

SECTION 1557'S NONDISCRIMINATION MANDATES - IS YOUR PRACTICE COMPLIANT?

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Physicians and other health care providers receiving federal funding, including Medicaid but excluding Medicare Part B, are subject to new regulatory requirements implementing Section 1557 of the Affordable Care Act (ACA).

What is Section 1557?

Section 1557 prohibits discrimination in federally funded health care programs and activities on grounds prohibited under Title VI (race, color, national origin), Title IX (sex), the Age Discrimination Act (age) and Section 540 of the Rehabilitation Act (disability). While Section 1557 of the ACA has been in effect since 2010, and the United States Department of Health and Human Services, Office of Civil Rights has been enforcing the section for years, new regulations impose compliance requirements.

What are the new requirements?

- 1. Notice of Nondiscrimination:** Each provider must include a notice of nondiscrimination, prescribed by regulation, in all significant communications and publications and must also post that same notice in a conspicuous physical location and on the homepage of the provider's website.
- 2. Short-form Statement of Nondiscrimination:** All small-sized marketing materials and publications, such as brochures and postcards, must contain a short statement of nondiscrimination.
- 3. Taglines:** Providers must post multi-language taglines detailing the availability of language assistance services free of charge. These taglines must be posted in the same manner as the notice of nondiscrimination and statement of nondiscrimination described above.
- 4. Grievance Procedure and Compliance Coordinator:** Providers with 15 or more employees must adopt a set of grievance procedures for addressing complaints of discrimination and must designate at least one employee to coordinate efforts to comply with Section 1557, including the investigation of any grievances related to Section 1557.

Policy and Procedure Review

In addition to the specific regulatory requirements outlined above, providers should take this opportunity to review policies and procedures to ensure that they comply with the new regulations and the general nondiscrimination mandate of Section 1557. Providers should pay particular attention to Limited English Proficiency or Language Access policies as providers must provide language assistance free of charge to patients. Providers cannot rely on family members to interpret unless certain specific requirements are met. Finally, be aware that "sex discrimination" includes discrimination against transgender patients.

If you have any questions regarding this bulletin or any health law topic, please contact:

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