

To the honorable members of the Oregon Senate Committee on Health Care,

My name is Cynthia Roat and I am submitting testimony today in opposition to SB 584. I am an independent national consultant on language access in health care with 32 years of experience as an interpreter, trainer, advocate and consultant. I live in Washington State and have been engaged in an advisory capacity with the State's systems for vetting, scheduling and paying interpreters for decades. I am writing today representing only myself; I have no vested interest in the outcome of SB 584 beyond a concern for the well-being of the limited-English-proficient (LEP) population of Oregon and the providers who serve them.

The Current System

Currently, interpreter scheduling in Oregon is done as follows. An LEP patient makes an appointment. The healthcare facility checks the patient's insurance. If the patient is on Medicaid, the facility sends a request to one of the language service providers (LSPs) that has a contract to provide services for Medicaid patients. The LSP sends an interpreter who is on the registry, if available, and then bills OHA for the service. When OHA pays the LSP, the LSP pays the interpreter.

When an interpreter is required "on-demand", healthcare facilities depend on remote interpreters accessed through large national LSPs. The LSP bills the hospital, which pays the LSP, which pays the interpreter. It appears that these services are not being reimbursed by OHA at this time.

During the COVID pandemic, much of healthcare interpreting shifted to remote modalities, in order to protect both interpreters and patients from contagion. As the pandemic has eased, the scheduling of onsite interpreters has increased, but it is clear that the ease of accessing remote interpreters on demand continues to make it a key part of providing language access. For inpatient and emergency services, the ability to access an interpreter without prior scheduling is imperative.

The Proposed System

Under the system proposed by SB 584, healthcare institutions would submit scheduling requests to the OHA portal. Requests would have to be vetted to prove that the patient is eligible for services, then the request would be posted to the online portal. Interpreters would monitor the portal and "claim" any appointments they wished to take. After providing services, they would register their time with the portal and their payment would be processed without them having to submit an invoice.

It is not at all clear how this system would work for healthcare facilities that use remote interpreting for the ease of use and the on-demand availability of interpreters. Inpatient providers and emergency room physicians typically do not have access (nor do they have time) to ascertain a patient's insurance status, nor would the remote LSPs have access to this information, so this system would clearly not serve these encounters.

Likely impact of the Proposed System on Patient Services

For prescheduled outpatient services, this system may work well, within the capacity of the system to provide interpreters. It is clear however, that Oregon does not have anywhere near the number of interpreters on its registry to meet the needs of Oregonian patients who need language access. This means that healthcare facilities will need to put in a request for a registry interpreter, wait to hear back that no interpreter is available and, at that point, revert to remote interpreting. As there does not seem to be a mechanism for large LSPs to bill OHA, nor for healthcare facilities to bill OHA for remote services

for which they have paid, it seems that this system will be pushing much of the cost of providing interpreters for LEP patients back onto the health facilities.

If the requirements in this bill for interpreters to be registered with OHA is intended to apply to all interpreters regardless of whether OHA is paying for them, the result will be significant disruption to the provision of language services in the state. It is not reasonable to require national LSPs to register all of their thousands of interpreters with Oregon State, when most do not reside nor will ever provide services in Oregon. These lists of contractors are confidential to each business, and LSPs are unlikely to be willing to share them, nor will individual interpreters residing in other states, providing services nationally, be interested in applying to be listed on Oregon's registry. If this requirement is applied to the remote LSPs, it is likely that many will forego doing business in Oregon altogether, since Oregon's share of the national marketplace is relatively minor. This would severely compromise the ability of health systems in Oregon to provide interpreters at all for ER visits, for inpatient care, at walk-in clinics, and for patients who speak languages other than Spanish. This situation would be severely prejudicial to Oregonians who need language assistance, and could make it virtually impossible for health systems to comply with Title VI of the 1964 Civil Rights Act as well as Section 1557 of the Affordable Care Act.

Comparison to Washington State

I understand that the enthusiasm for the proposed system is based at least partly on a perception of the situation in Washington State that I fear may be uninformed.

It is true that the implementation of the portal saved Washington State a great deal of money, and that partly as a result of this, interpreter pay increased. However, the reason for this is a structural change in how interpreters were scheduled. Before the implementation of this portal, the Department of Social and Health Services contracted with a broker that contracted with LSPs that contracted with interpreters. The broker and the LSPs both charged administrative overhead. DSHS decided to require the broker to contract directly with interpreters and schedule them through the portal, cutting agencies out of the equation and limiting the broker's cut to a flat fee for administering the program. The removal of one entire level of administrative overhead and changing payment to the broker to a flat rate is what saved the State a great deal of money. While this change in Oregon will effectively cut the local agencies (and their overhead) out of the equation, the state will simply be taking on those costs by trying to run this program in house. Not only will state employees have to create and maintain the portal, they will have to vet incoming requests to make sure the patients are Medicaid eligible, contact requestors if an interpreter "gives back" an appointment, verify qualifications and manage contracts with all the interpreters on the registry (1200 today but potentially many more), process invoices and send out checks. The report commissioned by the legislature estimated that 3-4 FTEs would be required to manage this work; this estimate seems quite low, in my professional opinion, considering the scope of work and the number of employees required to do similar work at the broker in Washington State.

I was also surprised to read in the commissioned report that Washington State interpreters were happy with the portal. I am wondering how many Washington State interpreters were included in the survey. As an interpreter trainer, I am in frequent contact with working healthcare and social service interpreters in Washington. They tell me that they are very unhappy with the portal, which they call "The Piranha Pit." In order to get appointments, interpreters "sit" online to grab appointments as soon as they become available. Some have family members sitting at home monitoring the portal to grab appointments, and providers have complained about interpreters monitoring their cell phones during appointments in order to fill their schedules. Clearly, this is not conducive to high quality care for patients.

Summary

If the overall goal of SB 584 is to ensure that only qualified interpreters are providing service to Oregonians on Medicaid who need language assistance, the State already has a requirement in place through current law. Perhaps the law simply needs to be enforced.

If the concern is that remote LSPs are engaging unqualified interpreters, the State could require that LSPs submit proof of how their interpreters are qualified before being contracted.

If the overall goal is to help interpreters living in Oregon increase their income, the State has many other less convoluted means to accomplish this, including mandating a minimum fee.

Overall, however, any of these issues should be addressed thinking primarily of the well-being of Oregon's LEP patient population, and with an intimate understanding of how healthcare systems in the state function.

Thank you for your time and attention,

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