

Language and Disability Access

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Advancing Health Equity for all Oregonians

To advance health equity, the Oregon Health Authority (OHA) established a strategic goal to eliminate health inequities by 2030. A critical component to meeting this goal is ensuring meaningful access to services for everyone in Oregon, regardless of their language and ability levels. Barriers to language and disability access:

- Affect individual autonomy and decision making.
- Create disparities in health care.
- Have created systemic inequities throughout the United States.

What is health equity?

[Health equity](#) is defined as a health system where all people can reach their full health potential and well-being and are not disadvantaged by their race, ethnicity, language, disability, age, gender, gender identity, sexual orientation, social class, intersections among these communities or identities, or other socially determined circumstances.

Achieving health equity requires the ongoing collaboration of all regions and sectors of the state, including tribal governments to address:

- The equitable distribution or redistributing of resources and power; and
- Recognizing, reconciling, and rectifying historical and contemporary injustices.

Communication is the first step toward health equity

From initial intake it is critical to ask all patients if they need communication support for their appointments. When scheduling appointments, ask all patients, “Will you need support to talk with us?”

- Some patients may not need any assistance.
- Some patients may need interpreter services.
- Other patients may need a note taker or a follow up call a few days later to review a treatment plan because of literacy limitations, cognitive disabilities, or hearing challenges.

Each provider should also develop policies and procedures for staff on how to obtain interpreter services and auxiliary aids for patients, how to notate a patient’s language and accommodation needs, and ensure all staff are trained on how to provide interpreter services and auxiliary aids.

Providers can also use OHA's [Race, Ethnicity, Language and Disability \(REALD\) templates](#) to note language and disability access needs for their patients. [Learn more about REALD.](#)

Language Access Resources

Why should health care providers care about language access?

Language access is a critical best practice for providing quality care to patients in accordance with the [National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care](#). Anything that compromises the quality of the communication between patients and providers also threatens quality of care.

Studies have shown:

- [Clear verbal communication is important at health care visits](#): Patient history and the physical exam make up 70% of the information that physicians use to make a medical diagnosis.
- [Use of professional interpreter services has many benefits](#): They increase utilization of preventive services, improve patient outcomes, increase medication compliance, improve patient satisfaction and reduce emergency department (ED) visits.

State and federal laws about language access services

Federal laws, as well as state rules and laws, have set minimum standards about language access services in Oregon.

The [U.S. Department of Health and Human Services Office for Civil Rights](#) regulates and investigates complaints against providers who fail to provide free interpreter services according to federal law.

Federal requirements

Federal laws include:

- [The Americans with Disabilities Act and Amendments Act of 2008](#) (ADA) for people with disabilities
- [Title VI of the Civil Rights Act of 1964](#) (Title VI), [Section 1557 of the Affordable Care Act](#) and the corresponding Code of Federal Regulation (CFR) at [45 CFR Part 92](#) (Section 1557) for individuals with limited English proficiency (LEP) who are likely to be served in its federally funded health programs or activities. Under Section 1557 providers must tell patients that these services are available free of charge. Interpreter services must also be timely and protect the privacy and independence of the person with LEP. The interpreter must be a qualified healthcare interpreter.

State requirements

State rules and laws include:

- Oregon Bureau of Labor and [Industries' the Public's Right to Public Places](#) like medical offices.
- [ORS 413.550 and ORS 413.552](#) require the use of interpreters.
- [Visit the Oregon Health Plan website](#) for rules that apply to OHP providers, coordinated care organizations and dental care organizations.

Two rules require pharmacies to provide language access services to LEP individuals:

- Oregon Administrative Rule [\(OAR\) 855-019-0230](#) requires pharmacists to orally counsel the patient or patient's representative on the use of a drug or device. A pharmacist may provide counseling in a form other than oral counseling when, in the pharmacist's professional judgment, another form of counseling will be more effective. Counseling must be "reasonable and necessary under the circumstance to promote safe and effective use or administration of the drug or device, and to facilitate an appropriate therapeutic outcome for that patient" ([OAR 855-019-0230\(1\)\(f\)](#)).
- [OAR 855-041-1132](#) requires prescription labels to be translated in at least 14 languages.

