

Esteemed Senators of the State of Oregon,

I support HB 2231 and I hope that the information I present in this testimony will encourage you to support it. I am writing this testimony anonymously out of fear of retaliation from the agencies with which I work.

As you consider this bill I would encourage you to review relevant legislation already in place to protect Limited English Proficient individuals. Much of the legislation currently in place to protect LEP individuals requires that patients have access to trained, professional interpreters. However, as there is little enforcement of this legislation, many patients are not able to access trained, professional interpreters. Interpreters paid by the State often work with agencies that have contracts with state agencies (such as DHS, OHA, or the Coordinated Care Organizations associated with the Oregon Health Plan). These agencies often fail to require training, qualification, or certification, and do not attempt to offer appointments to certified and qualified interpreters first, blatantly disregarding ORS 413.550-413.558.

The creation of a union consisting of only trained interpreters who have been certified and qualified through the vetting process established by the State would empower the State to verify that interpreting services it pays for are provided only by interpreters that meet its quality standards. A union could raise standards by creating high-quality, free or low-cost trainings paid for by dues to encourage professional development and help grow the workforce of certified and qualified interpreters. Interpreters would be attracted to the union because of the opportunity to negotiate the terms of their contract, something that many agencies do not allow interpreters to do. The state could also save money and time by working directly with interpreters in the union rather than depending on CCOs to go through agencies to hire interpreters for appointments.

Please review the relevant legislation below that may aid you in understanding current language access requirements and in making an informed decision regarding this bill.

Legislation Title:

ORS 413.550-413.558

Link to legislation:

https://www.oregon.gov/oha/OEI/Documents/HB2419-Enrolled_pp1-5.pdf

Summary of Requirements:

- Appointments should be covered by qualified/certified interpreters whenever possible.
- Compliance with Title VI Guidance (from 2000) is required

Legislation Title:

ORS 414.625

Link to legislation:

https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2018orLaw0049.pdf

Summary of Requirements:

- CCOs must ensure that their clients have access to qualified/certified interpreters
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Title of Legislation:

Title VI of the Civil Rights Act of 1965

Link to Legislation:

<https://www.govinfo.gov/content/pkg/STATUTE-78/pdf/STATUTE-78-Pg241.pdf>

Summary of Requirements:

- Recipients of federal funding may not discriminate based on national origin
 - LEP individuals have the right to equal access to services provided by any organization that receives federal funding.
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Title of Legislation:

Executive Order 13166

Link to Legislation:

<https://www.lep.gov/13166/eolep.pdf>

Summary of Requirements:

- LEP patients must be able to access services *in the same manner* as those who speak English
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Title of Legislation:

Title VI Guidance (required to follow 2000 guidance in Oregon per ORS 413.550-413.558).

Link to Legislation:

<https://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf>

<https://www.gpo.gov/fdsys/pkg/FR-2000-08-30/pdf/00-22140.pdf>

<https://www.gpo.gov/fdsys/pkg/FR-2003-08-08/pdf/03-20179.pdf>

Summary of Requirements:

Recipients of federal funds must:

- Provide language access services in all parts of the recipient's operations (ie, including not just full-length appointments but also phone calls/reminder calls, blood draws, etc)
- Consult data on LEPs in the service area, assess number or proportion of LEP individuals eligible to be served or encountered and the frequency of encounters

