

Affordable Care Act - ACA

01. Section 1557: The Basics

On May 18, 2016, the U.S. Department of Health and Human Services 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.**

A dental practice is covered by Section 1557 if it receives certain kinds of government funds, such as reimbursement under Medicaid or CHIP, or “meaningful use” payments.

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 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 tri-fold 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 pre-printed publications.

Examples of 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 ADA has prepared multiple documents and resources to help covered practices prepare to comply with this new rule:

- 1) [Section 1557 Checklist \[PDF\]](#) – *this is your starting point (Microsoft Word version available – request from MDA Office)*
 - a. [Sample Notice of Nondiscrimination \[PDF\]](#) - *English version you must post in your office available in Microsoft Word (request from MDA Office)*
 - b. [Notice and Taglines Requirements FAQ - Taglines in Mississippi top 15 languages available in Microsoft Word and PDF formats \(request from MDA Office\)](#)

- 2) [Individuals with Limited English Proficiency \(LEP\)](#)
 - a. [Sample Language Access Plan \[PDF\]](#) *Microsoft Word version available (request from MDA office)*
 - b. [Sample Contract and BAA for Interpreters and Translators \[PDF\]](#) *Microsoft Word version available (request from MDA office)*

15 Top Non-English Languages for Mississippi

1	Spanish	28,414
2	Vietnamese	3,687
3	Chinese	2,298
4	French	969
5	Arabic	908
6	Choctaw*	800
7	Tagalog	699
8	German	696
9	Korean	662
10	Gujarati	419
11	Japanese	273
12	Russian	224
13	Punjabi*	190
14	Italian	186
15	Hindi	148

NOTE: The MDA has endorsed CyraCom, for interpretation and translation services.
<http://interpret.cyracom.com/ada/>

The ADA has placed a webpage on their site which you can view here: <http://www.adabusinessresources.com/en/endorsed-programs/top-10-languages>

- 3) [Auxiliary Aids and Services FAQ](#)
- 4) [Accessible Technology FAQ](#)
- 5) [Grievance Procedure](#)
 - a. [Sample Grievance Procedure \[PDF\]](#) *Microsoft Word version available (request from MDA office)*
- 6) [Age Discrimination](#)
- 7) [Sex Discrimination](#)
- 8) [Section 1557 Frequently Asked Questions](#)

Update: The ADA has [written a letter to the Office for Civil Rights](#) requesting an extension of the implementation deadlines. This would allow sufficient time for our members to meet the requirements. *We additionally asked for relief for our members working in small practice settings and requested the most burdensome regulations be limited to those who employ 25 or more staff.*