Registry of Interpreters for the Deaf, Inc., the National
2 Association of the Deaf, or its successor or other similar nationally recognized certification
3 organization.

4 (2) LICENSE REQUIRED. (a) Except as provided in par. (b), no person may, for
5 compensation, provide interpretation services for a client unless the person is
6 licensed by the department under sub. (4) or complies with the requirements of sub.

7 (3). *interpreting in a court proceeding if the person is*
8 (b) No license is required under this subsection for any of the following:

9 1. A person certified by the supreme court to act as a qualified interpreter in
10 court proceedings under s. 885.38 (2).

11 2. A person licensed by the department of public instruction as an educational
12 interpreter *interpreting at any school or school-sponsored event if the person is*
~~to interpret at school or school-sponsored events~~

13 (3) WAIVERS. (a) A person who is not licensed by the department under sub.
14 (4) may provide interpretation services for a client, or a group of clients, if the client,
15 or any member of the group, consents in writing on a form that contains all of the
16 following:

17 1. A description of the circumstances for which interpretation services are to
18 be provided.

19 2. A statement that the client is aware of the licensure requirements of this
20 section and that the client consents to waiver of the requirements.

21 3. The signatures of the client, the person providing the interpretation services,
22 and, if applicable, any 3rd party, or representative of a 3rd party, who is paying for
23 the services.

24 (b) A waiver under par. (a) is valid only for the circumstances that are described
25 under par. (a) 1.

- 3
(ital) ✓
Renewable licenses.

1 (4) LICENSURE REQUIREMENTS. (a) 1. The department shall grant a license as
2 an interpreter for the deaf or hard of hearing to a person who submits an application
3 on a form provided by the department, pays the fee specified in s. 440.05 (1), and
4 submits evidence satisfactory to the department that the person has received an
5 associate degree in interpretation for the deaf or hard of hearing or has received a
6 certificate of completion of an education and training program regarding such
7 interpretation, and the person has one of the following:

8 a. Any valid certification granted by the Registry of Interpreters for the Deaf,
9 Inc., or its successor.

10 b. A valid certification level 4 or 5 granted by the National Association of the
11 Deaf or its successor.

12 c. Any valid certification granted by any other organization that the
13 department determines is substantially equivalent to a certification specified in
14 subd. 1. a. or b.

15 2. The department shall grant a license as an interpreter for the deaf or hard
16 of hearing to a person who submits an application on a form provided by the
17 department and pays the fee specified in s. 440.05 (1), if the person has a certification
18 specified in subd. 1. a. and if the person provides to the department the diagnosis
19 audiogram, and evidence specified in par. (b) 2. a., b., and c. ✓
the following ✓

20 (b) 1. The department shall grant a license as an interpreter for the deaf or hard
21 of hearing to a person who submits an application on a form provided by the
22 department, pays the fee specified in s. 440.05 (1), and submits evidence satisfactory
23 to the department that the person satisfies all of the following:

INSERT 3-19A (see p. 4, l. 15) ✓
INSERT 3-19B (see p. 5, l. 3) ✓

(ital) ✓
Nonrenewable licenses.

1 a. The person has received an associate degree in interpretation for the deaf
2 or hard of hearing or has received a certificate of completion of an education and
3 training program regarding such interpretation.

4 b. The person is verified by the Wisconsin interpreting and transliterating
5 assessment at level 2 or higher in both interpreting and transliterating.

6 c. The person has passed the written examination administered by the Registry
7 of Interpreters for the Deaf, Inc. ^{or its successor.}

8 d. The person is an associate or student member of the Registry of Interpreters
9 for the Deaf, Inc. ^{or its successor} and complies with the continuing education requirements of the
10 certification maintenance program of the registry ^{or its successor} ✓

the diagnosis, audiogram, and evidence specified in par. (a), (b), and (c) ✓

11 2. The department shall grant a license as an interpreter for the deaf or hard
12 of hearing to a person who satisfies the requirements specified in subd. 1., except for
13 the requirements specified in subd. 1. a. and b., if the person provides ~~the~~ following
14 ^{the} department ^{or} INSERT 3-19A: ✓

15 a. A diagnosis by a physician or audiologist that the person is deaf or hard of
16 hearing and an audiogram that is the basis for the diagnosis.

