SENATE
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S.F. No. 471

(SENATE AUTHORS: WIKLUND)

DATE	D-PG	OFFICIAL STATUS
01/28/2021	197	Introduction and first reading Referred to Health and Human Services Finance and Policy

A bill for an act

relating to health occupations; establishing a registry system for spoken language health care interpreters; requiring a report; appropriating money; amending Minnesota Statutes 2020, section 256B.0625, subdivision 18a; proposing coding for new law as Minnesota Statutes, chapter 146C; repealing Minnesota Statutes 2020, section 144.058.

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

Section 1. **[146C.01] DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Advisory council.** "Advisory council" means the Spoken Language Health Care Interpreter Advisory Council established in section 146C.06.

Subd. 3. **Certified interpreter.** "Certified interpreter" means a spoken language health care interpreter who meets the requirements in section 146C.02, subdivision 4.

Subd. 4. **Code of ethics.** "Code of ethics" means the National Code of Ethics for Interpreters in Health Care, as published by the National Council on Interpreting in Health Care or its successor, or the International Medical Interpreters Association or its successor.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 6. **Common languages.** "Common languages" means the ten most frequent languages without regard to dialect in Minnesota for which interpreters are listed on the registry.

Subd. 7. **Core interpreter.** "Core interpreter" means a spoken language health care interpreter who meets the requirements in section 146C.02, subdivision 2.

Subd. 8. **Interpreting standards of practice.** "Interpreting standards of practice" means the interpreting standards of practice in health care as published by the National Council on Interpreting in Health Care or its successor, or the International Medical Interpreters Association or its successor.

Subd. 9. **Proficient interpreter.** "Proficient interpreter" means a spoken language health care interpreter who meets the requirements of section 146C.02, subdivision 3.

Subd. 10. **Registry.** "Registry" means a database of spoken language health care interpreters in Minnesota who have met the qualifications described under section 146C.02, subdivision 2, 3, or 4, which shall be maintained by the commissioner of health.

Subd. 11. **Remote interpretation.** "Remote interpretation" means spoken language interpreting services provided via a telephone or by video conferencing.

Subd. 12. **Spoken language health care interpreter or interpreter.** "Spoken language health care interpreter" or "interpreter" means an individual who receives compensation or other remuneration for providing spoken language interpreter services for patients with limited English proficiency within a medical setting either by face-to-face interpretation or remote interpretation.

Subd. 13. **Spoken language interpreting services.** "Spoken language interpreting services" means the conversion of one spoken language into another by an interpreter for the purpose of facilitating communication between a patient and a health care provider who do not share a common spoken language.

Sec. 2. **[146C.02] REGISTRY.**

Subdivision 1. **Establishment.** (a) By July 1, 2022, the commissioner of health shall establish and maintain a registry for spoken language health care interpreters. To be eligible for the registry, an applicant must:

(1) be at least 18 years of age;

(2) affirm by signature, which may include electronic signature, that the applicant has read the code of ethics and the interpreting standards of practice identified on the registry website and agrees to abide by them;

(3) not be on the state or federal Medicaid or Medicare provider exclusion list; and

(4) meet the requirements described under subdivision 2, 3, or 4.

(b) An individual who chooses to be listed on the registry must submit an application to the commissioner on a form provided by the commissioner along with the applicable fees

required under section 146C.07. The form must include the applicant's name, contact address and telephone number, and the languages for which the applicant is available to interpret. The application must indicate whether the applicant is seeking to be listed on the registry as a core interpreter, a proficient interpreter, or a certified interpreter, and must include evidence of meeting the applicable requirements.

(c) Upon receipt of the application, the commissioner shall determine if the applicant meets the requirements for the specified category. The commissioner may request further information from the applicant if the information provided is not complete or accurate. The commissioner shall notify the applicant of action taken on the application, and if the application is denied, the grounds for denying the application.

(d) An applicant whose application for the registry is denied may make a written request to the commissioner, within 30 days of the date of notification to the applicant, for reconsideration of the denial. Applicants requesting reconsideration may submit information that the applicant wants considered in the reconsideration. After reconsideration of the commissioner's determination to deny an application, the commissioner shall determine whether the original determination should be affirmed or modified. An applicant may make only one request for reconsideration of the commissioner's determination to deny an application.

(e) If the commissioner denies an application, the applicant may reapply for the same category or another category. If an applicant applies for a different category or reapplies for the same category, the applicant must submit with the new application the applicable fees under section 146C.07.

(f) Applicants who qualify for different categories for different languages shall only be required to complete one application and submit the required application fee.

(g) The commissioner may request, as deemed necessary, additional information from an applicant to determine or verify qualifications or collect information to manage the registry.

