SECTION 1557 OF THE AFFORDABLE CARE ACT

CIVIL RIGHTS TRAINING

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WHAT IS SECTION 1557?

- Section 1557 is the non-discrimination law in the Affordable Care Act (ACA).
- By eliminating barriers that are based on discrimination, Section 1557 is important to achieving the Affordable Care Act's goals of expanding access to health care and coverage, eliminating barriers, and reducing health disparities.
- Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age or disability in certain health programs and activities.
- Section 1557 builds upon longstanding non-discrimination laws and provides new civil rights protections.

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WHO MUST COMPLY WITH SECTION 1557 REGULATION?

Covered Entities are required to comply with Section 1557 including:

- All health programs and activities that receive payments and Federal financial assistance from Health and Human Services (HHS)
- Hospitals
- Health Clinics and Physician Practices
- Rehab Centers
- Health Insurance Companies

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DISCRIMINATION BASED ON AN INDIVIDUAL'S SEX IS PROHIBITED

Sex discrimination includes, but is not limited to, discrimination based on an individual's sex, including pregnancy, related medical conditions, termination of pregnancy, gender identity and sex stereotypes.

Covered entities must provide equal access to health care, health insurance coverage, and other health programs without discrimination based on sex.

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DISCRIMINATION BASED ON AN INDIVIDUAL'S RACE, COLOR, OR NATIONAL ORIGIN IS PROHIBITED

- Under Section 1557, a covered entity may not segregate, delay or deny services or benefits based on an individual's race, color or national origin.
  - The term "national origin" includes, but is not limited to, an individual's place of origin (or his/her ancestor's place of origin, such as a country), or physical, cultural, or linguistic characteristics of a national origin group
- A covered entity may not delay or deny effective language assistance services to individuals with limited English proficiency (LEP).
  - An individual with LEP is an individual whose primary language is not English and who has a limited ability to read, write, speak, or understand English often because they are not originally from the United States

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Discrimination based in an individual's age is prohibited

Under section 1557, a covered entity may not exclude, deny or limit benefits and services based on an individual's age (For example, a physician's practice may not deny a 62- year-old man health services because it only accepts patients under age 60).

However, a covered entity may provide different treatment based on age when the treatment is justified by scientific or medical evidence (For example, a physician may decide to deny a mammogram to a woman under a certain age because recent medical studies have suggested that mammograms may be more harmful than helpful to young women), or based on a specialty (For example, pediatricians are not required to treat adults and gerontologists not required to treat children)

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Discrimination based on an individual's disability is prohibited

Under section 1557, an individual may not be excluded or denied benefits or services because of a disability.

Under section 1557, covered entities must take the following steps, unless they would result in an undue financial burden or would fundamentally alter the program:

- Make reasonable changes to policies, procedures and practices where necessary to provide equal access for individuals with disabilities. For example, a clinic must modify its "no pets" policy to permit an individual with a disability to be accompanied by a service animal. Additionally, a clinic must allow an individual with an anxiety disorder to wait for an appointment in a separate, quiet room if the individual is unable to wait in the patient waiting area because of anxiety.
- Make all health programs and activities provided electronically (online appointment systems, electronic billing, information kiosks, etc.) accessible to individuals with disabilities. For example, a doctor's office that requires patients to make appointments only online must modify its procedures so that a person with a disability who cannot use the required method can still make an appointment.

Covered entities must provide effective communication with individuals with disabilities, including patients and their companions.

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REQUIREMENTS FOR COMMUNICATING WITH LIMITED ENGLISH PROFICIENCY PATIENTS

- A covered entity must take reasonable steps to provide meaningful access to each individual with LEP eligible to be served or likely to be encountered in its health programs and activities. Reasonable steps may include the provision of language assistance services, such as oral language assistance or written translations.
- A covered entity must publish taglines, which are short statements in non-English languages, in significant publications and post in prominent locations and on its website, to notify the individual about the availability of language assistance services.
- A covered entity must offer a qualified interpreter when oral interpretation is a reasonable step to provide an individual with meaningful access.
- Where language services are required, they must be provided free of charge and in a timely manner.
- A covered entity must adhere to certain quality standards in delivering language assistance services and may not:
  - Require an individual to provide his or her own interpreter.
  - Rely on a minor child to interpret, except in a life-threatening emergency where there is no qualified interpreter immediately available.
  - Rely on interpreters that the individual prefers when there are competency, confidentiality or other concerns.
  - Rely on unqualified bilingual or multilingual staff.
  - Use low-quality video remote interpreting services.

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AUXILIARY AIDS AND SERVICES

- A covered entity must provide auxiliary aids and services to individuals with disabilities free of charge and in a timely manner when necessary to ensure an equal opportunity to participate and benefit from the entity's health programs or activities.

Auxiliary aids and services include, but are not limited to:

- *Qualified sign language interpreters
- *Captioning
- *Large print materials
- *Screen reader software
- *Text telephones (TTYs)
- *Video remote interpreting service

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ENFORCEMENT

- The U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR) enforces Section 1557 as to programs that receive funding from HHS.
- OCR is a neutral, fact-finding agency that receives, investigates and resolves thousands of complaints from the public alleging discrimination in health services and health coverage.
- When OCR finds violations, a covered entity will be required to take corrective actions, which may include revising policies and procedures, and implementing training and monitoring programs. Covered entities may also be required to pay compensatory damages.
- When a covered entity refuses to take corrective actions, OCR may undertake proceedings to suspend or terminate Federal financial assistance from HHS. OCR may also refer the matter to the U.S. Department of Justice for possible enforcement proceedings.
- Section 1557 also provides individuals the right to sue covered entities in court for discrimination.

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KEY TAKEAWAYS

- Please see policy ADM14.00 Non-Discrimination and Right to Access for more information
- If a patient has a complaint or grievance regarding discrimination, contact the Mary Lanning Healthcare 1557 Coordinator:

  Jennifer Gaede jgaede@marylanning.org 402-460-5505
- If a patient needs communication assistance or auxiliary aids, contact the Mary Lanning Healthcare House Supervisor:

  402-984-0379

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