17 b. Evidence satisfactory to the department that the person has completed 48
18 credit hours in an educational or training program on issues related to providing
19 interpretation services for the deaf or hard of hearing.

20 c. Evidence satisfactory to the department that the person has completed 8
21 hours of training on the role and function of interpreters ^{deaf} ✓ for the deaf and hard of
22 hearing and 8 hours of training on the code of ethics established by the Registry of
23 Interpreters for the Deaf, Inc., or its successor, [✓] including evidence documenting the
24 dates, locations, and durations of the training.

END OF INSERT 3-19

1 3. A license granted under subd. 1. or 2. may be renewed twice and is not valid
2 upon the expiration of the 2nd renewal period. INSERT 3-19B

3 ~~4~~ ^{3.} The department shall grant a license as an interpreter for the deaf or hard
4 of hearing to a person who has not received an associate degree in interpretation for
5 the deaf or hard of hearing or a certificate of completion of an education and training
6 program regarding such interpretation, but who otherwise satisfies the
7 requirements in ~~sub. (4)~~ ^{Subd. (cont'd.)} 1. if the person provides evidence satisfactory to the
8 department that the person did not establish residence in this state until after the
9 first day of the 24th month beginning after the effective date of this ~~paragraph~~ ^{subdivision}....
10 [revisor inserts date], and that the person had, before the first day of the 24th month
11 beginning after the effective date of this ~~paragraph~~ ^{subdivision}.... [revisor inserts date], one of
12 the certifications specified in ~~sub. (4)~~ ^(subd.) l. a., b., or c. END OF INSERT 3-19B

13 (5) NOTIFICATION REQUIRED. A person who is licensed under sub. (4) shall notify
14 the department in writing within 30 days if the person's certification or membership
15 specified in sub. (4) that is required for the license is revoked or invalidated. The
16 department shall revoke a license granted under sub. (4) if such a certification or
17 membership is revoked or invalidated.

18 (6) LICENSE RENEWAL. The renewal dates for licenses granted under sub. (4) (a)
19 are specified in s. 440.08 (2) (a). Renewal applications shall be submitted to the
20 department on a form provided by the department and shall include the renewal fee
21 specified in s. 440.08 (2) (a) and evidence satisfactory to the department that the
22 person's certification or membership specified in sub. (4) that is required for the
23 license has not been revoked or invalidated.

1 (7) RULE MAKING. (a) The department may not promulgate rules that impose
2 requirements for granting a license that are in addition to the requirements specified
3 in sub. (4).

4 (b) The department shall promulgate rules that establish a code of ethics that
5 governs the professional conduct of persons licensed under sub. (4). In promulgating
6 rules under this paragraph, the department shall consider including as part or all
7 of the rules part or all of the code of ethics established by the Registry of Interpreters
8 for the Deaf, Inc., or its successor. The department shall periodically review the code
9 of ethics established by the Registry of Interpreters for the Deaf, Inc., or its successor,
10 and, if appropriate, revise the rules promulgated under this paragraph to reflect
11 revisions to that code of ethics.

12 (8) DISCIPLINARY PROCEEDINGS AND ACTIONS. Subject to the rules promulgated
13 under s. 440.03 (1), the department may make investigations and conduct hearings
14 to determine whether a violation of this section or any rule promulgated under this
15 section has occurred and may reprimand a person who is licensed under sub. (4) or
16 may deny, limit, suspend, or revoke a license granted under sub. (4) if it finds that
17 the applicant or licensee has violated this section or any rule promulgated under this
18 section.