Subd. 2. **Requirements for core interpreter.** (a) To be listed on the registry as a core interpreter, an applicant must either: (1) pass a written examination in English approved by the commissioner, in consultation with the advisory council, on interpreter ethics, standards of practice, and basic medical terminology at an accuracy level established by the commissioner; or (2) provide the commissioner with written proof of successfully completing a medical interpreter training program approved by the commissioner that is at a minimum 40 hours in duration.

(b) To meet the examination requirement in paragraph (a), clause (1), the examination must be administered in accordance with a process identified by the commissioner, using a method that allows for the identification of the individual taking the examination.

(c) The commissioner may authorize an applicant to take an oral examination instead of the written examination, if the oral examination meets the requirements in paragraphs (a) and (b).

Subd. 3. **Requirements for proficient interpreters.** To be listed on the registry as a proficient interpreter, an applicant must:

(1) provide written proof of successfully completing a medical interpreter training program approved by the commissioner that is, at a minimum, 40 hours in duration; and

(2) demonstrate oral proficiency in English and the non-English targeted language the applicant is seeking to be listed for on the registry as evidenced by:

(i) achieving a proficiency rating of advanced mid-level or higher on the Oral Proficiency Interview from the American Council on the Teaching of Foreign Languages (ACTFL) administered by Language Testing International; or

(ii) satisfying an alternative method approved by the commissioner, in consultation with the advisory council, demonstrate oral proficiency in either English or the non-English targeted language, or both, including but not limited to completing an oral proficiency test with performance at a proficiency level equivalent to advanced mid-level or higher on the ACTFL scale, or providing a certificate of completion from an educational institution that has been approved by the commissioner.

Subd. 4. **Requirements for certified interpreter.** (a) To be listed on the registry as a certified interpreter, an applicant must:

(1) have a full certification from the Certification Commission for HealthCare Interpreters (CCHI) or from the National Board of Certification for Medical Interpreters (CMI); or

(2) for languages where full certification from CCHI or CMI is not available, the applicant must:

(i) have a partial certification from CCHI or CMI; and

(ii) meet the oral proficiency requirement under subdivision 3, clause (2).

(b) For purposes of this subdivision, full certification means passing both written and oral certification examinations, and a partial certification means passing only the written certification examination.

Subd. 5. **Registry website.** The commissioner shall maintain the registry on the Department of Health's website. The commissioner shall include on the website information on resources, including financial assistance, that may be available to interpreters to assist interpreters in meeting registry training and testing requirements.

Subd. 6. **Change of name and address.** Interpreters listed on the registry who change their name, address, or e-mail address must inform the commissioner in writing of the change within 30 days. All notices or other correspondence mailed to the interpreter's address or e-mail address on file with the commissioner shall be considered as having been received by the interpreter.

Subd. 7. **Data.** Section 13.41 applies to government data of the commissioner on applicants and interpreters who are listed on the registry.

Sec. 3. **[146C.03] RENEWAL.**

Subdivision 1. **Registry period.** Listing on the registry is valid for a one-year period. To renew inclusion on the registry, an interpreter must submit:

(1) a renewal application on a form provided by the commissioner;

(2) a continuing education report on a form provided by the commissioner as specified under section 146C.05; and

(3) the required fees under section 146C.07.

Subd. 2. **Notice.** (a) Sixty days before the registry expiration date, the commissioner shall send out a renewal notice to the spoken language health care interpreter's last known address or e-mail address on file with the commissioner. The notice must include an application for renewal and the amount of the fee required for renewal. If the interpreter does not receive the renewal notice, the interpreter is still required to meet the deadline for renewal to qualify for continuous inclusion on the registry.

(b) An application for renewal must be received by the commissioner or postmarked at least 30 calendar days before the registry expiration date.

Subd. 3. **Late fee.** A renewal application received by the commissioner after the registry expiration date must include the late fee specified in section 146C.07.

Subd. 4. **Lapse in renewal.** An interpreter whose registry listing has been expired for a period of one year or longer must submit a new application to be listed on the registry instead of a renewal application.

