

New HHS Nondiscrimination Regulation for Health Care Programs: Key Requirements for Pharmacies

The compliance date of the below requirements is July 18, 2016 unless otherwise noted.

1. Designation of responsible employee (only if the covered entity has 15 or more employees)
 - **Tip:** Pharmacies that have a designated employee to satisfy standards under Section 504 or Title IX may use that individual to comply with Section 1557
2. Adoption of grievance procedures (only if the covered entity has 15 or more employees)
 - **Tip:** Pharmacies that have a grievance procedure to satisfy standards under Section 504 may use that procedure to address disability claims under Section 1557 and all other Section 1557 claims, provided that the entity modifies the procedure to apply to race, color, national origin sex, and age discrimination
 - **Useful resource:** Example of a Section 504 grievance procedure that incorporates due process standards (<http://www.hhs.gov/civil-rights/for-providers/clearance-medicare-providers/section-504-grievance-procedure/index.html>)
3. File assurance of compliance form when applying for federal funding
 - **Useful resource:** Assurance of compliance form (HHS 690 Form): <http://www.hhs.gov/sites/default/files/hhs-690.pdf>
4. Training (encouraged, not required)
 - **Useful resource:** To facilitate training that covered entities choose to provide, OCR will make available a training curriculum, and will engage in outreach and technical assistance to promote understanding of and compliance with the final rule (as of 5/25 this resource has not been made available)
5. Notices of nondiscrimination and taglines (pharmacies must comply within 90 days of the rule's July 18 effective date):
 - Covered entities must provide notice regarding nondiscrimination and available services in conspicuous physical locations (i.e. in store), online (if applicable) and in substantial publications, including small-sized publications
 - 15 taglines¹ must be included in notices in physical locations, online and substantial publications
 - 2 taglines must be included in notices in small-sized substantial publications
 - **Tip:** May combine the notice's content with the content of other notices

¹ Taglines mean short statements written in non-English languages that indicate the availability of language assistance services free of charge (i.e. ATTENTION: If you speak [insert language], language assistance services, free of charge, are available to you. Call 1-xxx-xxx-xxxx (TTY: 1-xxx-xxx-xxxx).

The information in this document is for informational purposes only and should not be construed as legal advice or opinion.

- **Useful Resource:** Translated materials for covered entities
(<http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/index.html>)
6. Take reasonable steps to provide meaningful access, free of charge and in a timely manner, for individuals with limited English proficiency
 - Covered entity cannot: require a LEP individual to provide his/her own interpreter; rely on an adult accompanying an individual with LEP to interpret or facilitate communication (exceptions for emergencies and specific requests); rely on staff other than qualified bilingual/multilingual staff to communicate directly with LEP individuals
 - **Tip:** Although individuals with LEP are not required to accept language assistance services, covered entities should document when such services are offered and the patients refuses them
 - **Resource:** HHS Language Access Plan (2013)
<http://www.hhs.gov/sites/default/files/open/pres-actions/2013-hhs-language-access-plan.pdf> (referenced in the Final Rule)
 - o Language access plan is not required, but APhA **strongly encourages** covered entities to develop a language access plan to establish a framework to provide health care and services non-discriminatorily and the reasonable steps that will be taken to provide access to persons with LEP
 7. Take reasonable steps to provide meaningful access, free of charge and in a timely manner to provide effective communication for individuals with disability
 8. Must make accessible electronic and information technology programs or activities to individuals with disabilities unless there is undue financial and administrative burdens or a fundamental alteration in the nature of the health program or activity
 9. Must make reasonable modifications when necessary to avoid discrimination on the basis of disability

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