Quick Reference: 1557 and Language Access

The material herein is educational and informational only. No legal advice is provided.

The US Department of Health and Human Services (HHS) recently issued a rule to help medical and insurance providers comply with Section 1557 of the Affordable Care Act (ACA). Section 1557 deals with nondiscrimination, and a significant portion of HHS's rule focuses on the care of Limited-English Proficient (LEP) patients. This builds on the precedent set by Title VI, which prohibits national origin discrimination and mandates language access in healthcare.

As of October 16th, 2016, all covered organizations are required to achieve compliance with Section 1557. To help, CyraCom has compiled this five-step guide to complying with the language access provisions of 1557. Learn more about the new law by downloading our Section 1557 Whitepaper.[1]

1 POST a Notice of Nondiscrimination and Taglines

1557 requires providers to post a notice of nondiscrimination and taglines (short statements advising language services are available) in the state's/hospital's top 15 languages. Find your top 15 languages by downloading Health and Human Services' PDF.[2] Then download HHS's free translated taglines,[3] available in 64 languages (CyraCom clients can contact their account manager or client services for access to customizable language notification posters with more than 100 languages and translations available).

2 ELIMINATE unqualified interpretation

Section 1557 requires qualified interpreters and **prohibits** the use of:

1. A patient's minor children (except in emergencies to prevent imminent patient harm)

2. Adult family and friends (unless the patient refuses an interpreter – provider may still utilize an interpreter if they determine the family member/friend cannot interpret adequately)

3. Bilingual staff, unless interpreting is part of "the individual's current, assigned job responsibilities" and the staff member "has demonstrated* that he/she is:

   • *Proficient in speaking and understanding both spoken English and at least one other spoken language, including any necessary specialized vocabulary, terminology, and phraseology, and;*

   • *Is able to effectively, accurately, and impartially communicate directly with individuals with limited English proficiency in their primary languages.*

*Demonstrating these skills will likely require some form of interpreter training/certification

Staff Testing/Training
Test staff interpreters, as well as bilingual doctors and nurses who wish to interpret, for language proficiency and interpreter skills. Testing may include:

Language Proficiency Assessments designed to measure the ability of individuals to communicate effectively in a specific language and follows the standards established by the Interagency Language Roundtable (ILR). Assessments should cover:

Grammar	Structural aspect of how the candidate speaks – error frequency and severity.
Vocabulary	Ability to discuss various topics – lexical breadth and depth.
Pronunciation	How well the candidate is understood by the native speaker.
Fluency	How readily language comes to the candidate and how fluid the overall speech is.
Cultural Appropriateness and Functional Expertise	Proper use of cultural references to frame opinions and statements and overall ability to communicate with native speakers on topical issues.
Strategies	Ability to control the conversation and keep it flowing in the right direction.

Interpreter Skills Assessments to evaluate knowledge of medical vocabulary and ability to accurately convert messages from one language to another in a clinical context, including:

1. Interpretation from English into the target language.
2. Interpretation from the target language into English.
3. Medical vocabulary in both languages.

Any staff member designated qualified to interpret should have that responsibility documented in writing; best practice may be to add this designation added to the staff member's job description. Staff members who wish to provide care directly in non-English languages should also be tested and certified to demonstrate that they are qualified bilingual providers.

3 PROVIDE qualified interpreters to patients/family members/spouses/partners

Section 1557 mandates that providers "take reasonable steps to provide meaningful access to each individual with limited English proficiency eligible to be served or likely to be encountered in its health programs and activities." It also bans discrimination based on association, meaning providers must supply interpreters as-needed to their patients' families, spouses, or partners as-needed.

Hospitals may find it impractical to staff full-time interpreters for all possible languages, so many leading healthcare organizations "take reasonable steps to provide meaningful access" by partnering with a language services provider[4] like CyraCom, which can supply interpreters via phone or video chat in hundreds of languages.

## 4 CONFIRM that remote interpretation options are fully functional

Section 1557 supports the use of qualified phone and video interpreters to help providers deliver timely language access to their LEP patients – with the caveat that video interpretation must meet the quality standards set for ASL interpretation by the Americans with Disabilities Act:

1. "Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication.

2. A sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of his or her body position.

3. A clear, audible transmission of voices.

4. Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI."

5 TRAIN staff to understand the importance and consequences of 1557

Section 1557 grants LEP individuals a specific cause of action against healthcare providers that fail to "take reasonable steps to provide meaningful access. This is a departure from Title VI of the Civil Rights Act (the previous law on language access), which allowed fines and Medicare/Medicaid cuts for noncompliant hospitals but did not enable individual patients to sue for discrimination. Staff should understand the potential consequences of noncompliance and be well trained in accessing an interpreter quickly and efficiently.
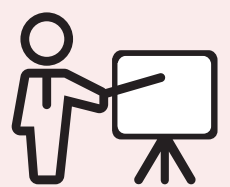
Need to achieve compliance with Section 1557 today? CyraCom offers no-cost online sign-up for our phone and video interpretation services. Get started today and pay per-minute when you use the service. **www.cyracom.com/contact**

Resources
1.) http://resources.cyracom.com/section-1557-of-the-aca/
2.) https://www.hhs.gov/sites/default/files/resources-for-covered-entities-top-15-languages-list.pdf
3.) https://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/
4.) http://start.cyracom.com/contact

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