Sec. 4. **[146C.04] DISCIPLINARY ACTIONS; OVERSIGHT OF COMPLAINTS.**

Subdivision 1. **Prohibited conduct.** (a) The following conduct is prohibited and is grounds for disciplinary or corrective action:

(1) failure to provide spoken language interpreting services consistent with the code of ethics and interpreting standards of practice, or performance of the interpretation in an incompetent or negligent manner;

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

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

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

(5) violation of or failure to comply with an order issued by the commissioner;

(6) obtaining money, property, services, or business from a client through the use of undue influence, excessive pressure, harassment, duress, deception, or fraud;

(7) revocation of the interpreter's national certification as a result of disciplinary action brought by the national certifying body;

(8) failure to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs or other physical or mental impairment;

(9) engaging in conduct likely to deceive, defraud, or harm the public;

(10) demonstrating a willful or careless disregard for the health, welfare, or safety of a client;

(11) failure to cooperate with the commissioner or advisory council in an investigation or to provide information in response to a request from the commissioner or advisory council;

(12) aiding or abetting another person in violating any provision of this chapter; and

(13) release or disclosure of a health record in violation of sections 144.291 to 144.298.

(b) In disciplinary actions alleging a violation of paragraph (a), clause (2), (3), or (4), a copy of the judgment or proceeding under seal of the court administrator, or of the administrative agency that entered the same, is admissible into evidence without further authentication and constitutes prima facie evidence of its contents.

Subd. 2. **Complaints.** (a) The commissioner shall establish operating procedures for receiving and investigating complaints and imposing disciplinary or corrective action consistent with the notifications and resolution provisions in section 214.103, subdivision 1a.

(b) The procedures may include procedures for sharing complaint information with government agencies in this and other states. Procedures for sharing complaint information must be consistent with the requirements for handling government data in chapter 13.

Subd. 3. **Discovery.** In all matters relating to the lawful regulation activities under this chapter, the commissioner may issue subpoenas to require the attendance and testimony of witnesses and production of books, records, correspondence, and other information relevant to any matter involved in the investigation. The commissioner or the commissioner's designee may administer oaths to witnesses or take their affirmation. A subpoena may be served upon any person it names anywhere in the state by any person authorized to serve subpoenas or other processes in civil actions of the district courts. If a person to whom a subpoena is issued does not comply with the subpoena, the commissioner may apply to the district court in any district and the court shall order the person to comply with the subpoena. Failure to obey the order of the court may be punished by the court as contempt of court. All information pertaining to individual medical records obtained under this section is health data under section 13.3805, subdivision 1.

Subd. 4. **Hearings.** If the commissioner proposes to take action against an interpreter as described in subdivision 5, the commissioner must first notify the person against whom the action is proposed to be taken and provide the person with an opportunity to request a hearing under the contested case provisions of chapter 14. Service of a notice of disciplinary action may be made personally or by certified mail, return receipt requested. If the person does not request a hearing by notifying the commissioner within 30 days after service of the notice of the proposed action, the commissioner may proceed with the action without a hearing.

Subd. 5. **Disciplinary actions.** If the commissioner finds that an interpreter who is listed on the registry has violated any provision of this chapter, the commissioner may take any one or more of the following actions:

(1) censure or reprimand the interpreter;

(2) impose limitations or conditions on the interpreter's practice, or impose rehabilitation requirements to retain status on the registry;

(3) suspend the interpreter from the registry for a limited period of time; or

(4) permanently remove the interpreter from the registry.

Subd. 6. **Reinstatement requirements after disciplinary action.** Interpreters who have been temporarily suspended or permanently removed from the registry may request and provide justification for reinstatement. Interpreters who have had limitations or conditions imposed on their practice of interpreting while retaining registry status may request and provide justification for reduction or removal of the limitations or conditions. The requirements of this chapter for registry renewal and any other conditions imposed by the commissioner must be met before the interpreter may be reinstated on the registry.

Sec. 5. **[146C.05] CONTINUING EDUCATION.**

Subdivision 1. **Course approval.** The advisory council shall approve continuing education courses and training. A course that has not been approved by the advisory council may be submitted, but may be disapproved by the commissioner. If the course is disapproved, it shall not count toward the continuing education requirement. All registry interpreters must complete three hours of continuing education during each one-year registry period. Continuing education hours shall be prorated for interpreters who are assigned a registry cycle of less than one year.

Subd. 2. **Continuing education verification.** Each spoken language health care interpreter shall submit with a renewal application a continuing education report on a form provided by the commissioner that indicates that the interpreter has met the continuing education requirements of this section. The form shall include the following:

(1) the title of the continuing education activity;

(2) a brief description of the activity;

(3) the sponsor, presenter, or author;

(4) the location and attendance dates;

(5) the number of continuing education hours; and

(6) a signed affirmation that the information on the form is true and correct to the best of the interpreter's knowledge and belief.

Subd. 3. **Audit.** The commissioner or advisory council may audit a percentage of the continuing education reports based on a random selection.

