

## HOUSE AMENDMENTS TO HOUSE BILL 3415

By COMMITTEE ON HEALTH CARE

April 24

1 On page 1 of the printed bill, delete lines 3 through 27.

2 On page 2, delete lines 1 through 19 and insert:

3 “Whereas individuals who are deaf, deaf-blind or hard of hearing, as a group, represent an  
4 underserved population in many respects, particularly with respect to mental health services; and

5 “Whereas individuals who are deaf, deaf-blind or hard of hearing require culturally and linguis-  
6 tically specialized mental health services; and

7 “Whereas research shows that individuals who are deaf, deaf-blind or hard of hearing are sub-  
8 jected to additional burdens in access to mental health services; and

9 “Whereas some individuals who are deaf, deaf-blind or hard of hearing may have secondary  
10 disabilities that impact the type and manner of mental health services that they need; and

11 “Whereas being deaf, deaf-blind or hard of hearing impacts the most basic of human needs,  
12 which is the ability to communicate with other human beings; and

13 “Whereas many individuals who are deaf, deaf-blind or hard of hearing use sign language, which  
14 may be their primary language, while others express and receive language orally and aurally, with  
15 or without visual signs or cues; and

16 “Whereas it is essential for the mental health and well-being of individuals who are deaf, deaf-  
17 blind or hard of hearing that mental health programs recognize the unique nature of being deaf,  
18 deaf-blind or hard of hearing and ensure that all individuals who are deaf, deaf-blind or hard of  
19 hearing have appropriate and fully accessible counseling and therapeutic options; and

20 “Whereas it is essential that individuals who are deaf, deaf-blind or hard of hearing have mental  
21 health options in which their effective communication mode is respected and utilized and that men-  
22 tal health professionals are proficient in the primary communication mode of individuals who are  
23 deaf, deaf-blind or hard of hearing; and

24 “Whereas it is essential that individuals who are deaf, deaf-blind or hard of hearing have mental  
25 health options in which psychiatrists, psychologists, therapists, counselors, social workers and other  
26 mental health providers understand the unique nature of being deaf, deaf-blind or hard of hearing  
27 and are specifically trained to work with individuals who are deaf, deaf-blind or hard of hearing; and

28 “Whereas it is essential that individuals who are deaf, deaf-blind or hard of hearing have access  
29 to mental health professionals who are familiar with their unique culture and needs; and

30 “Whereas it is essential that individuals who are deaf, deaf-blind or hard of hearing are involved  
31 in determining the extent, content and purpose of mental health programs and services; and

32 “Whereas it is essential that individuals who are deaf, deaf-blind or hard of hearing have pro-  
33 grams in which they have direct and appropriate access to a full continuum of services, including  
34 but not limited to all modes of therapy and evaluations; and

35 “Whereas it is essential that individuals who are deaf, deaf-blind or hard of hearing have spe-

1 cialized programs that provide for their unique mental health needs, including appropriate research,  
2 curricula, staff and outreach; and

3 “Whereas mental health providers must make an individual determination for each individual  
4 who is deaf, deaf-blind or hard of hearing of the most accessible mental health services that take  
5 into consideration the findings in this preamble; and

6 “Whereas given their unique communication needs, individuals who are deaf, deaf-blind or hard  
7 of hearing would benefit from the development and implementation of state and regional programs  
8 that address their the mental health needs; now, therefore,”.

9 Delete lines 21 through 45 and delete pages 3 through 5 and insert:

10 **“SECTION 1. Sections 1 to 6 of this 2017 Act shall be known and may be cited as the**  
11 **Mental Health for Deaf, Deaf-Blind and Hard of Hearing Individuals’ Bill of Rights.**

12 **“SECTION 2. As used in sections 1 to 6 of this 2017 Act:**

13 **“(1) ‘Accessible mental health services’ means the full range of mental health services**  
14 **provided, with the use of auxiliary aids or services, by appropriately licensed mental health**  
15 **professionals who are not fluent in the primary communication mode, style or language of**  
16 **the individual requiring such services.**

17 **“(2) ‘American Sign Language’ means the visual language used by people who are deaf**  
18 **or deaf-blind and some hard of hearing people in the United States and parts of Canada and**  
19 **Mexico, with semantic, syntactic, morphological and phonological rules that are distinct from**  
20 **English.**

21 **“(3) ‘Auxiliary aids or services’ includes but is not limited to:**

22 **“(a) Qualified interpreters;**

23 **“(b) Signed English;**

24 **“(c) Cued speech;**

25 **“(d) Qualified captioners; and**

26 **“(e) Assistive listening devices.**

27 **“(4) ‘Communication mode, style or language’ means the following systems or methods**  
28 **of communication used by deaf, deaf-blind and hard of hearing individuals:**

29 **“(a) American Sign Language;**

30 **“(b) English-based manual or sign systems that use manual signs in English word order,**  
31 **sometimes with added affixes that are not present in American Sign Language; and**

32 **“(c) Minimal sign language systems to communicate with others who use home-based**  
33 **signs, idiosyncratic signs or a sign system or language from another country.**

