



health services associates

## Civil Rights:

# What's Needed and What's Coming

EXPERT RURAL HEALTH CONSULTANTS



## **Participants will:**

- **Confirm compliance with the Non-Discrimination rules that went into effect November 2, 2024**
- **Discover how these changes impact policy, postings, staff training, and patient interaction**
- **Prepare for future edits needed in 2025**

**EXPERT RURAL HEALTH CONSULTANTS**

**[www.hsagroup.net](http://www.hsagroup.net)**



health services associates

# Civil Rights: What's Needed

EXPERT RURAL HEALTH CONSULTANTS

# Resources

- 1557 Final Rule
  - <https://www.govinfo.gov/content/pkg/FR-2024-05-06/pdf/2024-08711.pdf>
- Resources on OCR website:
  - <https://www.hhs.gov/civil-rights/for-providers/resources-covered-entities/index.html>
- NARHC Webinar:
  - [https://www.narhc.org/narhc/TA\\_Webinars1.asp](https://www.narhc.org/narhc/TA_Webinars1.asp)



# Non-Discrimination Posting

- Update categories in policy and wherever listed
  - It is the policy of the clinic to provide services to all persons without regard to race, color, national origin, disability, age, sex (add text), or religion.
- Update the definition of “sex”
  - Options for verbiage:
    1. Consistent with the scope of sex discrimination described at 45 CFR § 92.101(a)(2))
    2. Sex, including sex characteristics, including intersex traits; pregnancy or related conditions; sexual orientation; gender identity, and sex stereotypes.



# NHSC Site Considerations

- If you are an approved NHSC site, please use caution when utilizing the template from the HHS.gov website. Additional categories are needed:

## Example:

The clinic will not discriminate in the provision of health care services to an individual:

- Because the individual is unable to pay for the health care services;
- Because payment for those services would be made under Medicare, Medicaid, or the Children's Health Insurance Program (CHIP); or
- Based upon the individual's race, color, sex, age, national origin, disability, religion, gender identity or sexual orientation.



# Employee Count

- If you have over 15 employees:
  - Define grievance process
  - Disclose your 1557 Coordinator.
    - Name, Title, Phone, Email
  - 1557 Coordinator responsibilities include:
    - Handling grievances
    - Keeping appropriate records
    - Interpretive services
    - Communication procedures
    - Coordinating accommodations
    - Training staff



# Grievances

- Disclose procedure for filing a grievance in policy/posting with the clinic
- Disclose procedure for filing a grievance with the Office of Civil Rights





# Patient Impact

- Notice should be visible to your patients (ie. lobby)
- Notice must be easy to read
  - 20-point sans serif font
- Notice must be available on the website in a “prominent” location
- Notice must be provided to patients:
  - Annually
  - Upon Request
- Translations of the notice must be made available as necessary



Please note: pursuant to decisions by various district courts regarding the 2024 Final Rule implementing Section 1557, entitled *Nondiscrimination in Health Programs and Activities*, 89 Fed. Reg. 37,522 (May 6, 2024) (“2024 Final Rule”), certain provisions regarding gender identity are stayed nationwide. Other provisions are stayed or enjoined as indicated at [www.hhs.gov/1557](http://www.hhs.gov/1557).

## SAMPLE NONDISCRIMINATION POLICY

[Name of covered entity] complies with all applicable federal civil rights laws, including Section 1557 of the Affordable Care Act (Section 1557). [Name of covered entity] does not discriminate on the basis of race, color, national origin (including limited English proficiency and primary language), age, disability, or sex (consistent with the scope of sex discrimination described at 45 CFR § 92.101(a)(2)) [optional: (or sex, including sex characteristics, including intersex traits; pregnancy or related conditions; sexual orientation; gender identity, and sex stereotypes).]<sup>1</sup>

[Optional: [Name of the covered entity] currently holds a [religious and/or conscience] exemption from the HHS Office for Civil Rights, which exempts [name of the covered entity] from complying with [list provisions of Section 1557 to which the exemption applies, and the scope/terms of that exemption]].