Sec. 6. **[146C.06] SPOKEN LANGUAGE HEALTH CARE INTERPRETER ADVISORY COUNCIL.**

Subdivision 1. **Establishment.** The commissioner shall appoint 14 members to a Spoken Language Health Care Interpreter Advisory Council consisting of the following members:

(1) three members who are interpreters listed on the roster prior to July 1, 2022, or on the registry after July 1, 2022, and who are Minnesota residents. Of these members, each must be an interpreter for a different language; at least one must have a national certification credential; and at least one must have been listed on the roster prior to July 1, 2022, or on the registry after July 1, 2022, as an interpreter in a language other than the common languages and must have completed a training program for medical interpreters approved by the commissioner that is, at a minimum, 40 hours in length;

(2) three members who are or who represent limited English proficient (LEP) individuals who are not associated with any of the organizations, systems, or programs identified in clauses (3) to (8). Of these members, two must be or represent LEP individuals who are proficient in a common language and one must be or represent LEP individuals who are proficient in a language that is not one of the common languages. One of these three members must also be a current or former medical assistance program recipient;

(3) one member representing a health plan company;

(4) one member representing a Minnesota health system who is not an interpreter;

(5) two members representing interpreter agencies, including one member representing agencies whose main office is located outside the seven-county metropolitan area and one member representing agencies whose main office is located within the seven-county metropolitan area;

(6) one member representing an interpreter training program or postsecondary educational institution program providing interpreter courses or skills assessment;

(7) one member who is affiliated with a Minnesota-based or Minnesota chapter of a national or international organization representing interpreters; and

(8) two members who are licensed direct care health providers, one provider practicing within the seven-county metropolitan area and one provider practicing outside the seven-county metropolitan area.

Subd. 2. **Organization.** The advisory council shall be organized and administered under section 15.059.

Subd. 3. **Duties.** (a) The advisory council shall:

(1) advise the commissioner on the content of the core interpreter examination described under section 146C.02, subdivision 2, and the requisite percentage of correct answers;

(2) advise the commissioner on recommended changes to requirements for core, proficient, and certified interpreters to reflect changing needs of the Minnesota health care community and emerging national standards of training, competency, and testing;

(3) identify barriers for interpreters of common and uncommon languages in meeting the registry category requirements and make recommendations to the commissioner on how to address these barriers;

(4) address barriers for interpreters to gain access to the registry, including barriers to interpreters of uncommon languages and interpreters in rural areas;

(5) advise the commissioner on methods for identifying gaps in interpreter services in rural areas and make recommendations to address interpreter training and funding needs;

(6) inform the commissioner on emerging issues in the spoken language health care interpreter field;

(7) advise the commissioner on training, certification, and continuing education programs;

(8) provide for distribution of information on training and other resources to help interpreters meet registry requirements;

(9) make recommendations for necessary statutory changes to Minnesota interpreter law;

(10) compare the annual cost of administering the registry and the annual total collection of registration fees and advise the commissioner, if necessary, to recommend an adjustment to the registration fees;

(11) identify and make recommendations to the commissioner for Web distribution of patient and provider education materials on working with an interpreter and on reporting prohibited interpreter behavior as identified in section 146C.04, subdivision 1;

(12) review and update as necessary the process for determining common languages; and

(13) review investigation summaries of competency violations and make recommendations to the commissioner on possible disciplinary action.

(b) The commissioner shall adhere to the data practices requirements under section 13.41 in communicating to the advisory council regarding any complaint investigation.

(c) As the advisory council carries out its duties, the advisory council shall seek input from health care interpreting stakeholders, from both within and outside the seven-county metropolitan area, as appropriate and from the health care administration in the Minnesota Department of Human Services.

Sec. 7. **[146C.07] FEES.**

Subdivision 1. **Fees.** (a) The initial and renewal fees for interpreters listed on the registry shall be $50.

(b) The renewal late fee for the registry shall be established by the commissioner, not to exceed $30.

(c) The commissioner shall not charge an applicant a fee to take the examination under section 146C.02, subdivision 2, for the core interpreter category, unless the applicant fails the examination on the first try and decides to retake it. The commissioner may charge an examination fee, not to exceed $75, for each subsequent retaking of the examination following the initial attempt.

Subd. 2. **Nonrefundable.** The fees in this section are nonrefundable.

Subd. 3. **Fee proration.** The commissioner shall not prorate any of the fees required under this section.

Subd. 4. **Deposit.** Fees received under this chapter shall be deposited in the state government special revenue fund.

Sec. 8. Minnesota Statutes 2020, section 256B.0625, subdivision 18a, is amended to read:

Subd. 18a. **Access to medical services.** (a) Medical assistance reimbursement for meals for persons traveling to receive medical care may not exceed $5.50 for breakfast, $6.50 for lunch, or $8 for dinner.