- Identify languages likely to be encountered and estimate the number of LEP persons eligible for services
- Identify the language needs of each LEP patient/client and record this information in their file
- Identify points of contact where language assistance may be needed
- Identify resources needed to provide effective language assistance
- Identify the arrangements that must be made so these resources can be accessed in a timely fashion
- Assess competence of interpreters and translators
- Inform LEP patients about their rights to language access services
 - Post signs in entry points
 - State in outreach documents that language services are available
 - Use voicemail menu in common languages with information about language assistance services and how to access them
- Do not ask patients to use family members or friends to interpret, if a patient chooses to use family/friends document the offer and refusal of free professional language access services and suggest to the LEP that a trained interpreter sit in on the encounter to ensure accuracy
- Post notices of right to language access services in commonly encountered languages
- Create a language access plan (comprehensive written policy on language access) with information on
 - Types of language access services available
 - How staff can obtain those services
 - How to respond to LEP callers
 - How to respond to written communications from LEP persons
 - How to respond to LEP individuals in person
 - How to ensure competency of interpreters/translators
- Identify staff who need training on the language access plan, train them, and identify the outcomes of the training. Ensure that
 - Staff know about LEP policies and procedures and can carry out the recipient's policies
 - Staff having contact with the public are trained to work effectively with in-person and telephone interpreters
 - It is important that training be a part of new staff orientation and that all staff in client contact positions be properly trained
- Reevaluate the language access plan annually, seeking feedback from the community and identifying changes, setting clear goals and establishing management accountability
- Conduct regular oversight to ensure LEP persons meaningfully access the program
- Translation
 - Translate written materials, including vital documents for each LEP language group that constitutes ten percent or 3000, whichever is less, of the population of persons eligible to be served or likely to be directly affected by the recipient/covered entity's program

- If a language constitutes five percent or 1000 whichever is less, translated at least vital documents into that language
 - If 5% but less than 100 persons, sight translation is ok
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Title of Legislation:

ACA Section 1557

Link to Legislation:

<https://www.gpo.gov/fdsys/pkg/FR-2016-05-18/pdf/2016-11458.pdf>

Summary of Requirements:

- Bilingual staff must demonstrate proficiency in English and at least one other language including specialized vocabulary
- Interpreters (whether remote or on-site) must adhere to ethics principles, demonstrate proficiency, and be able to interpret effectively, accurately and impartially using necessary vocabulary
- Taglines must be available in conspicuously visible font stating the availability of language assistance services free of charge in at least the top 15 languages spoken by individuals with limited English proficiency in the state in:
 - Significant publications
 - Conspicuous physical locations where the entity interacts with the public
 - In a conspicuous location on the website
- Taglines must be available in conspicuously visible font stating the availability of language assistance services free of charge in at least the top 2 languages in the state in:
 - Small sized significant publications/communications, such as postcards or trifold brochures
- If the entity employs 15 or more people, at least one employee must be designated to coordinate its efforts to comply with and carry out its responsibilities under Section 1557
- Language assistance services are provided free of charge and in a timely manner
- Do not rely on family/friends unless specifically requested or in an emergency if no qualified interpreter is available
- Do not rely on staff other than qualified bilingual/multilingual staff to communicate directly with individuals with LEP
- VRI must be high-quality if used

Title of Legislation:

CLAS Standards (specifically the mandates, Standards 4-7--the others are voluntary)

Link to Legislation:

<https://minorityhealth.hhs.gov/assets/pdf/checked/finalreport.pdf>

Summary of Requirements:

- Language access services must be provided at no cost at all points of contact in a timely manner during all hours of operation, regardless of the size of the individual's language group in the community
- Health care organizations must provide to patients in their language written notices and verbal offers of their right to language access services.
- Health care organizations should distribute written notices with this information and post translated signage at all points of contact
- Health care organizations should explicitly inquire about the preferred language of each patient and record it in their record
- Healthcare organizations must assess and ensure the training and competency of individuals who deliver language access services, including interpreters and bilingual clinicians and other staff who communicate directly with patients in their preferred language
- Healthcare organizations should verify the completion of, or arrange for formal training in, the techniques, ethics and cross-cultural issues related to medical interpreting
- No suggesting use of family members
- If a patient wants to use a family member/friend to interpret, suggest a trained interpreter be present. Document offer and declination of qualified interpreter
- Never use minor children to interpret
- Ensure that written materials commonly provided in English, especially those listed as vital documents under 65 Fed Reg 52762-52774 are available in commonly encountered languages other than English
- Have way-finding signage (ie directions to services such as admissions, pediatrics, emergency rooms) in commonly encountered languages
- Have signage in commonly encountered languages providing notices of a variety of patient rights, the availability of conflict and grievance resolution processes, and directions to facility services