

RMT_02_112: Non-Discrimination in Treatment of Patients

Department:

Risk Management

Replaces Document Number:

C-05-14 Non-Discrimination in Treatment of Patients and Grievance Procedures (along with *Attachment A: Statement of Non-Discrimination and How to File a Grievance*)

CMP_01_134: Non-Discrimination in Treatment of Patients and Grievance Procedures (along with *Attachment A: Statement of Non-Discrimination and How to File a Grievance*)

Purpose:

The purpose of this policy is to implement Section 1557 of the Patient Protection and Affordable Care Act (ACA) (42 U.S.C. 18116), which prohibits discrimination on the basis of race, color, national origin, sex, gender identity age, or disability in certain health programs and activities.

Section 1557 provides that, except as provided in Title I of the ACA, an individual shall not, on the grounds prohibited under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, or Section 504 of the Rehabilitation Act of 1973, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance or under any program or activity that is administered by an Executive Agency or any entity established under Title I of the ACA.

Persons Affected:

This policy is applicable to all teammates, business associates (contractors, consultants, temporaries, volunteers, physicians, clinicians, and other workforce members at SCA), including all personnel affiliated with third parties.

Definitions:

Applicant means an individual who applies to participate in a health program or activity.

Auxiliary aids and services include:

1. Qualified interpreters on-site or through video remote interpreting (VRI) services, as defined in 28 CFR 35.104 and 36.303(b); note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunication products and systems, text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
2. Qualified readers; taped texts; recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs; large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
3. Acquisition or modification of equipment and devices; and
4. Other similar services and actions.

Department means the U.S. Department of Health and Human Services.

Director means the Director of the Office for Civil Rights (OCR) of the Department.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment, as defined and construed in the Rehabilitation Act, 29 U.S.C. 705(9)(B), which incorporates the

definition of disability in the ADA, 42 U.S.C. 12102, as amended. Where this part cross-references regulatory provisions that use the term “handicap,” “handicap” means “disability” as defined in this section.

Electronic and information technology means the same as “electronic and information technology,” or any term that replaces “electronic and information technology,” as it is defined in 36 CFR 1194.4.

Employee health benefit program means:

1. Health benefits coverage or health insurance coverage provided to employees and/or their dependents established, operated, sponsored or administered by, for, or on behalf of one or more employers, whether provided or administered by entities including but not limited to an employer, group health plan (as defined in the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1191b(a)(1)), third party administrator, or health insurance issuer.
2. An employer-provided or employer-sponsored wellness program;
3. An employer-provided health clinic; or
4. Long term care coverage or insurance provided or administered by an employer, group health plan, third party administrator, or health insurance issuer for the benefit of an employer’s employees.

Health program or activity means the provision or administration of health related services, health-related insurance coverage, or other health related coverage, and the provision of assistance to individuals in obtaining health-related services or health-related insurance coverage. For an entity principally engaged in providing or administering health services or health insurance coverage or other health coverage, all of its operations are considered part of the health program or activity, except as specifically set forth otherwise in this part. Such entities include a hospital, health clinic, group health plan, health insurance issuer, physician’s practice, community health center, nursing facility, residential or community-based treatment facility, or other similar entity. A health program or activity also includes all of the operations of a State Medicaid program, a Children’s Health Insurance Program, and the Basic Health Program.

Individual with a disability means any individual who has a disability as defined for the purpose of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(B)–(F), as amended. Where this part cross-references regulatory provisions applicable to a “handicapped individual,” “handicapped individual” means “individual with a disability” as defined in this section.

Individual with limited English proficiency means an individual whose primary language for communication is not English and who has a limited ability to read, write, speak, or understand English.

Language assistance services may include, but are not limited to:

1. Oral language assistance, including interpretation in non-English languages provided in-person or remotely by a qualified interpreter for an individual with limited English proficiency, and the use of qualified bilingual or multilingual staff to communicate directly with individuals with limited English proficiency;
2. Written translation, performed by a qualified translator, of written content in paper or electronic form into languages other than English; and
3. Taglines.