34 **“(5) ‘Culturally and linguistically affirmative mental health services’ means the full range**  
35 **of mental health services provided, without the use of an interpreter or other auxiliary aids**  
36 **or services, to a deaf, deaf-blind or hard of hearing individual by appropriately licensed**  
37 **mental health professionals fluent in the primary communication mode, style or language**  
38 **as well as the cultural needs of the individual requiring such services.**

39 **“(6) ‘Deaf-blind individual’ means a person who has a combination of severe hearing loss**  
40 **and vision loss that necessitates specialized adaptation of spoken, tactile and written infor-**  
41 **mation.**

42 **“(7) ‘Deaf individual’ means an individual who has a severe or complete absence of**  
43 **auditory sensitivity so that the primary effective communication mode is visual and the in-**  
44 **dividual has difficulty in processing linguistic information through hearing, with or without**  
45 **amplification or other assistive technology.**

1       “(8) ‘Hard of hearing individual’ means an individual who has a hearing loss but retains  
2 some residual hearing, wishes to be part of the hearing world, rarely understands American  
3 Sign Language, can benefit from hearing aids or cochlear implants and for whom under-  
4 standing speech is further enhanced by using hearing assistive technology and coping skills.

5       “(9) ‘Primary communication mode, style or language’ means the communication mode,  
6 style or language that is preferred by and most effective for a particular individual, as de-  
7 termined by appropriate language assessment undertaken by individuals proficient in the  
8 communication mode, style or language being assessed.

9       “SECTION 3. The Oregon Health Authority shall:

10       “(1) Make available throughout this state mental health programs that provide culturally  
11 and linguistically affirmative mental health services to deaf, deaf-blind and hard of hearing  
12 individuals in their primary communication mode, style or language.

13       “(2) Develop, train and retain a mental health professional workforce sufficient to ensure  
14 appropriate culturally and linguistically affirmative mental health services for deaf, deaf-  
15 blind and hard of hearing individuals in their primary communication mode, style or lan-  
16 guage, including but not limited to:

17       “(a) Occupational therapists familiar with the unique needs of individuals who are deaf,  
18 deaf-blind or hard of hearing;

19       “(b) Prevention specialists;

20       “(c) Chemical dependency counselors;

21       “(d) Social workers;

22       “(e) Licensed professional counselors and marriage and family therapists;

23       “(f) Licensed psychologists;

24       “(g) Licensed psychiatrists; and

25       “(h) Registered nurses.

26       “(3) Develop, train and make available resources sufficient to ensure appropriate, acces-  
27 sible mental health services for deaf, deaf-blind and hard of hearing individuals in their pri-  
28 mary communication mode, style or language, including but not limited to:

29       “(a) Qualified interpreters certified to render effective communication in the mental  
30 health setting;

31       “(b) Certified deaf interpreters; and

32       “(c) Foreign sign language interpreters.

33       “(4) Monitor state-funded mental health programs, schools, courts, medical facilities,  
34 long term care facilities and providers of addiction and substance abuse treatment to ensure  
35 that deaf, deaf-blind and hard of hearing individuals of all ages are served.

36       “(5) Allocate adequate funding for all mental health programs that provide accessible  
37 mental health services to deaf, deaf-blind and hard of hearing individuals.

38       “(6) Develop and implement strategies and plans to address the unmet need in ge-  
39 ographical areas where there are an insufficient number of mental health professionals ade-  
40 quately trained in any communication mode, style or language to treat deaf, deaf-blind or  
41 hard of hearing individuals, including but not limited to authorizing qualified mental health  
42 professionals licensed by another state to treat and serve the needs of deaf, deaf-blind or  
43 hard of hearing individuals in this state.

44       “(7) Authorize the use of technology, in treatment, that allows deaf, deaf-blind or hard  
45 of hearing individuals to receive culturally and linguistically affirmative mental health ser-

1 vices from mental health professionals who are licensed in this state or another state.

2 **“SECTION 4. (1) An individual who is deaf, deaf-blind or hard of hearing may not be de-**  
3 **ned access to culturally and linguistically affirmative mental health services in the**  
4 **individual’s preferred communication mode, style or language on the basis that:**

5 **“(a) The individual has a residual hearing ability, whether assisted or not; or**

6 **“(b) The individual has previous experience with another communication mode, style or**  
7 **language.**

8 **“(2) This section does not prohibit the provision of mental health treatment in more than**  
9 **one communication mode, style or language for any particular individual. An individual shall**  
10 **receive treatment in the communication mode, style or language that is determined to be**  
11 **most effective.**

12 **“(3) Violation of subsection (1) of this section is an unlawful practice that is subject to**  
13 **enforcement under ORS chapter 659A.**

14 **“SECTION 5. (1) The Oregon Health Authority shall appoint a Coordinator of Mental**  
15 **Health Services for Deaf, Deaf-Blind and Hard of Hearing Individuals to coordinate the**  
16 **statewide provision of culturally and linguistically affirmative mental health services to deaf,**  
17 **deaf-blind and hard of hearing individuals.**

