

## SECTION 1557 OF THE AFFORDABLE CARE ACT FOR FLORIDA DENTISTS

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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 ACA is federal — not Florida — law. More information is available through the [American Dental Association \(ADA\) Center for Professional Success](#).

New rules under Section 1557 changes 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. Note that this definition of covered entities is completely different from the definition used by Federal HIPAA law.

Covered entities under Section 1557 include any health program or activity, any part in which receives federal funding from the Department of Health and Human Services (HHS), such as hospitals that accept Medicare or doctors who receive Medicaid payments; the health insurance marketplaces and issuers that participate in those marketplaces; and, any health program that HHS itself administers. Covered entities under Section 1557 include doctors who treat Medicaid or Florida Healthy Kids patients. Doctors who have accepted meaningful use payments under electronic medical records incentive programs also must provide these services. Doctors who bill for durable medical equipment (sleep apnea devices) under

Medicare are exempt, and it is unclear whether military and dependents are covered or not. If you accept patients covered under a plan sold through the ACA marketplace, check with the plan to see if they provide interpreter and translator services.

Florida has a large population of immigrant and older patients who may be DHOH or be LEP. Providing translation services for patients with LEP and signing services or assistive devices for DHOH patients is good business and will satisfy patients’ expectations. Also, 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.*

Health care risk managers perform root cause analysis to determine what the first preventable step was that ultimately ended in a medical error. Not communicating or miscommunicating with patients who are DHOH and LEP often is the root cause of misdiagnosis, prescription errors, inappropriate care and discharge/home health non-compliance. Effective communication is essential for quality care and patient safety.

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 burdens, 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 assistance 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 notice.
- post taglines in the top 15 languages spoken by individuals with LEP in Florida 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 Florida are: Spanish, French Creole, Vietnamese, Portuguese, Chinese, French, Tagalog, Russian, Arabic, Italian, German, Korean, Polish, Gujarati and Thai. 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 in this article to define what "qualified" means.

To help you, the Florida Dental Association (FDA) has published a free, downloadable LEP card that you can keep at your front desk. It is designed to help patients with LEP indicate which language they speak. This card looks better printed in color than black and white, and you may consider laminating it. The patient will point at the language they speak and then you know which language to translate into with a qualified interpreter.

Other forms in English and several other non-English languages that you will need in your office are available from the Office of Civil Rights and can be found [here](#). Note that each language will have three documents: the notice, statement and tagline.

For the **members-only, Florida-specific LEP card**, please click [here](#). If you need a sign language interpreter or a translator, your local hospital may be able to refer you to a volunteer. Also, there are several telephone services that are available for a fee that can provide medical translations into the top 15 languages spoken in Florida. The following are links to video and audio remote interpreting services:

[CTS Language Link](#)

[Certified Languages International](#)

[International Medical Interpreters Association](#)

If you use a telephone service, they will tell you what phone number to write in on the LEP card. To access a tip sheet on how to work with telephone interpreters, please click [here](#).

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