National origin includes, but is not limited to, an individual’s, or his or her ancestor’s, place of origin (such as country or world region) or an individual’s manifestation of the physical, cultural, or linguistic characteristics of a national origin group.

On the basis of sex includes, but is not limited to, discrimination on the basis of pregnancy, false pregnancy, termination of pregnancy, or recovery therefrom, childbirth or related medical conditions, sex stereotyping, and gender identity.

Qualified bilingual/multilingual staff means a member of a facility’s workforce who is designated by the facility to provide oral language assistance as part of the individual’s current, assigned job responsibilities and who has demonstrated to the facility that he or she:

1. 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
2. Is able to effectively, accurately, and impartially communicate directly with individuals with limited English proficiency in their primary languages.

Qualified individual with a disability means, with respect to a health program or activity, an individual with a disability who, with or without reasonable modifications to policies, practices, or procedures, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of aids, benefits, or services offered or provided by the health program or activity.

Qualified interpreter for an individual with a disability.

1. A qualified interpreter for an individual with a disability means an interpreter who via a remote interpreting

service or an onsite appearance:

- i. Adheres to generally accepted interpreter ethics principles, including client confidentiality; and
 - ii. is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, terminology and phraseology.
2. For an individual with a disability, qualified interpreters can include, for example, sign language interpreters, oral transliterators (individuals who represent or spell in the characters of another alphabet), and cued language transliterators (individuals who represent or spell by using a small number of handshapes).

Qualified interpreter for an individual with limited English proficiency means an interpreter who via a remote interpreting service or an on-site appearance:

1. Adheres to generally accepted interpreter ethics principles, including client confidentiality;
2. has demonstrated proficiency in speaking and understanding both spoken English and at least one other spoken language; and
3. is able to interpret effectively, accurately, and impartially, both receptively and expressly, to and from such language(s) and English, using any necessary specialized vocabulary, terminology and phraseology.

Qualified translator means a translator who:

1. Adheres to generally accepted translator ethics principles, including client confidentiality;
2. has demonstrated proficiency in writing and understanding both written English and at least one other written non-English language; and
3. is able to translate effectively, accurately, and impartially to and from such language(s) and English, using any necessary specialized vocabulary, terminology and phraseology.

Recipient means any State or its political subdivision, or any instrumentality of a State or its political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, to whom Federal financial assistance is extended directly or through another recipient and which operates a health program or activity, including any subunit, successor, assignee, or transferee of a recipient.

Sex stereotypes means stereotypical notions of masculinity or femininity, including expectations of how individuals represent or communicate their gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms, or body characteristics. These stereotypes can include the expectation that individuals will consistently identify with only one gender and that they will act in conformity with the gender-related expressions stereotypically associated with that gender. Sex stereotypes also include gendered expectations related to the appropriate roles of a certain sex.

Taglines mean short statements written in non-English languages that indicate the availability of language assistance services free of charge.

Policy Statement:

All patients seeking treatment at an SCA facility are to be treated with respect and dignity. Patients will not be denied treatment and other services and benefits offered by the facility based on race, color national origin, creed/religion, sex, gender identity, age, or disability. Any treatment determinations based on a person's physical status or diagnosis will be made on the basis of medical evidence and treatment capability and not on the basis of fear or prejudice. Services will be furnished based on the medical necessity and appropriateness of the admission or service as well as applicable requirements of federal and state law and regulations regarding the types of treatment that may appropriately be furnished at a particular facility.

The Administrator of each SCA facility is responsible for ensuring the non-discriminatory treatment of patients. The Grievance Procedure will be used for complaints of discrimination. The procedure and timeframes for resolution of grievances and complaints are described in the Grievance Procedure below. In addition, as stated in the Notice of Patient Rights and Responsibilities, an individual who files a complaint may pursue other remedies including filing a complaint with the Office for Civil Rights in the Department of Health and Human Services, which has federal responsibility for investigating discrimination complaints.

