

Section 1557 of the Affordable Care Act For Connecticut Dentists

Compliance Required as of October 16, 2016

Section 1557 is the civil rights provision of the Federal Affordable Care Act (ACA) of 2010. Section 1557 prohibits discrimination on the grounds of race, color, national origin, sex, age or disability in certain health programs and activities. It is in addition to civil rights protections available under the Americans with Disabilities Act and Title VI of the Civil Rights Act of 1964. Section 1557 of the ADA is federal – not Connecticut – law. More information is available through the American Dental Association (ADA) Center for Professional Success.

New rules under Section 1557 change how dentists interact with patients who are deaf and hard of hearing (DHOH) and patients with limited English proficiency (LEP), which means they are not fluent in English. Covered entities cannot charge patients for the translation or interpreter services. Nor can you use “unqualified” family members or staff to serve as translators or interpreters. The interpreters must be “qualified” – meaning they have shown ability in both English and the target language, adhere to a code of ethics, follow patient privacy laws and sign a business associate agreement.

The definition of “covered entities” under Section 1557 is completely different from the definition used by Federal HIPAA law. Under Section 1557, covered entities include any health program or activity, any part in which received federal funding from the Department of Health and Human Services (HHS). This means that doctors (and dentists) who treat Medicaid, or Connecticut Dental Health Partnership patients, must provide assistance to any DHOH and LEP patients in their practice. Dentists who have accepted meaningful use payments under electronic medical records incentive programs, and dentists who accept Medicare Advantage plans (Medicare Part C) also must provide these services. Dentists who bill for durable medical equipment (sleep apnea devices) under Medicare are exempt.

Connecticut has a large population of individuals who may be DHOH and LEP. Providing translation services for patients with LEP and signing services or assistance devices for DHOH patients is good business and will satisfy patients’ expectations. Also, the principle of Patient Autonomy within the ADA Code of Ethics states:

Under this principle, the dentist’s primary obligations include involving patients in treatment decisions in a meaningful way, with due consideration being given to the patient’s needs, desires and abilities, and safeguarding the patient’s privacy.

With regard to DHOH patients, Section 1557 requires covered entities to:

- Take appropriate steps to ensure that communications with individuals with disabilities are as effective as communication with others. Section 1557 also requires covered entities to provide appropriate auxiliary aids and services, such as alternative formats and sign language interpreters, where necessary for effective communication.
- Post a notice of individuals’ rights that provides information about communication assistance among other information.
- Make all programs and activities provided through electronic and information technology accessible to individuals with disabilities, unless doing so would impose undue financial or administrative burden, or would result in a fundamental alteration in the nature of the covered entity’s health program or activity.

Section 1557 also extends civil rights protection to persons with LEP. LEP persons include any person whose primary language for communication is not English and who has a limited ability to read, write, speak or understand English. With regard to patients with LEP, Section 1557 requires covered entities to:

- Take reasonable steps to provide meaningful access to each individual with LEP who is eligible to be served or likely to be encountered within the entities' health programs and activities. Reasonable steps may include the provision of language assistance services, such as oral language interpretation services, or written translation.
- Post a notice of individuals' rights that provides information about communication assistance for individuals with LEP in your office, on your website, and alongside important documents, such as health history and informed consent forms.
- Post a shorter statement when there is not enough room to post the full notices.
- Post taglines in the top 15 languages spoken by individual with LEP in Connecticut that indicate the availability of language assistance.
- Stop using low quality video remote interpreting services or relying on unqualified staff or family members to serve as interpreters or translators when providing language assistance services.

The top 15 non-English languages spoken in Connecticut are: Spanish, Portuguese, Polish, Chinese, Italian, French, French Creole, Russian, Vietnamese, Arabic, Korean, Albanian, Hindi, Tagalog and Greek. If you or a member of your staff is "qualified bilingual," meaning they speak, for example, both English and Spanish, then you do not need to hire a translator. Refer to the second paragraph of this article to define what "qualified" means.

To help you, the Connecticut State Dental Association (CSDA) and the Connecticut Dental Health Partnership (CTDHP) have developed a poster with taglines of the 15 most frequent non-English languages in Connecticut, to help patients with LEP indicate which language they speak. This poster should be displayed in your reception area, where it can be easily seen. This will help you know the appropriate language for translation with a qualified interpreter.

In addition, a Notice of Nondiscrimination has also been developed and should also be displayed in your reception area. This notice only needs to be posted in English. For smaller dental offices with less than 15 employees, you may post the generalized nondiscrimination notice. For larger practices with 15 or more employees, you must develop a grievance procedure and designate an individual to handle grievances regarding language assistance. Downloadable files of the small and large practice notices of nondiscrimination, as well as the translated LEP poster are available on the CSDA website (www.csda.com) as well as the CTDHP website (www.ctdhp.org).

There are several translator and interpreter services in Connecticut that will provide language assistance to your practice for a fee. A list of non-English language translators and interpreters in Connecticut can be found [at](#) the CT Department of Children and Families website at www.ct.gov/dcf, and type "Translation Services" into the search box. You will also find guidelines for working with an interpreter at this site.

More information on compliance with Section 1557 of the Affordable Care Act, including forms, a compliance checklist, frequently asked questions and links to additional resources can be accessed through the American Dental Association Center for Professional Success, at www.ADA.org/1557.

Disclaimer: This material is educational only and does not serve as a substitute for legal advice. Changes to the law may require you to revise your forms and other materials. Neither the CSDA nor the CTDHP warrants the information provided on websites we link to and we do not endorse or have any affiliation with such websites or service providers.

Thanks to the Florida Dental Association and Graham Nicol, Esq. for assistance in developing this informational article.