

h. A nondiscrimination tagline translated into at least 15 different languages.

3. Physical Notice and Webpage . The physical notice must be in a conspicuous location and easily readable by a member of the public, not behind private office doors (e.g., in a patient waiting area). Providers may also want to include the notice with their standard patient registration forms. Additionally, these notifications should be posted on the homepage of an entity's website in legible font. The full notice can be available from a link on the front page, but the link must be conspicuous. (For example, the front page's link could say, "We do not discriminate. View our policy.")

4. Publications and Qualifying Notification Material . Publications that must display the notice include "significant communications and significant publications," which covers a broad scope not defined by Section 1557 or the final rule. The OCR has provided some examples, however: educational and marketing resources, patient handbooks, patient applications, notices of patient benefits or rights, consent forms, notices regarding eligibility, outreach material and even patient letters. OCR's interpretation is not constrained by these examples and additional guidelines can be found online. OCR's touchstone will be whether current or future patients could reasonably be expected to see and be able to read the notice. That said, while notification must begin this October, a covered entity may continue to use materials currently manufactured without the notice until its supply of those materials is exhausted.

5. Taglines . A provider must publish taglines in a minimum of 15 non-English languages most prevalent within the state as part of its notice. Taglines are short statements describing the entity's ability to provide free language assistance services (e.g., "ATTENTION: If you speak [insert language], language assistance services, free of charge, are available to you. Call 1-xxx-xxx-xxxx, or TTY: 1-xxx-xxx-xxxx.). To assist providers, OCR has provided a list of the top 15 non-English languages per state and has published a notice of nondiscrimination, statement of nondiscrimination, and taglines translated into 64 different languages.

6. Small Communications . There is an exception to the full notice requirement for small printed publications, such as flyers or pamphlets. Small communications that are significant publications need only state that the entity (1) does not discriminate on the basis of sex, age, national origin, disability, or race in its health programs, and (2) provides taglines in *two* non-English languages. OCR has provided examples of this statement online. OCR's commentary in the final rule suggests this may include social media posts if they are "significant communications."

The final rule already requires entities to take reasonable steps to allow individuals with LEP meaningful access to health services. The notice requirements mandate that providers inform the public of this right, including notice of mandatory language assistance services. If your entity is not already offering such services, it is out of compliance. There are vendors that offer these services. Providers can consider oral interpreters, including telephone video remote interpretation services and bilingual employees (depending on their accuracy, privacy and ability to speak English and the non-English language). Family members should not be used, except for emergencies. To determine if a service complies, the OCR will weigh the nature and importance of the health program and compare these factors against the communication at issue. While this test is not a bright-line rule, the OCR has clarified that all language assistance services must (1) be accurate, (2) be timely, and (3) maintain the privacy of the LEP individual without any charge.

The final rule has a number of other requirements that took effect earlier this summer. Please consult with one of the authors to discuss compliance with these rules.

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