In compliance with Section 1557 and other federal civil rights laws, we provide individuals the following in a timely manner and free of charge:

- **Language assistance services.** [Name of covered entity] will provide language assistance services for individuals with limited English proficiency (including individuals’ companions with limited English proficiency) to ensure meaningful access to our programs, activities, services, and other benefits. Language assistance services may include:
  - Electronic and written translated documents
  - Qualified interpreters
  - [if applicable: Qualified bilingual/multilingual staff]
- **Appropriate auxiliary aids and services.** [Name of covered entity] will provide appropriate auxiliary aids and services for individuals with disabilities (including individuals’ companions with disabilities) to ensure effective communication. Appropriate auxiliary aids and services may include:
  - Qualified interpreters, including American Sign Language interpreters
  - Video remote interpreting
  - Information in alternate formats (including but not limited to large print, recorded audio, and accessible electronic formats)
  - [if applicable: Qualified readers]

- **Reasonable modifications.** [Name of covered entity] will provide reasonable modifications for qualified individuals with disabilities, when necessary to ensure accessibility and equal opportunity to participate in our programs, activities, services, or other benefits.

To access our language assistance services, auxiliary aids and services, and for assistance in getting a reasonable modification, please refer to [name of covered entity’s] [title for covered entity’s language access procedures], [title for covered entity’s effective communication procedures], and [title for covered entity’s reasonable modification procedures].

[If applicable: For additional assistance, you may also contact [insert name and/or title and contact information for covered entity’s Section 1557 Coordinator].

[Optional: Entities may add additional information related to their nondiscrimination processes for: service animals, public health emergencies, telehealth, accessible diagnostic equipment, value assessment methods, patient care decision support tools (including, but not limited to crisis standards of care), etc.).]

If you believe [name of covered entity] has failed to provide these services or has discriminated in another way on the basis of race, color, national origin, sex, age, or disability, you can:

1. [AS APPLICABLE: File a grievance with [name of covered entity]]

[Insert covered entity’s relevant grievance information.]

2. File a complaint with the U.S. Department of Health and Human Services, Office for Civil Rights:

Electronically: <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>

Via mail: U.S. Department of Health & Human Services  
200 Independence Avenue, S.W. – 509F  
Washington, D.C. 20201

<sup>1</sup> The enumeration following 92.101(a)(2) is recommended but not required.

# Actions

- Update policy
- Train staff
- Post in lobby
- Update website
- Hand out to patients
- Address/document/report grievances





health services associates

# Civil Rights: What's Coming

EXPERT RURAL HEALTH CONSULTANTS

# Hurry Up and Wait

- Impact of election
  - 2016 – Obama implemented the regulation
  - 2020 – Trump Administration revision
  - 2024 – Biden Administration revision
- Timelines

Action	Due Date
Section 1557 Coordinator	November 2, 2024
Notice of Non-Discrimination	November 2, 2024
Decision Support Tools	May 2025
Telehealth	May 2025
Additional Policies/Procedures	July 2025
Training	Upon development - OR by July 2025
Notice of Availability	July 2025



# Decision Support Tools

## § 92.210 Nondiscrimination in the use of patient care decision support tools.

(a) **General prohibition.** A covered entity must not discriminate on the basis of race, color, national origin, sex, age, or disability in its health programs or activities through the use of patient care decision support tools.

(b) **Identification of risk.** A covered entity has an ongoing duty to make reasonable efforts to identify uses of patient care decision support tools in its health programs or activities that employ input variables or factors that measure race, color, national origin, sex, age, or disability.

(c) **Mitigation of risk.** For each patient care decision support tool identified in [paragraph \(b\)](#) of this section, a covered entity must make reasonable efforts to mitigate the risk of discrimination resulting from the tool's use in its health programs or activities.



# Telehealth

## § 92.211 Nondiscrimination in the delivery of health programs and activities through telehealth services.

A covered entity must not, in delivery of its health programs and activities through telehealth services, discriminate on the basis of race, color, national origin, sex, age, or disability.



