Esteemed Chair Barker and members of the committee,

I am writing in support of HB 2231. I write this testimony anonymously out of fear of retaliation from the agencies I work with. I have been an interpreter for in Oregon for 4 years, and I interpreted outside of Oregon prior to that. I have worked with 5 different agencies and full-time at multiple clinics. Though I fear being blacklisted from working with the agencies I currently contract with if I speak out about some of these issues, I feel it is essential to inform all of you about the problems interpreters face in this state and the general issues with our system of providing language access services to patients in need.

As an interpreter, there are many reasons that I feel we need to have the right to collective bargaining. There are many parties involved in making sure that limited English proficient(LEP) individuals have access to quality language access services, such as interpreting services, document translations, accommodations for visual impairments, and so on. Interpreters, agencies, healthcare organizations, insurance companies/CCOs, and the state and federal government all play a part. There are currently many barriers in place preventing LEP individuals from accessing quality language access services, and all of these parties need to be held accountable. I think that a union is a good first step in addressing many of these barriers and ensuring the provision of quality language access services in accordance with state and federal law.

I would like to talk about my own experiences to explain firsthand how these issues can affect different parties involved in language access.

As an interpreter, I know that because of the complicated nature of the current system (the state pays the CCO, which reimburses the healthcare organization, which pays the agency, which pays me) I make a fraction of what the state is paying to have an interpreter present at each appointment. Having worked for a healthcare organization, I make half or less of what that healthcare organization paid the interpreting agencies it worked with for each appointment (¼ or less for same-day appointments: the healthcare organization I worked with paid double for same-day appointments and agencies do not pay interpreters extra for same-day appointments).

I have experience working for multiple healthcare organizations. In rural areas, it is difficult for healthcare organizations to find interpreters that work in their area through agencies, particularly if they are limited to working only with the agencies that have contracts with the CCOs their patients have coverage through. The current system whereby healthcare organizations are forced to choose from interpreters that are contracted with the agencies of the CCO's choosing or pay out of pocket makes it more difficult for rural areas to have access to interpreters.

Even outside of rural areas, the current system can make it difficult for healthcare organizations to access quality interpreters. For some languages, it is difficult to find interpreters, even in urban areas. If a healthcare organization goes through the agency that has a contract with a patient's CCO, and that agency is unable to find an interpreter for that patient's language (or can only find an interpreter who is not certified or qualified), the healthcare organization finds itself in a difficult situation. If the healthcare organization chooses to use a different agency, it must pay out of pocket. So instead, the healthcare organization may ask the patient to reschedule for a later date. This is a violation of the patient's rights; healthcare organizations are required by federal law to provide language access services in a timely manner during all hours of operation. It can also lead to poor health outcomes and higher costs to the state--imagine a patient with a UTI being asked to reschedule for a later date, then going to the ER because it

turned into a kidney infection. Healthcare organizations may also ask the patient to bring a family member or friend to interpret if the CCO's agency of choice is unable to find an interpreter, despite the fact that Title VI Guidance specifically states that healthcare organizations are not to tell patients to bring a family member or friend to serve as an ad hoc medical interpreter. Healthcare organizations may also ask the patient if they would be comfortable coming in without an interpreter. The patient might agree, knowing that the alternative is being forced to reschedule yet again, but this can lead to poor health outcomes when the patient doesn't understand what is going on during their medical visit. Healthcare organizations may also ask bilingual staff members to interpret when no interpreters are available through the CCO's agency, despite the fact that these staff members lack training as interpreters and are being pulled from their actual duties.

Even for more common languages, it may be difficult for healthcare organizations to access certified and qualified interpreters through the current system. The agencies that bid for contracts with CCOs often offer incredibly low rates to the CCOs, and agree to terms that worsen working conditions for interpreters (allowing last-minute cancellations at no charge, having interpreters that interpret for multiple patients at the same location get paid as if they were only interpreting for one patient, paying half the normal rate for sibling appointments less than an hour, etc). As a result, certified and qualified interpreters do not want to work for these agencies or do not want to work according to those terms. So the agencies offer jobs to interpreters who are not certified or qualified first--they can pay these interpreters less, increasing their profit margin, and these interpreters are more likely to agree to the terms of their contracts. Even if the agency continues to offer jobs to certified and qualified interpreters at the same rate, less certified and qualified interpreters are willing to work for these agencies, and the likelihood of finding enough certified and qualified interpreters to cover all of the appointments is slim to none. While this bill does not address this issue, if the state would like more information I recommend auditing the agencies that serve CCOs to see what percentage of their appointments are actually covered by certified and qualified interpreters.

So we can see that the current system is negatively impacting healthcare organizations. But how does it impact interpreters?