19 (9) PENALTY. A person who violates this section or any rule promulgated under
20 this section may be fined not more than \$200 or imprisoned for not more than 6
21 months or both.

22 SECTION 2. 440.08 (2) (a) 38j. of the statutes is created to read:

23 440.08 (2) (a) 38j. Interpreter for the deaf or hard of hearing: September 1 of
24 each odd-numbered year; \$53.

25 SECTION 3. 905.043 of the statutes is created to read:

SECTION 3

1 **905.043 Deaf or hard-of-hearing interpreter-client privilege. (1)**

2 **DEFINITIONS.** In this section:

3 (a) "Client" means a deaf or hard-of-hearing person for whom a deaf or
4 hard-of-hearing interpreter provides interpretation services.

5 (b) A communication or information is "confidential" if not intended to be
6 disclosed to 3rd persons other than those present while a deaf or hard-of-hearing
7 interpreter provides interpretation services for a client.

8 (c) "Deaf or hard-of-hearing interpreter" means a person licensed as an
9 interpreter for the deaf or hard of hearing under s. 440.032 (4).

10 (2) ~~GENERAL RULE OF PRIVILEGE.~~ A client has a privilege to prevent a deaf or
11 hard-of-hearing interpreter and any person present when the interpretation
12 *E. In addition to s. 905.043, a person licensed as an*
13 ~~services were provided from disclosing confidential communications made with the~~
14 assistance of interpretation services provided by the deaf or hard-of-hearing
15 interpreter.

16 (3) ~~WHO MAY CLAIM THE PRIVILEGE.~~ The privilege may be claimed by the client.
17 The deaf or hard-of-hearing interpreter may claim the privilege but only on behalf
18 of the client. The authority of the deaf or hard-of-hearing interpreter to do so is
19 presumed in the absence of evidence to the contrary.

20 (4) ~~EXCEPTIONS.~~ There is no privilege under this section to communications that
21 are exceptions to a privilege under s. 905.03 (4), 905.04 (4), 905.045 (4), 905.05 (3),
22 or 905.065 (4).

23 **SECTION 4. Nonstatutory provisions.**

24 (1) **WAIVER OF CERTAIN LICENSURE REQUIREMENTS.**

25 (a) Notwithstanding section 440.032 (4) (a) 1. of the statutes, as created by this
act, the department of regulation and licensing shall grant a license as an interpreter

*Insert
17-21*

... as defined in ...

1 for the deaf and hard of hearing to a person who, not later than the first day of the
2 24th month beginning after the effective date of this paragraph, pays the fee
3 specified in section 440.05 (1) of the statutes and submits evidence satisfactory to the
4 department that the person has any of the following:

5 1. Any valid certification that was granted by the Registry of Interpreters for
6 the Deaf, Inc.,[✓] or its successor, before the effective date of this subdivision.

7 2. A valid certification level 4 or 5 granted by the National Association of the
8 Deaf or its successor before the effective date of this subdivision.

9 3. Any valid certification that was granted by another organization before the
10 effective date of this subdivision, if the department determines that the other
11 certification is substantially similar to a certification specified in subdivision 1. or
12 2.

13 (b) A license granted under paragraph (a) is considered to be granted under
14 section 440.032 (4) (a) 1. of the statutes, as created by this act.

15 **SECTION 5. Initial applicability.**

16 (1) The treatment of section [✓] ~~905.042~~ ^{905.015(2)} of the statutes first applies to
17 communications made on the effective date of this subsection.

18 **SECTION 6. Effective date.**

19 (1) This act takes effect on the first day of the 7th month beginning after
20 publication.

