



February 15, 2023

Oregon State Legislature
900 Court St. NE
Salem, OR 97301

Delivered electronically via OLIS

Chair Patterson and Members of the Senate Committee on Health Care:

The Oregon Association of Hospitals and Health Systems (OAHS) is a mission-driven, nonprofit association representing Oregon's 62 community hospitals. Together, hospitals are the sixth largest private employer statewide, employing more than 70,000 employees. Committed to fostering a stronger, safer Oregon with equitable access to quality health care, OAHS provides services to Oregon's community hospitals ensuring all are able to deliver dependable, comprehensive health care to their communities; educates government officials and the public on the state's health landscape; and works collaboratively with policymakers, community organizations, and the health care community to build consensus on and advance health care policy benefiting the state's 4 million residents.

Hospitals are more than just buildings; they are cornerstones within the communities they serve. Our hospitals are employers, partners in community projects, and community spaces—all while providing vital health services to generation after generation of families in communities across Oregon. We know that when our hospitals are strong, our communities win.

We appreciate the opportunity to provide input on Senate Bill 584, relating to health care interpreters. Health care interpreters are vital medical care team members as communication is essential to the provision of quality health care. We supported the development of a robust health care interpreter registry in 2021 and 2022, and we continue to support enhancements to systems that will provide greater access to these services for the health and well-being of our patients. While it appears that increasing access to interpreter services is the underlying goal of SB 584, we are concerned that certain provisions of the bill may not have that effect if implemented as written.

The Requirement to Use the Portal. The -1 amendment to SB 584 directs the Oregon Health Authority (OHA) to, among other things, "maintain a website with the functionality to: (a) Provide an online scheduling portal that health care providers that participate in the medical assistance program must use, subject to exemptions prescribed by the authority by rule, to directly contact and schedule certified health care interpreters or qualified health care interpreters" [Section 1 (3)(a)]. Currently, Oregon hospitals and their patients are experiencing limited availability of interpreters in the existing interpreter registry, in terms of both the languages and appointment times needed, and that there is a general shortage of health care interpreters in Oregon. We are concerned that requiring providers who participate in the medical assistance program to use a new online scheduling portal to contact and schedule interpreters may introduce more logistical hurdles to accessing an appropriate

interpreter and that patient care may suffer as a result. Any requirement to use the portal should account for the significant amount of time expected to create the portal (see report to the legislature described below) and include appropriate exemptions so that health care providers have pathways to access health care interpreters to meet the community's needs while maintaining compliance with the law.

As drafted, the -1 amendment to SB 584 does not adequately account for the processes set forth in current law (ORS 413.559) and rule that are critical to supporting patient access to health care interpreters.

ORS 413.559 and associated regulations require a health care provider to work with a health care interpreter from the health care interpreter registry administered by OHA under ORS 413.558 when communicating with a patient who prefers to communicate in a language other than English, unless the health care provider is a doctor or clinician who is proficient in the patient's preferred language or one of the following exemptions applies:

- The provider verifies, in the manner prescribed by rule by a board or agency described in ORS 413.561, that the provider has taken appropriate steps needed to obtain a health care interpreter from the health care interpreter registry in accordance with rules adopted by the authority under ORS 413.558; or
- The provider has offered the patient the services of a health care interpreter from the health care interpreter registry and the patient declined the offer and chose a different interpreter. [See ORS 413.559 (1) and (2); OAR 331-020-0077 (2) and (3); OAR 333-002-0250 (1).]

Hospitals and other providers currently rely on these exemptions to comply with existing law while ensuring that patients have access to interpreters. For example, the law and rule explain the process that providers should follow when they have made a good faith effort to obtain a health care interpreter from the central registry and found that none are available to provide interpreting.

The -1 amendment to SB 584 states that health care providers that participate in the medical assistance program "must use" the portal, subject to exemptions prescribed by the authority by rule. We are concerned with the "must use" requirement in the -1 amendment because the -1 amendment does not list exemptions consistent with or similar to those described above. This presents a threat to access to health care interpreter services. The "subject to exemptions prescribed by the authority by rule" does not adequately mitigate that threat because the -1 amendment does not indicate what exemptions the authority must create or ensure that they will be consistent with ORS 413.559. We request that the proposed language in SB 584-1 be further revised to clarify that the existing exemptions to the requirement to use the central registry would also apply to any requirement to use the new online scheduling portal. In addition, other exemptions may be appropriate.

July 2022 Report to the Legislature. We want to direct the Committee's attention to the recommendations in the July 2022 report to the legislature from OHA, entitled, "HB 2359 Report: Health Care Interpreter Services Online Scheduling Portal."¹ What is proposed in SB 584-1 seems closest to "Option 6" in the report (p. 40), which is to implement an online scheduling system that is functionally similar to Washington Health Care Authority's model. The report notes that this option could require significant changes to OHP policy, will likely take significant time, and would most likely benefit from a phased implementation approach. According to the report's estimates, this is also the costliest option with respect to both initial start-up costs and ongoing costs and staffing needs.

¹ Available here: [Online Scheduling Portal Report .pdf \(oregon.gov\)](#)

We urge the Committee to weigh the anticipated benefits of this project carefully against the expected costs, time, and logistical challenges and to consider whether a less intensive alternative and/or a phased implementation would make sense. We believe this would be prudent for the sake of patients and providers given that the use of the current registry only went into effect on July 1, 2022, with some elements still being transitioned, such as the inclusion of interpreters providing services remotely. While we reiterate that we support increasing access to interpreter services, hospitals and other providers already have systems in place that allow them to secure interpreters when needed – either through the new central registry or, when permitted by law, through an alternative mechanism. Transitioning to a new online portal of this magnitude will likely require a significant commitment of time and resources for providers and may result in only an incremental benefit for patients or, at worst, additional barriers to both access and equity. Patients must remain at the center of decisions about how to allocate our limited resources in health care.

Civil Action. We support the -1 amendment’s removal of Section 7 from the introduced bill, which would have permitted a patient or a health care interpreter to bring a civil action related to ORS 413.559 or 413.563. A private right of action is unnecessary to ensure health care provider compliance with ORS 413.559 because existing state and federal laws and regulations already provide adequate enforcement mechanisms. For example, under current law, ORS 413.561 specifies types of providers and facilities subject to enforcement of ORS 413.559 by health professional regulatory boards, the Oregon Health Authority, or the Department of Human Services. In addition, several federal laws and regulations set forth standards that require hospitals and other providers to provide certain language access services, including interpreters, with various enforcement pathways.

Thank you for the opportunity to engage on behalf of our members and the communities they serve.

Thank you,



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