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Oregon's Voice for Long Term Care & Senior Housing

Testimony in Response to HB 3099 March 18, 2013

The Oregon Health Care Association (OHCA) is a statewide, professional trade association representing over 600 health care providers, including for-profit and not-for-profit nursing facilities, assisted living and residential care facilities, independent senior housing providers, and private, licensed in-home care agencies. With nearly 40,000 employees, our members provide care and services to over 40,000 Oregonians in every community of the state.

On behalf of our members, OHCA appreciates the opportunity to comment on HB 3099, a bill that would require the adoption of standards to ensure linguistic competency of health care facility and residential facility direct care staff.

OHCA fully supports continued efforts by the Legislative Assembly to promote cultural and linguistic competency of health care providers and direct care workers in Oregon. While HB 3099 articulates a laudable goal, it gives OHCA and its members concern for the following reasons:

- Due to the legal terms used in its drafting, HB 3099 creates an expansive new staffing mandate across Oregon, impacting all facility based long term care settings. This new mandate will have extensive associated costs for both providers and the state or Oregon.
- HB 3099 requires staffing, “linguistically competent in each of the primary languages spoken by the residents of the facility.” Further, HB 3099 requires, “that each resident has immediate access at all times to a direct care staff person who is fluent in the language spoken by the resident.” OHCA is concerned that the terms “primary languages” and “fluent” are not defined and that a plain reading of this proposed law would impose an expensive and in some cases impracticable mandate on providers to provide around-the-

clock “fluent” caregivers for any “primary language” spoken by a potential resident, no matter the supply of caregivers who speak these myriad languages.

- OHCA is also highly alarmed by a proposed mandate to conduct, “examinations of direct care staff to ensure the language proficiency of each staff person who is counted toward meeting the standards adopted by the authority and the department under this section.” In the original version of the bill, HB 3099 would require the Department of Human Services and the Oregon Health Authority to directly perform examinations. With a workforce of over 40,000 employees providing care in over 600 long term care facilities throughout the state providing care, the fiscal impact of this measure to the State of Oregon would be substantial. The proposed -2 amendments would seek to shift the requirement of conducting examinations onto the facility operators. This would pose a substantial new additional cost for providers put providers in a position of “testing” their workers for fluency on a recurring basis.

OHCA would like to call attention of OAR 411-054-0070(3)(h) which requires all Assisted Living and Residential Care Facilities to retain staff who, “have sufficient communication and language skills to enable them to perform their duties and communicate with residents, other staff, family members, health care professionals, etc., as needed.” OHCA is interested in working with the Legislators on efforts that will continue to encourage providers to offer services in health care facilities in a way that takes into account the linguistic and cultural background of patients and residents

Finally, HB 3099 presents another significant problem in that it will serve as an extremely costly unfunded mandate to long term care facilities for year one before facility Medicaid rates are rebased and the cost shifts to the State of Oregon. This would again result in a significant fiscal impact during a time of tentative economic recovery.

We thank you for the opportunity to comment on HB 3099.