A) Designation of Responsible Teammate

Each facility shall designate at least one teammate to coordinate its efforts to comply with and carry out its responsibilities under this policy, including the investigation of any grievance communicated to the facility alleging noncompliance with this policy or alleging any action that would be prohibited by this policy. The responsible teammate can be referenced using various terms, including: Civil Rights Coordinator, Section 504 Coordinator, or Section 1557 Coordinator.

B) Adoption of Grievance Procedures

Each facility shall adopt grievance procedures that incorporate appropriate due process standards and that

provide for the prompt and equitable resolution of grievances alleging any action that would be prohibited by this policy.

C) Nondiscrimination Provisions

Patients will not be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in the provision of any services provided by affiliates of SCA on the basis of race, color, national origin, sex, gender identity, age, or disability.

D) Specific Application of Nondiscrimination Provisions

1. Meaningful access for individuals with limited English proficiency.

- a. **General requirement.** A facility shall take reasonable steps to provide meaningful access to each individual with limited English proficiency (“LEP”) eligible to be served or likely to be encountered in its health programs and activities.
- b. **Language assistance services requirements.** Language assistance services required under paragraph (a) of this section must be provided free of charge, be accurate and timely, and protect the privacy and independence of the individual with limited English proficiency.
- c. **Specific requirements for interpreter and translation services.** Subject to paragraph (a) of this section: (1) A facility shall offer a qualified interpreter to an individual with limited English proficiency when oral interpretation is a reasonable step to provide meaningful access for that individual with limited English proficiency; and (2) A facility shall use a qualified translator when translating written content in paper or electronic form.
- d. **Restricted use of certain persons to interpret or facilitate communication.** A facility shall not:
 1. Require an individual with limited English proficiency to provide his or her own interpreter;
 2. Rely on an adult accompanying an individual with limited English proficiency to interpret or facilitate communication, except:
 - i. In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter for the individual with limited English proficiency immediately available; or
 - ii. Where the individual with limited English proficiency specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances;
 3. Rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter for the individual with limited English proficiency immediately available; or
 4. Rely on staff other than qualified bilingual/multilingual staff to communicate directly with individuals with limited English proficiency.
- e. **Video remote interpreting services.** A facility that provides a qualified interpreter for an individual with limited English proficiency through video remote interpreting services in the facility’s health programs and activities shall provide:
 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 and the participating individual’s face regardless of the individual’s body position;
 3. A clear, audible transmission of voices; and
 4. Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the video remote interpreting.
- f. **Acceptance of language assistance services is not required.** Nothing in this section shall be construed to require an individual with limited English proficiency to accept language assistance services.

2. Effective communication for individuals with disabilities.

- a. A facility shall take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others in health programs and activities, in accordance with the standards found at 28 CFR 35.160 through 35.164. Where the regulatory provisions referenced in this section use the term “public entity,” the term “facility” shall apply in its place.

- b. A facility shall provide appropriate auxiliary aids and services to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service in question.

3. Accessibility standards for buildings and facilities.

- a. Each facility or part of a facility that is constructed or altered by or on behalf of, or for the use of, the facility shall comply with the 2010 ADA Standards for Accessible Design, if the construction or alteration was commenced on or after July 18, 2016, except that if a facility or part of a facility in which services are provided that is constructed or altered by or on behalf of, or for the use of, the facility was not covered by the 2010 Standards prior to July 18, 2016, such facility or part of a facility shall comply with the 2010 Standards if the construction was commenced after January 18, 2018. Departures from particular technical and scoping requirements by the use of other methods are permitted where substantially equivalent or greater access to and usability of the facility is provided. All newly constructed or altered buildings or facilities subject to this section shall comply with the requirements for a "public building or facility" as defined in Section 106.5 of the 2010 Standards.
- b. Each facility or part of a facility in which services are provided that is constructed or altered by or on behalf of, or for the use of, the facility in conformance with the 1991 Standards or the 2010 Standards shall be deemed to comply with the requirements of this section and with 45 CFR 84.23 (a) and (b), cross-referenced in § 92.101(b)(2)(i) with respect to those facilities, if the construction or alteration was commenced on or before July 18, 2016. Each facility or part of a facility in which services are provided that is constructed or altered by or on behalf of, or for the use of, the facility in conformance with the Uniform Federal Accessibility Standards shall be deemed to comply with the requirements of this section and with 45 CFR 84.23(a) and (b), cross-referenced in § 92.101(b)(2)(i) with respect to those facilities, if the construction was commenced before July 18, 2016 and such facility was not covered by the 1991 Standards or 2010 Standards.

