

**§1557 of the Affordable Care Act and
Nondiscrimination Rule Compliance Manual
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On Behalf of

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THIS MUST BE READ!

WHAT THIS BASIC MANUAL IMPLEMENTS

*This manual is designed to set forth the very **minimum general policies and procedures** that will satisfy the requirements of regulations implementing Section 1557 of the Affordable Care Act's Non-Discrimination Rule, enacted May 13, 2016, and becoming effective on October 16, 2016. It **must be read carefully** and fully implemented if you are a "Covered Provider" as described in the Manual. Call Paul Watson Lambert, Kim Driggers, or Mollie Frawlie, if you have any questions about implementation of the manual.*

*The manual is made available as a membership benefit at no cost for the exclusive use of doctors of chiropractic medicine who are members in good standing in the FCA. It is intended to be user friendly. **The Manual is the property of the Florida Chiropractic Association and the copying or dissemination of this Manual is strictly prohibited.***

This manual may be too simple to satisfy the needs of some chiropractic practices. There are law firms and/or companies who have prepared comprehensive manuals that may satisfy the needs of those practices that need more than this manual provides. The FCA members are encouraged to check out and compare commercially available compliance manuals to determine whether one of those manuals serves that doctor's needs better than this manual.

There may be instances in which an FCA member sees a need to modify the manual to meet his/her particular practice situation. Any substantive modifications of the manual should be made in consultation with an attorney knowledgeable in health care law. The FCA assumes no responsibility for any modifications to the manual.

Please contact the FCA if any errors or incorrect information is found in the manual so that it may be corrected. FCA members are encouraged to periodically check the FCA web site for updates or corrections to the manual, and for articles, alert bulletins and answers to frequently asked questions. For further information or questions you may contact Paul Watson Lambert, FCA General Counsel, at 850 577-9028 or Kim Driggers, Assistant General Counsel, at 850-597-1355.

Acknowledgements

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INTRODUCTION

Effective July 18, 2016, the Department of Health and Human Services (HHS), adopted a rule implementing §1557 of the Affordable Care Act that prohibits physicians and other health care providers from discriminating based on race, color, national origin, sex, age or disability.¹ Responsibility for enforcement of the rule is with the Office of Civil Rights (OCR) of the HHS. Clarifications issued by OCR as late as September 14, 2016 are reflected in this manual.

Who is Covered by the §1557 Final Rule?

The Final Rule implements Section 1557 and applies to the following entities:

- All health programs and activities that receive federal financial assistance through HHS, including Medicaid, Medicare and the Children's Health Insurance Program ("CHIP");
- All programs that receive meaningful use payments, advance premium tax credits and federal funding for clinical research;
- Health programs and activities administered by HHS, including the federally facilitated marketplace;
- Health programs and activities administered by entities established under Title I of the ACA, such as state-based marketplaces; and
- Indian Health Service Programs.

The Final Rule directly applies to physicians who accept Medicare and Medicaid reimbursement or meaningful use information technology funding. However, the Final Rule does not apply to physicians who only receive reimbursement under Medicare Part B, unless they also received meaningful use funding.²

¹ See 45 CFR §92.1 & §92.3 at Federal Register/Vol. 81, No. 96 page 31466.

² See Federal Register/Vol. 81, No. 96 page 31483.

What Does the §1557 Final Rule Prohibit?

Specifically, the rule prohibits a covered physician's practice from aiding or perpetuating discrimination against any person on the basis of race, color, or national origin.³ The rule interprets §1557 to include discrimination based on age, sexual preference, gender identification, sex stereotyping or pregnancy.⁴ However, a covered practice may operate a sex-specific health program or activity restricted to members of one sex only if the covered practice can demonstrate an exceedingly persuasive justification that the sex-specific health activity is substantially related to the achievement of an important health-related or scientific objective.⁵

Required Language Assistance

The rule requires physicians to provide reasonable language assistance to patients who do not speak English.⁶ Taglines, which are short statements in at least the top 15 non-English languages spoken, must be included in a Notice of Nondiscrimination and/or a Statement of Nondiscrimination on important publications in small print, alerting the non-English speaking patient that the publication is available in the patient's language.⁷

The OCR issued a list of the top 15 languages spoken in Florida, along with the translated tagline to assist providers. Please see the OCR's list of Florida's top 15 languages:

<http://www.hhs.gov/sites/default/files/resources-for-covered-entities-top-15-languages-list.pdf>.

Appointment of a Civil Rights Compliance Officer

A covered practice must designate a responsible employee as the compliance officer. The compliance officer is available to any patient who

³ 45 CFR §92.101 at Federal Register/Vol. 81, No. 96 page 31469.