(b) Medical assistance reimbursement for lodging for persons traveling to receive medical care may not exceed $50 per day unless prior authorized by the local agency.

(c) Regardless of the number of employees that an enrolled health care provider may have, medical assistance covers sign and ~~oral~~ spoken language health care interpreter services

when provided by an enrolled health care provider during the course of providing a direct, person-to-person covered health care service to an enrolled recipient with limited English proficiency or who has a hearing loss and uses interpreting services. Coverage for ~~face-to-face oral language~~ spoken language health care interpreter services shall be provided only if the ~~oral language~~ spoken language health care interpreter used by the enrolled health care provider is listed ~~in~~ on the ~~registry or~~ roster established under section 144.058 or the registry established under section 146C.02. Beginning July 1, 2023, coverage for spoken language health care interpreter services shall be provided only if the spoken language health care interpreter used by the enrolled health care provider is listed on the registry established under section 146C.02.

Sec. 9. **INITIAL SPOKEN LANGUAGE HEALTH CARE INTERPRETER ADVISORY COUNCIL MEETING.**

The commissioner of health shall convene the first meeting of the Spoken Language Health Care Interpreter Advisory Council by December 1, 2021.

Sec. 10. **RECOMMENDATIONS FOR THE SPOKEN LANGUAGE HEALTH CARE INTERPRETER REGISTRY FEES; STRATIFIED MEDICAL ASSISTANCE REIMBURSEMENT SYSTEM FOR SPOKEN LANGUAGE HEALTH CARE INTERPRETERS.**

Subdivision 1. **Registry fee recommendations.** The commissioner of health, in consultation with the Spoken Language Health Care Interpreter Advisory Council, shall review the fees established under Minnesota Statutes, section 146C.07, and make recommendations on whether the fees are established at an appropriate level, including whether specific fees should be established for each category of the registry instead of one uniform fee. The total fees collected must be sufficient to recover the costs of the spoken language health care registry. If the commissioner recommends different fees for the categories, the commissioner shall submit the proposed fees to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by January 15, 2022.

Subd. 2. **Stratified medical assistance reimbursement system.** (a) The commissioner of human services, in consultation with the commissioner of health, the Spoken Language Health Care Interpreter Advisory Council established under Minnesota Statutes, section 146C.06, and representatives from the interpreting stakeholder community at large, shall study and make recommendations for creating a stratified reimbursement system for the

Minnesota public health care programs for spoken language health care interpreters based on the spoken language health care interpreters registry established by the commissioner of health under Minnesota Statutes, chapter 146C. Any proposed reimbursement rates in a stratified reimbursement system for spoken language health care interpreter services, for any category, shall not be less than the current medical assistance reimbursement rates for spoken language health care interpreter services.

(b) The commissioner of human services shall submit the proposed reimbursement system, including the fiscal costs for the proposed system to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by January 15, 2022. The commissioner shall not implement a stratified medical assistance reimbursement system without enactment of the system by the legislature.

Sec. 11. **APPROPRIATIONS.**

(a) $..... in fiscal year 2022 is appropriated from the state government special revenue fund to the commissioner of health for the spoken language health care interpreter registry established under Minnesota Statutes, chapter 146C. Of the appropriation in fiscal year 2022, $..... is for onetime start-up costs for the registry and is available until June 30, 2024.

(b) $..... in fiscal year 2022 is appropriated from the state government special revenue fund to the commissioner of human services to study and submit a proposed stratified medical assistance reimbursement system for spoken language health care interpreters. This appropriation is onetime and is available until June 30, 2024.

(c) $..... in fiscal year 2022 is appropriated from the state government special revenue fund to the commissioner of health to provide financial assistance to assist interpreters in meeting spoken language health care interpreter registry examination requirements under Minnesota Statutes, section 146C.02. This appropriation is onetime and is available until June 30, 2024.

(d) $..... in fiscal year 2022 is appropriated from the state government special revenue fund to the commissioner of health to convene a meeting of public and private sector representatives of the spoken language health care interpreters community to identify ongoing sources of financial assistance to aid individual interpreters in meeting interpreter training and examination registry requirements under Minnesota Statutes, section 146C.02. This appropriation is onetime and is available until June 30, 2024.

Sec. 12. **REPEALER.**

Minnesota Statutes 2020, section 144.058, is repealed.

EFFECTIVE DATE. This section is effective the day following final enactment.

144.058 INTERPRETER SERVICES QUALITY INITIATIVE.

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

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

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

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

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

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

(iii) recommendations for appropriate fees; and

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

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

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

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