18 **“(2) The coordinator must have leadership abilities and extensive experience in treating**  
19 **deaf, deaf-blind and hard of hearing individuals and must:**

20 **“(a) Be fluent in American Sign Language and possess a thorough understanding of the**  
21 **culture of the deaf, deaf-blind and hard of hearing community;**

22 **“(b) Have completed clinical training and possess a minimum of five years of experience**  
23 **providing direct services to deaf, deaf-blind and hard of hearing individuals with mental**  
24 **health needs;**

25 **“(c) Possess at least a master’s degree in a behavioral health or other relevant clinical**  
26 **field, with a preference given to individuals who are licensed to practice independently;**

27 **“(d) Know and understand applicable federal and state laws;**

28 **“(e) Be capable of or have experience in creating or integrating programs in the mental**  
29 **health service delivery system in this state to ensure that deaf, deaf-blind and hard of**  
30 **hearing individuals have access to the full continuum of mental health care; and**

31 **“(f) Demonstrate the aptitude to develop policies and procedures based on the actual**  
32 **service needs of deaf, deaf-blind and hard of hearing individuals.**

33 **“(3) The coordinator shall be responsible for ensuring that culturally and linguistically**  
34 **affirmative mental health services are available to deaf, deaf-blind and hard of hearing indi-**  
35 **viduals statewide and shall have the authority to:**

36 **“(a) Take steps necessary to ensure access to training, consultation and technical as-**  
37 **sistance by mental health treatment providers in various settings, including but not limited**  
38 **to inpatient hospitalization, outpatient treatment and residential programs serving deaf,**  
39 **deaf-blind and hard of hearing individuals with mental health needs or addiction or substance**  
40 **abuse disorders;**

41 **“(b) Facilitate collaboration between state agencies and departments to maximize the use**  
42 **of state resources and joint planning;**

43 **“(c) Develop, oversee and directly supervise staff responsible for the statewide delivery**  
44 **of accessible mental health services;**

45 **“(d) Establish statewide mental health standards for the care of deaf, deaf-blind and hard**

1 of hearing individuals, including standards for American Sign Language skills in mental  
2 health settings;

3 “(e) Allocate mental health funds or grants to public and private mental health providers  
4 to achieve optimum service delivery within the system of care in this state; and

5 “(f) Collect and evaluate clinical and programmatic outcomes data from each mental  
6 health service provider serving deaf, deaf-blind or hard of hearing individuals in this state.

7 “**SECTION 6.** (1) A deaf, deaf-blind or hard of hearing individual admitted to a hospital  
8 or residential treatment center must be assigned to a qualified staff member or clinical  
9 treatment team with the primary responsibility for coordinating and implementing the  
10 individual’s treatment plan.

11 “(2) A hospital or residential treatment center must have written procedures to ensure  
12 that deaf, deaf-blind or hard of hearing individuals are provided culturally and linguistically  
13 affirmative mental health services, including but not limited to the following:

14 “(a) Direct access to mental health services by a staff member who meets qualification  
15 criteria adopted by the Oregon Health Authority by rule for fluency in the language or  
16 communication mode, style or language preferred by the individual.

17 “(b) If the services described in paragraph (a) of this subsection cannot be made avail-  
18 able, free language assistance in compliance with federal and state laws. All interpreters  
19 must be qualified to work in the treatment setting according to standards adopted by rule  
20 by the authority. Family members, employees, colleagues or friends of a deaf, deaf-blind or  
21 hard of hearing individual may not be used as interpreters under any circumstances.

22 “(3) The authority or the coordinator shall specify how mental health services must be  
23 provided if in-person interpreters are not available. If remote interpreters are used, the  
24 provider of mental health services shall be responsible for ensuring that the remote inter-  
25 preters are qualified to provide the interpretation of mental health services.

26 “(4) If qualified interpreters are offered but refused by a deaf, deaf-blind or hard of  
27 hearing individual in need of mental health services, the mental health service provider must  
28 obtain a signed waiver from the individual of the right to accessible mental health services  
29 and retain the waiver in the individual’s case record.

30 “(5) Diagnostic testing of deaf, deaf-blind and hard of hearing individuals requires exper-  
31 tise in the administration and interpretation of standardized objective or projective tests and  
32 must be performed by qualified mental health treatment providers with the level of fluency  
33 in sign language or other mode of communication prescribed by the authority by rule.

34 “**SECTION 7.** (1) The Oregon Health Authority may impose a civil penalty of up to \$5,000  
35 on a person for failure to comply with section 6 of this 2017 Act.

36 “(2) Civil penalties under this section must be imposed in the manner provided by ORS  
37 183.745.

38 “(3) All penalties recovered under this section shall be paid into the State Treasury and  
39 credited to the Oregon Health Authority Fund established under ORS 413.101.

40 “**SECTION 8.** The requirements of section 4 of this 2017 Act apply to conduct occurring  
41 on or after the effective date of this 2017 Act.”.