What is "meaningful access?"

According to the Department of Justice, this means access that is not significantly restricted, delayed or inferior as compared to programs or activities provided to English proficient individuals. ([U.S. Department of Justice Language Access Plan, March 2012](#)).

Who is an individual with limited English proficiency (LEP)?

An individual with LEP means an individual whose primary spoken language for communication is not English and who has a limited ability to read, write, speak, or understand English in certain circumstances. LEP individuals may:

- Be competent in English for certain types of communication (e.g., speaking or understanding), but have LEP for other types of communication (e.g., reading or writing).
- Be competent in certain environments but not others (e.g., competent at a restaurant or grocery store but not in a medical environment).

Language assistance services

What are "language assistance services"?

"Language assistance services" is a broad term that includes but is not limited to:

- Interpretation in non-English languages provided in-person or remotely by a qualified interpreter for an individual who communicates with sign language or in a spoken language other than English.

- The use of qualified bilingual or multilingual staff to communicate directly with individuals who communicate with sign language or in a spoken language other than English.
- Written translation, performed by a qualified translator, of written content in paper or electronic form into languages other than English.
- Auxiliary aids and services such as assistive listening systems and devices; captioning and communication access real-time translation (CART); text telephones (7-1-1 TTY); videophones; captioned telephones; allowing more time to communicate; the use of communication boards; diagrams; digital tablets; picture diagrams or other devices.

See [Section 1557 of the Affordable Care Act](#) and [Northwest ADA Center Effective Communication in Healthcare](#).

What is the difference between translation and interpretation?

Interpretation and translation are often used interchangeably but they are not the same. Each is a profession and require specialized knowledge and skill.

- Translation is the conversion of **written language** from one language (source language) to a different language (target language).
- Interpretation is the conversion of **spoken or signed utterances** from one language (source language) into a different language (the target language).

Being bilingual or multilingual does not automatically mean that you have the distinct professional skill set to translate or interpret. Translation and Interpretation services are professions.

What is a qualified interpreter?

[Section 1557 of the Affordable Care Act](#) (ACA) and the corresponding Code of Federal Regulation (CFR) at [45 CFR Part 92](#) (Section 1557) a qualified interpreter means an interpreter who via a remote interpreting service or an onsite appearance adheres to generally accepted interpreter ethics principles, including client confidentiality; and

- For an individual with a disability, is able to interpret effectively, accurately and impartially both receptively and expressively using any necessary specialized vocabulary terminology and phraseology.
- For an individual with LEP, has demonstrated proficiency in speaking and understanding both spoken English and at least one other spoken language; and is able to interpret effectively, accurately, and impartially, both receptively and expressly, to and from such languages and English, using any necessary specialized vocabulary, terminology and phraseology.

Interpreters who are deemed qualified or certified by [OHA's Health Care Interpreter Training Program](#) should meet or exceed all of these qualifications. Qualified and certified interpreters are listed on OHA's [Health Care Interpreter Registry](#).

How does OHA determine who is a certified or qualified interpreter?

Certified interpreters are required to pass national oral and written exams. Those exams are currently available only in:

- Arabic
- Cantonese
- Korean
- Mandarin
- Russian
- Vietnamese
- Spanish

Oregon certified and qualified Health Care Interpreters meet or exceed all of the requirements for qualification under Section 1557 of the ACA. For a detailed list of OHA's Health Care Interpreter requirements, please visit the [Health Care Interpreter Training Program](#) page.

Can the patient's family member or friend act as an interpreter?

No, unless the patient is told that free qualified health care interpreter services are available and the patient specifically asks that their adult family member or friend interpret instead. If this occurs, it is best practice to note in the patient record that:

- A qualified health care interpreter was offered, and
- The patient declined and specifically asked for the accompanying adult interpret.