⁴ *Ibid.* & 45 CFR §92.101 at Federal Register/Vol. 81, No. 96 page 31470.

⁵ *Ibid.*

⁶ See 45 CFR §92.8 at Federal Register/Vol. 81, No. 96 page 31469.

⁷ *Ibid.*

complains of discrimination. The compliance officer must take remedial action if it is found that someone in the practice has discriminated against the patient on the basis of race, color, national origin, sex, age or disability. The compliance officer shall direct such remedial action required to overcome the effects of the discrimination.⁸

For Practices with 15 or More Employees: Designation of Responsible Employee and Adoption of Grievance Procedures.

Each practice that employs 15 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Section 1557 and the rule, including the investigation of any grievance communicated to the practice alleging noncompliance with Section 1557 or the rule or alleging any action that would be prohibited by Section 1557 or the rule.⁹ The practice shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of grievances alleging any action that would be prohibited by §1557 or the rule.¹⁰

Required Notices to Patients

As stated above, each Covered Practice shall take appropriate steps to notify patients that the practice does not discriminate on the basis of race, color, national origin, age, disability, or sex.¹¹ The practice must provide notice to patients that appropriate auxiliary aids and services, including qualified interpreters for individuals with disabilities and information in alternate formats, free of charge and in a timely manner, when such aids and services are necessary to ensure an equal opportunity to participate to individuals with disabilities; provides language assistance services, including translated documents and oral interpretation, free of charge and in a timely manner, when such services are necessary to provide meaningful access to individuals with limited English proficiency; how to obtain the language assistance; an identification of, and contact information for, the designated responsible employee; the availability of the grievance procedure and how to file a grievance; and how to file a discrimination

⁸ *Ibid.*

⁹ See 45 CFR §92.7 at Federal Register/Vol. 81, No. 96 page 31468.

¹⁰ *Ibid.*

¹¹ See 45 CFR §92.8 at Federal Register/Vol. 81, No. 96 page 31469.

complaint with OCR in the Department.¹² Taglines must be placed in the notices that the notices are available in the 15 most prevalent non-English spoken languages for those with limited English proficiency.¹³ The Statement of Nondiscrimination must be posted on important publications in small print with the two most prevalent non-English spoken languages which, in Florida, are Spanish and Haitian Creole.

Covered Entities must post Section 1557 notices of nondiscrimination and taglines beginning on October 16, 2016. Translated versions of all required nondiscrimination notices and taglines are available **here**.
<http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/index.html>

The Notice and taglines must be posted in: (i) significant publications and communications; (ii) physical locations where the Covered Entity interacts with the public; and (iii) on the Covered Entity's website accessible from the homepage.¹⁴ The waiting room, the practice's web site and social media sites used by the practice are conspicuous locations where the practice interacts with the public.

Required Translators

A covered entity shall take reasonable steps to provide meaningful health care access to each patient with limited English proficiency.¹⁵ A physician or staff person who is bilingual/multilingual communicating proficiently with the patient satisfies this requirement.

A covered practice may not require a patient to provide a translator.¹⁶ However, a covered practice may rely on an adult or adult family member that the patient brings to the practice to provide translation, if the family member would be considered "qualified" under the new rules.¹⁷

However, a covered practice shall provide a qualified interpreter to an

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

individual with limited English proficiency when the physician or a staff person cannot provide proficient communication with patient.¹⁸ The patient may not be charged for the cost of the qualified interpreter.¹⁹

Required Accessible Facilities

Any covered practice modified or built after the effective date of the final rule, July 18, 2016, must be accessible to patients with age or physical disabilities.²⁰

Enforcement of §1557 Compliance

The HHS Office of Civil Rights is authorized to investigate non-compliance or complaints of discrimination and may seek compensatory damages in civil court.²¹ The ACA empowers HHS to notify an offender and suspend, terminate or refuse to continue federal funding to any organization that does not address noncompliance. In addition to other enforcement procedures, Covered Providers should be aware that individuals may bring individual or class action claims directly against them in federal court, which could include compensatory damages and an award of attorneys' fees and costs.

Required Forms to be Used With this Compliance Manual

Sample forms that comply with the rule in the 15 most common foreign languages (presently in Florida defined as Spanish, French Creole [Haitian Creole], Vietnamese, Portuguese, Chinese, French, Tagalog, Russian, Arabic, Italian, German, Korean, Polish, Gujarati, and Thai) are available in PDF and Word format at <http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/index.html>. FCA members may access sample forms and the Notice and Statement of Nondiscrimination by logging in as a member and visiting this link: <http://www.fcachiro.org/images//revised-s1557%20forms.doc>.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ See 45 CFR §92.203 at Federal Register/Vol. 81, No. 96 page 31471.