21 (END)

d-note
↓

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0299/3ins
MDK&RPN:jld:pg

1 insert 7-21:

2 SECTION ~~#~~ 905.015 of the statutes is renumbered 905.015 (1). ✓

3 SECTION ~~#~~ 905.015 (2) of the statutes is created to read:

4 905.015 (2) In addition to the privilege under sub. (1), ✓ a person who is licensed
5 as an interpreter for the deaf or hard of hearing under s. 440.032 (4) ✓ may not disclose
6 any aspect of a confidential communication facilitated by the interpreter for a person
7 who is deaf or hard of hearing unless one of the following conditions ^{applies} ~~apply~~:

8 (a) The deaf or hard of hearing person consents to the disclosure.

9 (b) A court determines that the disclosure is necessary for the proper
10 administration of justice.

11

12

(end ins 7-21)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0299/3dn

MDK:.....

JG

Sen. Kedzie:

Note that in this version I restructured the licensing requirements to make it clearer to distinguish between renewable and nonrenewable licenses. See proposed s. 440.032 (4) (a) and (b) ✓ Note also that there is both a renewable and a nonrenewable license for persons who are deaf. See proposed s. 440.032 (4) (a) 2. and (b) 2. ✓

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0299/3dn
MDK:jld:rs

January 28, 2004

Sen. Kedzie:

Note that in this version I restructured the licensing requirements to make it clearer to distinguish between renewable and nonrenewable licenses. See proposed s. 440.032 (4) (a) and (b). Note also that there is both a renewable and a nonrenewable license for persons who are deaf. See proposed s. 440.032 (4) (a) 2. and (b) 2.

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SENATE SUBSTITUTE AMENDMENT ,
TO 2003 SENATE BILL 255

see p 7

Regen

1 AN ACT *to renumber* 905.015; and *to create* 440.032, 440.08 (2) (a) 38j. and
2 905.015 (2) of the statutes; **relating to:** licensing interpreters for the deaf or
3 hard of hearing, creating an evidentiary privilege for communications with
4 those interpreters, granting rule-making authority, and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 440.032 of the statutes is created to read:

6 **440.032 Interpreting for the deaf or hard of hearing.** (1) DEFINITIONS.

7 In this section:

8 (a) "Client" means a deaf or hard-of-hearing person for whom a person
9 provides interpretation services.

10 (b) "Wisconsin interpreting and transliterating assessment" means a program
11 administered by the department of health and family services to determine and
12 verify the level of competence of communication access services providers who are

1 not certified by the Registry of Interpreters for the Deaf, Inc., or its successor, the
2 National Association of the Deaf or its successor, or other similar nationally
3 recognized certification organization.

4 (2) LICENSE REQUIRED. (a) Except as provided in par. (b), no person may, for
5 compensation, provide interpretation services for a client unless the person is
6 licensed by the department under sub. (4) or complies with the requirements of sub.
7 (3).

8 (b) No license is required under this subsection for any of the following:

9 1. A person interpreting in a court proceeding if the person is certified by the
10 supreme court to act as a qualified interpreter in court proceedings under s. 885.38
11 (2).

12 2. A person interpreting at any school or school-sponsored event if the person
13 is licensed by the department of public instruction as an educational interpreter.

14 (3) WAIVERS. (a) A person who is not licensed by the department under sub.
15 (4) may provide interpretation services for a client, or a group of clients, if the client,
16 or any member of the group, consents in writing on a form that contains all of the
17 following:

18 1. A description of the circumstances for which interpretation services are to
19 be provided.

20 2. A statement that the client is aware of the licensure requirements of this
21 section and that the client consents to waiver of the requirements.

22 3. The signatures of the client, the person providing the interpretation services,
23 and, if applicable, any 3rd party, or representative of a 3rd party, who is paying for
24 the services.

1 (b) A waiver under par. (a) is valid only for the circumstances that are described
2 under par. (a) 1.

3 (4) LICENSURE REQUIREMENTS. (a) *Renewable licenses*. 1. The department shall
4 grant a license as an interpreter for the deaf or hard of hearing to a person who
5 submits an application on a form provided by the department, pays the fee specified
6 in s. 440.05 (1), and submits evidence satisfactory to the department that the person
7 has received an associate degree in interpretation for the deaf or hard of hearing or
8 has received a certificate of completion of an education and training program
9 regarding such interpretation, and the person has one of the following:

10 a. Any valid certification granted by the Registry of Interpreters for the Deaf,
11 Inc., or its successor.

