

THE BASICS OF SECTION 1557 FOR AAPD MEMBERS

On May 18, 2016, the U.S. Department of Health and Human Services (HHS) published a final rule under Section 1557 of the Affordable Care Act to protect individuals from discrimination in health care on the basis of race, color, national origin, age, disability, and sex, including discrimination based on pregnancy, gender identity, and sex stereotyping. Section 1557 is enforced by the Office for Civil Rights, the federal agency that enforces HIPAA.

The effective date of the final rule is July 18, 2016, except for certain notice provisions, which take effect 90 days later. In addition to government enforcement, Section 1557 permits an individual or entity to bring a civil action to challenge a violation in a U.S. District Court.

The final rule will require a covered dental practice (those receiving federal financial assistance from HHS- including participation on Medicaid of CHIP) to post two kinds of notices: (1) a notice of nondiscrimination, and (2) taglines in the top 15 non English languages spoken in state indicating that language assistance services, free of charge, are available.

Both notices must be posted in the dental office and on the dental practice's website, and in significant publications and communications, including communications with individuals.

In smaller publications and communications, such as postcards and trifold brochures, a dental practice may use a shorter form of the nondiscrimination statement and taglines in the top two non-English languages spoken in the state.

Covered dental practices are permitted to use up existing stock of preprinted publications.

Additional provisions in the rule include:

Covered dental practices will be required to take reasonable steps to provide meaningful access to individuals with limited English proficiency ("LEP") who are eligible to be served or likely to be encountered, and to take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others.

Interpreters and translators, including staff, must meet certain criteria. Covered dental practices that provide health programs or activities through electronic and information technology, such as online appointment systems or electronic billing, must make the technology accessible to individuals with disabilities unless doing so would result in either undue financial and administrative burdens, or a fundamental alteration in the nature of the health program or activity.

The American Dental Association (ADA) has prepared multiple documents and resources to help covered practices prepare to comply with this new rule.

The following is required only if you have 15 or more employees:

- Designate an employee to coordinate your efforts
- Develop and implement a grievance procedure
- Appropriate due process standards
- Prompt and equitable resolution of grievances alleging noncompliance

Include this information in your notice of nondiscrimination

When you apply for federal financial assistance (e.g., Medicaid reimbursement), carefully review the Section 1557 assurances form and correct any noncompliance before signing. The Office for Civil Rights will supply an “assurances” form that your dental practice will be operated in compliance with the Section 1557 statute and regulations when you apply for federal financial assistance. Carefully review the assurances form to ensure your dental practice can provide the necessary assurances, and correct any noncompliance before signing and submitting the form.

[Click here to read the Organized Dentistry Coalition \(ODC\) Request for Delay of and modification in Section 1557 regulations.](#)

[Click here to read the HHS OCR Response to the ODC and ADA Letters concerning Section 1557 Regulations.](#)