²¹ See 45 CFR §92.302 & 92.303 at Federal Register/Vol. 81, No. 96 page 31472.

NOTICE OF NONDISCRIMINATION

Discrimination is Against the Law

Sarasota Chiropractic, Physical Therapy & Massage complies with applicable Federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, or sex. This Practice does not exclude people or treat them differently because of race, color, national origin, age, disability, or sex.

Sarasota Chiropractic, Physical Therapy & Massage:

Provides free aids and services to people with disabilities to communicate effectively with us, such as:

- Qualified sign language interpreters;
- Written information in other formats (large print, audio, accessible electronic formats, other formats).

Sarasota Chiropractic, Physical Therapy & Massage

Provides free language services to people whose primary language is not English, such as:

- Qualified interpreters; or
- Information written in other languages.

If you need these services, contact Julia Moesner.

If you believe that This Practice has failed to provide these services or discriminated in another way on the basis of race, color, national origin, age, disability, or sex, you can file a grievance with: Julia Moesner, 2801 Fruitville Road, Suite 180, Sarasota, Florida 34237, 941-924-9892 (Telephone number), 941-924-7283 [Fax], info@sarasotaclinic.com [Email]. You can file a grievance in person or by mail, fax, or email. If you need help filing a grievance, Julia Moesner is available to help you. You can also file a civil rights complaint with the U.S. Department of Health and Human Services, Office for Civil Rights electronically through the Office for Civil Rights Complaint Portal, available at <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf> , or by mail or phone at: U.S. Department of Health and Human Services, 200 Independence Avenue SW., Room 509F, HHH Building, Washington, DC 20201, 1-800-868-1019, 800-537-7697 (TDD).

Complaint forms are available at [http:// www.hhs.gov/ocr/office/file/index.html](http://www.hhs.gov/ocr/office/file/index.html) .

Civil Rights Coordinator 941-924-9892 / Julia Moesner

Have a disability? Speak a language other than English? Call to get help for free.

Español (Spanish): ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística.

Kreyòl Ayisyen (French Creole): ATANSYON: Si w pale Kreyòl Ayisyen, gen sèvis èd pou lang ki disponib gratis pou ou.

Tiếng Việt (Vietnamese): CHÚ Ý: Nếu bạn nói Tiếng Việt, có các dịch vụ hỗ trợ ngôn ngữ miễn phí dành cho bạn.

Português (Portuguese): ATENÇÃO: Se fala português, encontram-se disponíveis serviços linguísticos, grátis.

繁體中文 (Chinese): 注意：如果您使用繁體中文，您可以免費獲得語言援助服務。請致電。

Français (French): ATTENTION : Si vous parlez français, des services d'aide linguistique vous sont proposés gratuitement.

Tagalog (Tagalog – Filipino): PAUNAWA: Kung nagsasalita ka ng Tagalog, maaari kang gumamit ng mga serbisyo ng tulong sa wika nang walang bayad.

Русский (Russian): ВНИМАНИЕ: Если вы говорите на русском языке, то вам доступны бесплатные услуги перевода.

العربية (Arabic): ملاحظة: إذا كنت تتحدث اذكر اللغة، فإن خدمات المساعدة اللغوية والكم الصم ه: لمجان. اتصل برقم تتوافر لك با

Italiano (Italian): ATTENZIONE: In caso la lingua parlata sia l'italiano, sono disponibili servizi di assistenza linguistica gratuiti.

Deutsch (German): ACHTUNG: Wenn Sie Deutsch sprechen, stehen Ihnen kostenlos sprachliche Hilfsdienstleistungen zur Verfügung.

한국어 (Korean): 주의: 한국어를 사용하시는 경우, 언어 지원 서비스를 무료로 이용하실 수 있습니다. 번으로 전화해 주십시오

Polski (Polish): UWAGA: Jeżeli mówisz po polsku, możesz skorzystać z bezpłatnej pomocy językowej.

ગુજરાતી (Gujarati): ઢચુ ના: જો તમેગુજરાતી બોલતા હો, તો નિ:લ્કુ ભાષા સહાય સેવાઓ તમારા માટેઉપલબ્ધ છે.

ภาษาไทย (Thai): เรียน:

ถ้าคุณพูดภาษาไทยคุณสามารถใช้บริการช่วยเหลือทางภาษาได้ฟรี