12 b. A valid certification level 4 or 5 granted by the National Association of the
13 Deaf or its successor.

14 c. Any valid certification granted by any other organization that the
15 department determines is substantially equivalent to a certification specified in
16 subd. 1. a. or b.

17 2. The department shall grant a license as an interpreter for the deaf or hard
18 of hearing to a person who submits an application on a form provided by the
19 department and pays the fee specified in s. 440.05 (1), if the person has a certification
20 specified in subd. 1. a. and if the person provides the following to the department:

21 a. A diagnosis by a physician or audiologist that the person is deaf or hard of
22 hearing and an audiogram that is the basis for the diagnosis.

23 b. Evidence satisfactory to the department that the person has completed 48
24 credit hours in an educational or training program on issues related to providing
25 interpretation services for the deaf or hard of hearing.

1 c. Evidence satisfactory to the department that the person has completed 8
2 hours of training on the role and function of deaf interpreters and 8 hours of training
3 on the code of ethics established by the Registry of Interpreters for the Deaf, Inc., or
4 its successor, including evidence documenting the dates, locations, and durations of
5 the training.

6 3. The department shall grant a license as an interpreter for the deaf or hard
7 of hearing to a person who has not received an associate degree in interpretation for
8 the deaf or hard of hearing or a certificate of completion of an education and training
9 program regarding such interpretation, but who otherwise satisfies the
10 requirements in subd. 1. (intro.), if the person provides evidence satisfactory to the
11 department that the person did not establish residence in this state until after the
12 first day of the 24th month beginning after the effective date of this subdivision
13 [revisor inserts date], and that the person had, before the first day of the 24th month
14 beginning after the effective date of this subdivision [revisor inserts date], one of
15 the certifications specified in subd. 1. a., b., or c.

16 (b) *Nonrenewable licenses.* 1. The department shall grant a license as an
17 interpreter for the deaf or hard of hearing to a person who submits an application on
18 a form provided by the department, pays the fee specified in s. 440.05 (1), and
19 submits evidence satisfactory to the department that the person satisfies all of the
20 following:

21 a. The person has received an associate degree in interpretation for the deaf
22 or hard of hearing or has received a certificate of completion of an education and
23 training program regarding such interpretation.

24 b. The person is verified by the Wisconsin interpreting and transliterating
25 assessment at level 2 or higher in both interpreting and transliterating.

1 c. The person has passed the written examination administered by the Registry
2 of Interpreters for the Deaf, Inc, or its successor.

3 d. The person is an associate or student member of the Registry of Interpreters
4 for the Deaf, Inc., or its successor, and complies with the continuing education
5 requirements of the certification maintenance program of the registry or its
6 successor.

7 2. The department shall grant a license as an interpreter for the deaf or hard
8 of hearing to a person who satisfies the requirements specified in subd. 1., except for
9 the requirements specified in subd. 1. a. and b., if the person provides to the
10 department the diagnosis, audiogram, and evidence specified in par. (a) 2. a., b., and
11 c.

12 3. A license granted under subd. 1. or 2. may be renewed twice and is not valid
13 upon the expiration of the 2nd renewal period.

14 (5) NOTIFICATION REQUIRED. A person who is licensed under sub. (4) shall notify
15 the department in writing within 30 days if the person's certification or membership
16 specified in sub. (4) that is required for the license is revoked or invalidated. The
17 department shall revoke a license granted under sub. (4) if such a certification or
18 membership is revoked or invalidated.

19 (6) LICENSE RENEWAL. The renewal dates for licenses granted under sub. (4) (a)
20 are specified in s. 440.08 (2) (a). Renewal applications shall be submitted to the
21 department on a form provided by the department and shall include the renewal fee
22 specified in s. 440.08 (2) (a) and evidence satisfactory to the department that the
23 person's certification or membership specified in sub. (4) that is required for the
24 license has not been revoked or invalidated.