# Additional Policies (7/25)

- HHS.gov has sample policies to cover:
  - Non-discrimination (11.2.24)
  - Effective communication procedures (11.2.24)
  - Grievance procedure
  - Language access
  - Reasonable modification procedures
- Questions to answer in policy:
  - 1557 Coordinator (if over 15 employees) contact information
  - Interpretive service provider
  - Qualified staff interpreters
  - Who handles grievances and appeals
  - Documents available in other languages
  - Aids available for persons with disability
  - Accessibility features of the clinic





# Notice of Availability

- Clinics must develop a posting outlining the auxiliary aids and translation services available at the clinic free of charge and post it in the top 15 languages for your State by July 2025.

## Sample Notice of Availability of Language Assistance Services and Auxiliary Aids and Services (§ 92.11)

ATTENTION: If you speak [insert language], free language assistance services are available to you. Appropriate auxiliary aids and services to provide information in accessible formats are also available free of charge. Call 1-xxx-xxx-xxxx (TTY: 1-xxx-xxx-xxxx) or speak to your provider.”

- Top languages by State:
  - <https://www.hhs.gov/guidance/document/appendix-top-15-non-english-languages-state>
- Statement in each language:
  - <https://www.hhs.gov/civil-rights/for-providers/resources-covered-entities/index.html>



# Notice of Availability

Clinic's must include the Notice of Availability in the following electronic and written communications when these forms are provided by a covered entity:

- Notice of nondiscrimination required by [§ 92.10](#);
- Notice of privacy practices required by [45 CFR 164.520](#);
- Application and intake forms;
- Notices of denial or termination of eligibility, benefits or services, including Explanations of Benefits, and notices of appeal and grievance rights;
- Communications related to an individual's rights, eligibility, benefits, or services that require or request a response from a participant, beneficiary, enrollee, or applicant;
- Communications related to a public health emergency;
- Consent forms and instructions related to medical procedures or operations, medical power of attorney, or living will (with an option of providing only one notice for all documents bundled together);
- Discharge papers;
- Communications related to the cost and payment of care with respect to an individual, including medical billing and collections materials, and good faith estimates required by section 2799B-6 of the Public Health Service Act;
- Complaint forms; and
- Patient and member handbooks.





## ASSURANCE OF COMPLIANCE:

All recipients of federal financial assistance from the Department of Health and Human Services (HHS) are required to have an "Assurance of Compliance with Non-Discrimination Laws and Regulations" on file with HHS. This requires a statement that recipient is in compliance with:

- [Title VI of the Civil Rights Act of 1964 \(42 U.S.C. § 2000d et seq.\)](#)
- [Section 504 of the Rehabilitation Act of 1973 \(29 U.S.C. § 794\)](#)
- [Title IX of the Education Amendments of 1972 \(20 U.S.C. § 1681 et seq.\)](#)
- [The Age Discrimination Act of 1975 \(42 U.S.C. § 6101 et seq.\)](#)
- [Section 1557 of the Patient Protection and Affordable Care Act \(42 U.S.C. § 18116\)](#)
- [The Church Amendments \(42 U.S.C. § 300a-7\)](#)
- [The Coats-Snowe Amendment \(42 U.S.C. § 238n\)](#)
- [The Weldon Amendment \(e.g., Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2019, Div. B., sec. 507\(d\), Pub. L. No. 115-245, 132 Stat. 2981, 3118 \(Sept. 28, 2018\), as extended by the Continuing Appropriations Act, 2020, and Health Extenders Act of 2019, Pub. L. No. 116-59, Div. A., sec. 101\(8\), 133 Stat. 1093, 1094 \(Sept. 27, 2019\)\)](#)
- [Section 1553 of the Patient Protection and Affordable Care Act \(42 U.S.C. § 18113\)](#)
- [Section 1303\(b\)\(4\) of the Patient Protection and Affordable Care Act \(42 U.S.C. § 18023\(b\)\(4\)\)](#)

Additional Federal conscience and anti-discrimination laws, as applicable, as listed at <https://www.hhs.gov/conscience/conscience-protections>.