Certification and qualification are disincentivized among interpreters because getting qualified or certified can make it more difficult to find work, despite being a huge investment (in terms of time and money). Interpreters feel it is not worth the effort. Despite having worked in this industry for years, I have never been asked to provide my certification number at any appointment I have interpreted for.The state is concerned about how difficult it is to find enough certified and qualified interpreters to cover all appointments, wondering how to increase the pool of interpreters on the state registry, but does nothing to verify that agencies and healthcare organizations are making a good faith effort to cover appointments with certified and qualified interpreters whenever possible in accordance with state law. Agencies do not help interpreters pay for the cost of the 60-hour training required for certification, or the certification exams, or the cost of applying through the state after obtaining the national certification. After an interpreter is certified, agencies do not support interpreters with the cost of CEUs. Interpreters working as independent contractors cannot take PTO to take the training courses or exams--they must take time off work without pay. Those interpreters that are certified or qualified may make more per appointment with certain agencies, but are offered fewer appointments.

Whether certified or qualified or not, interpreters see worsening working conditions and even worsening pay with the agencies we contract with, and few ways to negotiate with agencies.

With multiple agencies, I have been consistently underpaid on my paychecks, but I know that because they eventually pay me I would have no case in court. Even if I could take them to court and win, I would never get work from them again. With one agency, I had a contract stating I would be paid at least 1 hour for all appointments canceled within 24 hours. That agency later changed their contract with a CCO and, without informing me, stopped paying for appointments canceled 4 hours or more ahead of time. I called to ask why my check was short and was told that their policy had changed. They refused to give me their new policy in writing and stated that it could change at any time because their contracts with their clients change all the time. They stated it would be too difficult to contact every single interpreter with each change in their contracts, and since the page that had their 24-hour cancellation policy was not the page I signed, it was not technically part of the contract and they were not obligated to pay me for the appointments I had unintentionally taken under the new policy. Because they have exclusivity contracts with multiple CCOs in the area, this particular agency has a monopoly on many of the appointments in the area so I continue to work with them but without accepting appointments for that specific CCO. I am afraid to speak out against them for fear of retaliation.

I am not the only one; many interpreters feel they cannot speak up against agencies because they will be blacklisted from working for those agencies. With the monopolies that a few agencies have through exclusivity contracts with CCOs, it is hard for interpreters to find work if they speak out. We have only a few select agencies we can work with if we want to be able to cover Medicaid appointments.The agencies we work with therefore feel they have no obligation to adhere to the contracts they make with us. If they consistently fail to pay us for our appointments by payday, there is no recourse for us. If our contract says we will be paid for cancellations made less than 24 hours in advance, they can simply send us an email and say that they are now paying us for cancellations only they are made less than 2 hours in advance--or they can even tell us retroactively, when we ask about why we weren't paid for certain appointments. Or they can send out an email saying that not even the 2-hour policy applies during inclement weather--and appointments cancelled due to inclement weather won't be paid at all. Or they can call and say that if patients don't show up to appointments we will only be paid for half an hour despite our contracts stating that we have a one-hour minimum. If we refuse to work with an agency due to these policies, they can just find someone who is not certified or qualified who is willing to take our place for less pay and accept the new policies.

Agencies and clinics may also expect interpreters to do things against our Code of Ethics, or may try to cut corners using interpreters, failing to abide by their own responsibilities. For example, I once interpreted for a provider who asked me to stop interpreting for a patient's mother because the patient (a minor child) was able to speak English and my interpreting was "distracting." Choosing to speak out meant risking being asked not to return to the clinic--the clinic could simply request for the agency not to send me back because I'm "difficult to work with" and the agency could abide in order to keep the clinic as a client. I've had healthcare organizations ask me to go over consent forms with patients without a provider present, when I am not qualified to answer any questions the patient might have. I have had clinics ask me to supervise patients in inpatient behavioral health to make sure they don't choke on their food or fall asleep while eating, when I do not have the skills or qualifications to do so. Refusing could mean losing out on future work with that client, but complying could put the patient at risk.

It is also standard practice for agencies to ask spoken language interpreters to give reminder calls to patients in lieu of the clinic providing a reminder call. This is a violation of Title VI guidance if the clinic is giving a reminder call to English-speaking patients and not to LEP patients. Furthermore it makes the process of canceling or rescheduling more difficult for LEP

patients and creates a lot of extra (unpaid) work for interpreters. I have been in situations where I am called in last-minute to interpret for an ER appointment and cannot do reminder calls, in which case the patient doesn't get a reminder call like their English-speaking counterpart. I have been in situations where I do the reminder call, the patient tells me they want to cancel and/or reschedule, and I end up having to show up to the appointment anyway because the clinic never cancels with the agency. In some cases, the appointment gets canceled, but it is a complicated process. First I call the patient and they tell me they want to cancel. Then I call the agency to get the appropriate number and extension to give the patient to call. Then I call the patient back and give them the information. Then I wait a few minutes, call the agency back and tell them the patient should be canceling and to check with the clinic if they have canceled yet. Then (if the agency calls back and says the clinic hasn't canceled with them yet) I call the patient back and find out they had to leave a voicemail, or couldn't get in touch with someone who speaks their language. Then I call the agency back and explain what difficulties the patient ran into, and they call the clinic back and ask the clinic to call the patient with a telephonic interpreter or tell them to check their voicemail (unless they tell me that they have to just wait for the clinic to call them to cancel, which sometimes happens as well and I end up having to go to the appointment). Then I wait for the agency to return my call to tell me if the appointment has been officially canceled by the clinic. The clinics should be calling LEP patients with a receptionist, using telephonic interpretation if needed, and giving them the opportunity to cancel or reschedule all in that same phone call just like everyone else. The agencies should not be wasting our time and the patients' time this way, particularly if we aren't being paid.