Children cannot be chosen as interpreters. Title VI and Section 1557 prohibit the use of children as interpreters or requiring that the patient bring their own interpreter unless there is an emergency involving an imminent threat to the safety or welfare of an individual or the public.

Developing a language access plan

[View OHA's fact sheet](#) to learn more about:

- Finding out what languages are spoken in local communities
- Using bilingual staff to provide interpretation services
- Where to find resources for interpreter services
- Tools for patients to inform providers about their language needs
- Resources for Deaf or hard of hearing patients

There is also a clearinghouse for materials to support language access for LEP individuals at [LEP.gov](#).

Reimbursement

[Visit the Oregon Health Plan website](#) to find reimbursement Information for Oregon Health Plan providers.

If you are providing language access services to a person with a disability, eligible small businesses may claim a [tax credit](#) of up to 50 percent of eligible access expenditures that are over \$250, but less than \$10,250. The amount credited may be up to \$5,000 per tax year.

- Eligible access expenditures include the costs of qualified interpreters, CART services, and other auxiliary aids and services.
- Omnibus Budget Reconciliation Act of 1990, P.L. 101-508, § 44. Please consult with your financial or tax advisor on this issue.

What if a patient requests but does not receive an interpreter?

A patient has a right to file a complaint with the provider that denied them the interpreter service. If the provider does not have a complaint process or the patient does not want to use the provider's process they can contact the following for additional assistance:

- [OHA Office of Equity and Inclusion](#)
- [U.S. Department of Health and Human Services Office for Civil Rights](#)
- [Oregon Bureau of Labor and Industries](#)
- [U.S. Department of Justice Civil Rights Division](#)

Please note that Section 1557 may grant individuals compensatory damages for violations of Section 1557. This is a departure from Title VI of the Civil Rights Act which allowed fines and monetary cuts for noncompliance but did not enable individual patients to sue for discrimination. Staff should understand the potential consequences of noncompliance and be well trained in accessing an interpreter quickly and efficiently.

Disability Access Resources

The Americans with Disabilities Act (ADA)

[The Americans with Disabilities Act and Amendments Act of 2008](#) (ADA) requires places of public accommodation like medical offices take appropriate steps to ensure that communications and access to services for individuals with disabilities are as effective as those for individuals who do not have disabilities.

- The NW ADA Center has a great [Healthcare Toolkit](#) and resources on how to meet your obligations under the ADA.

[The Centers for Medicare & Medicaid Services Office of Minority Health](#) works to ensure that people with disabilities receive equal access to quality health care information and services.

- Visit their page about [Improving Access to Care for People with Disabilities](#) to find tools and resources that can help you improve services and help patients understand their rights.

Sign language interpreters for people who are Deaf or hard of hearing

The ADA requires that a provider pay for the cost of interpreter services as an accommodation for an individual with a disability as long as the aid or service does not impose an undue burden on the business.

- The provider must demonstrate undue burden, which is based on all resources available to the provider (not solely on a comparison between what the provider is paid for that individual appointment compared to the cost of the interpreter).
- If the use of an interpreter would result in an undue burden, the provider must still work with the patient to determine an alternative aid or service.

Please visit ADA.gov for more information.

Learn more about providing services to people who are Deaf or hard of hearing

[The NW ADA Center](#) offers consultations and technical assistance.

[The Oregon Association of the Deaf](#) provides local resources and information on Deaf and hard of hearing services.

[The National Association of the Deaf](#) also offers consultations and technical assistance.

Questions?

For more information or to report issues with this page, [please email us](#).

Disclaimer

The information on this page is not intended as legal advice and was obtained from the following sources:

- Oregon Revised Statutes
- Oregon Administrative Rules
- Affordable Care Act regulations
- U.S. Department of Justice
- U.S. Department of Health and Human Services
- LEP.gov
- ADA.gov

Please do your own independent risk assessments and legal review.