

August 13, 2019

Roger Severino
Director
Office for Civil Rights
Department of Health and Human Services
Hubert H. Humphrey Building, Room 509F
200 Independence Avenue, SW
Washington, DC 20201

Attention: Section 1557 NPRM, RIN 0945-AA11

Dear Director Severino:

On behalf of the below members of the Organized Dentistry Coalition (ODC), we are writing to you regarding the Section 1557 Notice of Proposed Rulemaking (NPRM).

The coalition strongly supports nondiscrimination in health care and equal access to care for all patients without regard to race, color, national origin, sex, age, religion, or disability. However, our dentists have reported great difficulty with complying with the Section 1557 Final Rule issued in 2016 and we appreciate the Office for Civil Rights' (OCR) commitment to reducing regulatory burdens.

Under the Final Rule, many of the regulatory requirements were onerous. In particular, the requirements of posting nondiscrimination notices and taglines have proven to be the two of the most challenging requirements for our members to implement. Covered dental practices are required to post two notices: 1) a Notice of Nondiscrimination and 2) Taglines. These notices apparently must be posted in the dental practice's office, on its website, and in "significant" publications and communications targeted to patients and the public. Additionally, inclusion of modified taglines and a shortened notice of nondiscrimination for small-size publications and communications has caused much confusion.

There is no clear definition on what constitutes a significant or a non-significant publication or communication. The Office for Civil Rights (OCR) has stated that covered entities are in the best position to determine what is significant in the context of their own health programs and activities. Examples of non-significant publications have been provided by OCR without definition.

The time and cost associated with interpreting these regulations, printing these documents or altering existing publications and modifying websites to comply with these requirements has been significant for dental offices. We conservatively estimate the dental profession has spent approximately \$240,450,000 on compliance to date.

Additionally, as the NPRM notes, there are questions about whether these burdens are justified by need. The requirements are difficult to implement due to other overlapping requirements from the federal government and states. The multiple overlapping nature of the notices and taglines has diluted their impact to the extent that patients may disregard them.

Furthermore, the requirement that the taglines be distributed in the top 15 non-English languages spoken in the dentist's state is of concern. The majority of dental offices are private, small businesses. Given their small staff size, it would be more effective for them to concentrate

on providing information in the language(s) other than English that are spoken among their patients or potential patient pool. This is widely variable across the country, with some dental offices never encountering patients who do not speak English while others may encounter patients who speak languages not listed in the state's top fifteen spoken languages. The ODC therefore supports the NPRM's proposal to repeal the notice of nondiscrimination and tagline requirements. We believe that the repeal of these requirements will lead to cost savings and will allow staff to spend time on appropriate patient care and communication instead of time on interpreting and complying with the regulations.

The ODC also supports the proposed rule's exemption from the auxiliary aids and services requirements for covered entities with fewer than 15 employees. We ask that the department explicitly include which actions are exempt under this proposal, or state that the requirements for the Americans with Disabilities Act compliance should be followed. A large percentage of dental offices employ fewer than 15 employees; this change will help reduce the burden and cost on many dental offices.

Thank you again for your commitment to reducing regulatory burdens. The ODC looks forward to continuing to work with the OCR. Should you have any questions, please do not hesitate to contact Ms. Roxanne Yaghoubi at the American Dental Association's Washington office at (202) 789-5179 and yaghoubir@ada.org.

Sincerely,

American Dental Association
Academy of General Dentistry
American Academy of Oral and Maxillofacial Pathology
American Academy of Oral and Maxillofacial Radiology
American Academy of Pediatric Dentistry
American Academy of Periodontology
American Association of Oral and Maxillofacial Surgeons
American Association of Endodontists
American Association of Orthodontists
American Association of Women Dentists
American Dental Education Association
National Dental Association