Furthermore, interpreters are treated as employees, but paid as contractors. We are expected to wear agency name badges, adhere to a dress code, take drug tests, and so on. Reading through state law explaining how contract workers are supposed to be "free from direction and control," I was shocked to see just how many ways agencies exert direction and control over us. Recently one agency I work with even had us sign a code of conduct intended for Providence employees, refusing to allow interpreters who did not sign to accept Providence appointments, despite the fact that we are not considered employees and were given no opportunity to negotiate the terms of this contract with Providence.

And what about agencies? How are they affected by the current system?

Agencies are also put into a difficult situation. They feel pressure to offer lower and lower rates to CCOs to be able to obtain and maintain contracts with them. Those who make an effort to pay fair rates to interpreters and offer fair terms in contracts find it difficult to offer a competitive bid and get contracts with the CCOs. While healthcare organizations may want to work with the agencies that offer the highest quality service, they are at the mercy of the CCOs. Because other agencies are not being held accountable, those who adhere to best practices are left behind. The agencies that do get the contracts may have a narrower and narrower profit margin as it gets harder and harder to find interpreters to fill their appointments, and may have high turnover and few certified and qualified interpreters.

What about patients?

Patients under the current system have a harder time accessing an interpreter. They are asked to reschedule appointments, asked to bring family members and friends with them to interpret, asked to attend appointments without an interpreter, or provided ad hoc interpreters who do not have the necessary training and skills to interpret accurately. Their rights according to the Culturally and Linguistically Appropriate Services (CLAS) Standards and Title VI are being

violated. As a group, immigrants are not likely to speak out when they are being taken advantage of. Many do not know their rights. Many feel grateful that they are receiving medical services at all, especially if they are receiving those services free or at a reduced cost. Many do not feel comfortable interacting with the legal system, particularly if they are refugees who have fled abusive governments in their home country or if they are undocumented immigrants living in fear. I have interpreted for many appointments where the patient is asked by their primary care physician about an appointment with a specialist and is unable to answer because no interpreter was provided. I have interpreted for many appointments where the patient tells me that they are impressed with how I interpreted everything as it was said instead of just summarizing, when this should be the standard.

They are directly impacted when agencies do not adhere to best practices. If a patient requests a specific interpreter but the agency does not honor that request, the patient may feel less comfortable. Patients often request an interpreter of the same gender for specific medical procedures, or request the same interpreter for a series of mental health visits. When the patient's request is not honored, it can have an impact on their medical care. I have interpreted for many appointments where the patient, disappointed, tells me they had requested the same interpreter from their previous visit and were hoping not to have to tell their story in front of someone new. I have likewise interpreted for several appointments where the patient requested that I come back and then never heard back from the agency.

Creating a union would solve many of these issues. It would allow interpreters to negotiate terms of our contract, and would enable us to have a clear process for resolving issues that arise such as violations of our contract, short paychecks, etc. We would have clear terms in our contracts, and changes in the terms of our contract could not be made without our prior approval. With a union, we would be able to speak out for ourselves and for our patients without having to fear losing our jobs, and hopefully find ways to solve many of the issues we face. There would be a process for resolving grievances without fear of retaliation.

A union could save the state money and allow interpreters to earn more by enabling interpreters to work directly with the state, as it has in Washington. A union could also create more competition among agencies. Agencies paying too little or offering poor terms and conditions could lose interpreters to the union. Interpreters would not feel obligated to work with one agency in particular just because of that agency's contracts.

Healthcare organizations could have access to certified and qualified interpreters, and if could choose to hire on-staff certified and qualified interpreters and still receive reimbursements for language access services provided to LEP patients served by CCOs.

A union could also incentivize certification and qualification for interpreters. The union could provide training and continuing education opportunities for interpreters at little to no cost, using union dues to offset the cost. This would make certification and qualification more accessible to interpreters. If the union accepts only state certified or qualified interpreters, that would be an additional incentive to get certified or qualified.

A union won't solve everything. It won't be able to ensure that healthcare organizations are complying with their obligations to LEP patients under state and federal law. The union will likely start out covering only OHP and DHS appointments, and while over time there might be more competition between the unions and agencies, raising standards across the board, uninsured patients or patients with private insurance would still be served by agencies that

might not have the same standards as the union. That said, a union would give interpreters a voice to stand up for ourselves and those we serve. Please consider passing this bill to give us that opportunity.