



December 7th, 2020

Dear Healthcare Partners:

Thank you again for participating in the REALD (HB 4212) listening session with the Oregon Health Authority (OHA) on November 19th. We appreciate the time you have taken, during this session as well as other meetings, to share your experiences and challenges with implementing the health care provider REALD collection and reporting requirements as mandated by HB 4212.

We appreciate the commitment to the collection and reporting of REALD information that you have expressed, and your understanding of the importance of these data to meet the needs of Oregon communities.

Below are the categories of concerns and issues that you raised with our specific responses:

- 1. Enforcement Concerns.** With the enforcement deadline approaching, providers would like more information about penalties, OHA's expectations for enforcement timing, and how OHA will assess compliance.

OHA Response: OHA always strives to assist individuals and entities in coming into compliance rather than instituting more punitive measures. OHA recognizes that with the COVID-19 surge and staffing shortages, there may be more hurdles than usual to collecting and reporting REALD information to OHA. OHA intends to take the following approach to enforcement:

OHA will use its enforcement discretion and not take any formal enforcement action against an individual health care provider or facility in Phase I who is required to comply with REALD collection and reporting requirements, (such as referring a health care provider to a licensing agency or board), so long as the health care provider or facility:

- a. Is making a good faith effort to submit REAL-D information:

- For providers at FQHCs or those employed within a health system, this includes making a good faith effort to submit REALD information for a majority of their COVID-19 cases. OHA expects providers to submit REALD data for as many of their COVID cases as possible while they work to come in compliance, in accordance with their REALD Compliance Plan (see below).
 - At a minimum, hospitals must ensure that REALD information is collected and reported for all COVID-19 hospitalizations. For the purposes of this expectation, OHA will review hospitalization data by hospital facility (not individual hospital providers) and the REALD information submitted must include complete responses (allowing for declined, unknown and missing data due to incapacity); and
- b. Has an OHA approved **REALD Compliance Plan** that specifies how the provider, will come into compliance. OHA would prefer that hospitals, health systems or FQHCs submit a REALD Compliance Plan on behalf of their providers. Plans must be submitted to OHA no later than 12/31/2020. Once submitted, OHA will review the plan and may ask for additional information or clarification. OHA will approve plans that provide sufficient detail to demonstrate a good faith effort to come into compliance in a timely manner.
- c. Is fully in compliance by the agreed upon date in the approved REALD Compliance Plan. Any adjustments needed to the plan are subject to re-approval by OHA.

2. **Challenges with REALD Data Collection.** Health systems shared multiple challenges with regards to REALD data collection. Health systems are collecting data already, but not in the same format as REALD. Health systems have asked if OHA can scale back reporting requirements (i.e., allowing providers to submit data they currently collect (which is not REALD compliant), or removing some of the REALD questions that are challenging).

OHA response: OHA explored the possibility of limiting the number of required questions. We examined the feasibility of excluding some of the

REALD questions and consulted with external disability stakeholders. These stakeholders expressed concern about disability questions being carved out which to some might signal less concern about people with disabilities and could perpetuate disability. Finally, those most impacted by COVID-19 are those at the intersections of race, ethnicity, language and disability, making it difficult to justify excluding any of the questions. After further consideration and input, at this time OHA does not plan to remove any REALD questions. OHA is committed to developing additional training and resources to support provider and health system implementation of collecting REALD information, including but not limited to offering:

- a. Provider learning opportunities, including a new Monthly Provider Webinar series with community, including:
 - Disability Panel - December 18, 2020
 - Asking the English Proficiency question with ELL, LEP panel members - Jan 2021 series (TBD).
- b. Community education: OHA will communicate and conduct outreach to impacted communities in order to provide education about collecting and reporting REALD information (e.g. public service announcements, specific communications through Spanish language communication channels, and beyond).
- c. Educational opportunities for all partners by request.

3. **Race/ethnicity questions are not inclusive of patient requests** –Health systems have asked whether additional categories can be added to REALD questions

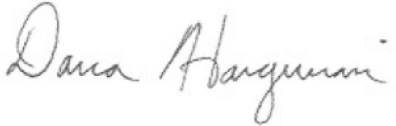
OHA response: The current REALD data standards are the minimum standards. If providers would like to add additional categories, they may do so. Additionally, providers may advocate for additional race/ethnicity categories during the permanent rulemaking process.

4. **Can OHA create a system where patients can send in their own data using a survey or patient portal?**

OHA response: OHA is exploring the creation of a patient portal or survey tool which would allow patients to enter their REALD data related to a COVID encounter, but it is unlikely that such a tool, if possible, would be available anytime soon.

OHA intends to continue working with you to problem solve and overcome barriers to the collection and reporting of REALD information so that we can accomplish our shared goal of health equity.

Sincerely,

A handwritten signature in cursive script that reads "Dana Hargunani". The signature is written in a dark ink and is positioned below the word "Sincerely,".

Dana Hargunani, MD
Chief Medical Officer