1 (7) RULE MAKING. (a) The department may not promulgate rules that impose
2 requirements for granting a license that are in addition to the requirements specified
3 in sub. (4).

4 (b) The department shall promulgate rules that establish a code of ethics that
5 governs the professional conduct of persons licensed under sub. (4). In promulgating
6 rules under this paragraph, the department shall consider including as part or all
7 of the rules part or all of the code of ethics established by the Registry of Interpreters
8 for the Deaf, Inc., or its successor. The department shall periodically review the code
9 of ethics established by the Registry of Interpreters for the Deaf, Inc., or its successor,
10 and, if appropriate, revise the rules promulgated under this paragraph to reflect
11 revisions to that code of ethics.

12 (8) DISCIPLINARY PROCEEDINGS AND ACTIONS. Subject to the rules promulgated
13 under s. 440.03 (1), the department may make investigations and conduct hearings
14 to determine whether a violation of this section or any rule promulgated under this
15 section has occurred and may reprimand a person who is licensed under sub. (4) or
16 may deny, limit, suspend, or revoke a license granted under sub. (4) if it finds that
17 the applicant or licensee has violated this section or any rule promulgated under this
18 section.

19 (9) PENALTY. A person who violates this section or any rule promulgated under
20 this section may be fined not more than \$200 or imprisoned for not more than 6
21 months or both.

22 **SECTION 2.** 440.08 (2) (a) 38j. of the statutes is created to read:

23 440.08 (2) (a) 38j. Interpreter for the deaf or hard of hearing: September 1 of
24 each odd-numbered year; \$53.

25 **SECTION 3.** 905.015 of the statutes is renumbered 905.015 (1).

1 **SECTION 4.** 905.015 (2) of the statutes is created to read:

2 905.015 (2) In addition to the privilege under sub. (1), a person who is licensed
3 as an interpreter for the deaf or hard of hearing under s. 440.032 (4) may not disclose
4 any aspect of a confidential communication facilitated by the interpreter for a person
5 who is deaf or hard of hearing unless one of the following conditions applies:

6 (a) ~~The deaf or hard of hearing person~~ *All parties to the confidential communication* consent to the disclosure.

7 (b) A court determines that the disclosure is necessary for the proper
8 administration of justice.

9 **SECTION 5. Nonstatutory provisions.**

10 (1) WAIVER OF CERTAIN LICENSURE REQUIREMENTS.

11 (a) Notwithstanding section 440.032 (4) (a) 1. of the statutes, as created by this
12 act, the department of regulation and licensing shall grant a license as an interpreter
13 for the deaf and hard of hearing to a person who, not later than the first day of the
14 24th month beginning after the effective date of this paragraph, pays the fee
15 specified in section 440.05 (1) of the statutes and submits evidence satisfactory to the
16 department that the person has any of the following:

17 1. Any valid certification that was granted by the Registry of Interpreters for
18 the Deaf, Inc., or its successor, before the effective date of this subdivision.

19 2. A valid certification level 4 or 5 granted by the National Association of the
20 Deaf or its successor before the effective date of this subdivision.

21 3. Any valid certification that was granted by another organization before the
22 effective date of this subdivision, if the department determines that the other
23 certification is substantially similar to a certification specified in subdivision 1. or

24 2.

1 (b) A license granted under paragraph (a) is considered to be granted under
2 section 440.032 (4) (a) 1. of the statutes, as created by this act.

3 **SECTION 6. Initial applicability.**

4 (1) The treatment of section 905.015 (2) of the statutes first applies to
5 communications made on the effective date of this subsection.

6 **SECTION 7. Effective date.**

7 (1) This act takes effect on the first day of the 7th month beginning after
8 publication.

9 **(END)**