These laws and regulations require recipients to take certain steps to ensure non-discrimination, and to protect the rights of conscience and religious freedom. For Medicare Providers and Applicants, we additionally encourage you to review the [Technical Assistance for Medicare Providers and Applicants](#) page for further information.

# Acts: (Non-Discrimination)

## **Title VI Civil Rights act of 1964**

- Prohibits discrimination on the basis of race, color, and national origin

## **Section 504, Rehabilitation Act of 1973**

- Prohibits discrimination for individuals with a disability

## **Title IX of the Education Amendments of 1972**

- Prohibits discrimination on sex or blindness

## **Age Discrimination Act of 1975**

- Prohibits discrimination on the basis of age

## **Section 1557 of the Affordable Care Act**

- Prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs and activities.



# Acts: (Conscience Protections)

## Church Amendments

- Prohibition of public officials and public authorities from imposition of certain requirements contrary to religious beliefs or moral convictions

## The Coats-Snowe Amendment

- Prohibits abortion-related discrimination in governmental activities regarding training and licensing of physicians

## The Weldon Amendment (Consolidated Appropriates Act)

- The Weldon Amendment bars funding by the U.S. Department of Health and Human Services (HHS) from going to federal agencies and programs or state and local governments that “discriminate” against health insurance plans, health care institutions or health care professionals that refuse to “provide, pay for, provide coverage of, or refer for abortions.”

## Section 1553 of the Affordable Care Act

- Prohibits discrimination against individuals or institutional health care entities that do not provide assisted suicide services.

## Section 1303(b)(4) of the Patient Protection and Affordable Care Act

- Prohibits the use of certain federal funds to pay for coverage by Qualified Health Plans (QHPs) of abortions for which payment would not be permitted under the Hyde Amendment.



## 92.9 Staff Training

- (a) A covered entity must train relevant employees
- (b) A covered entity must provide training that meets the requirements of paragraph (a) of this section, as follows:
  - (1) To each relevant employee of the health program or activity as soon as possible, but no later than **30 days** following a covered entity's implementation of the policies and procedures required by § 92.8, and no later than **300 days** following **July 5, 2024**;
  - (2) Thereafter, to each new relevant employee of the health program or activity within a **reasonable period of time** after the employee joins the covered entity's workforce; and
  - (3) To each relevant employee of the health program or activity whose **functions** are affected by a material change in the policies or procedures required by § 92.8 and any other civil rights policies or procedures the covered entity has implemented within a reasonable period of time after the material change has been made.
  - (4) For purposes of this section, “relevant employees” **includes permanent and temporary employees** whose roles and responsibilities entail **interacting with patients and members of the public; making decisions that directly or indirectly affect patients' health care**, including the covered entity's executive leadership team and legal counsel; and **performing tasks and making decisions that directly or indirectly affect patients' financial obligations, including billing and collections.**
- (c) A covered entity must contemporaneously **document** its employees' completion of the training required by paragraphs (a) and (b) of this section in written or electronic form and **retain said documentation for no less than three (3) calendar years.**

# RHC Survey

## § 491.4 Compliance with Federal, [State](#) and local laws.

The rural health clinic or [FQHC](#) and its staff are in compliance with applicable Federal, [State](#) and local laws and regulations.

**(a) *Licensure of clinic or center.*** The clinic or center is licensed pursuant to applicable [State](#) and local law.

**(b) *Licensure, certification or registration of personnel.*** Staff of the clinic or center are licensed, certified or registered in accordance with applicable [State](#) and local laws.



# Office of Civil Rights

- Patients may file a complaint directly with the Office of Civil Rights (OCR)
- OCR is the agency that will enforce the 1557 rules for covered entities
- OCR aims to work with the covered entity to reach compliance
- If unable to reach compliance measures, a formal findings letter may be issued and then the case will be referred to the Department of Justice







# Questions:

**Tressa Sacrey**

**Director, Compliance & Education**

**[tsacrey@hsagroup.net](mailto:tsacrey@hsagroup.net)**

**[www.hsagroup.net](http://www.hsagroup.net)**