4. Accessibility of electronic and information technology.

- a. Facilities shall ensure that their services provided through electronic and information technology are accessible to individuals with disabilities, unless doing so would result in undue financial and administrative burdens or a fundamental alteration in the nature of the services. When undue financial and administrative burdens or a fundamental alteration exist, the facility shall provide information in a format other than an electronic format that would not result in such undue financial and administrative burdens or a fundamental alteration but would ensure, to the maximum extent possible, that individuals with disabilities receive the benefits or services of the health program or activity that are provided through electronic and information technology. This requirement includes activities such as an online appointment system and electronic billing.
- b. Facilities shall ensure that their health programs and activities provided through Web sites comply with the requirements of Title II of the ADA (in essence, 28 CFR 35.160 through 35.164).

5. Requirement to make reasonable modifications.

A facility shall make reasonable modifications to policies, practices, or procedures when such modifications are necessary to avoid discrimination on the basis of disability, unless the facility can demonstrate that making the modifications would fundamentally alter the nature of the health program or activity.

6. Equal program access on the basis of sex.

A facility shall provide individuals equal access to its services without discrimination on the basis of sex; and a facility shall treat individuals consistent with their gender identity, except that a facility may not deny or limit health services that are ordinarily or exclusively available to individuals of one sex, to a transgender individual based on the fact that the individual's sex assigned at birth, gender identity, or gender otherwise recorded is different from the one to which such health services are ordinarily or exclusively available.

7. Nondiscrimination on the basis of association.

A facility shall not exclude from participation in, deny the benefits of, or otherwise discriminate against an individual or entity in its health programs or activities on the basis of the race, color, national origin, sex, gender identity, age, or disability of an individual with whom the individual or entity is known or believed to have a relationship or association.

E) Notice requirements

- a. Each facility shall take appropriate initial and continuing steps to notify patients and members of the public

of the following:

1. The facility does not discriminate on the basis of race, color, national origin, sex, gender identity, age, or disability in its health programs and activities;
 2. The facility provides appropriate auxiliary aids and services, including qualified interpreters for individuals with disabilities and information in alternate formats, free of charge and in a timely manner, when such aids and services are necessary to ensure an equal opportunity to participate to individuals with disabilities;
 3. The facility provides language assistance services, including translated documents and oral interpretation, free of charge and in a timely manner, when such services are necessary to provide meaningful access to individuals with limited English proficiency;
 4. How to obtain the aids and services in paragraphs (a)(2) and (3) of this section;
 5. An identification of, and contact information for, the facility's Civil Rights Coordinator, if applicable;
 6. The availability of the grievance procedure and how to file a grievance, if applicable; and
 7. How to file a discrimination complaint with OCR in the Department.
- b. Within 90 days of the effective date of this part, each facility shall:
1. As described in paragraph (f)(1) of this section, post a notice that conveys the information in paragraphs (a)(1) through (7) of this section (see Attachment A); and
 2. As described in paragraph (g)(1) of this section, if applicable, post a nondiscrimination statement (see Attachment A) that conveys the information in paragraph (a)(1) of this section.
- c. For use by covered entities, the Director shall make available, electronically and in any other manner that the Director determines appropriate, the content of a sample notice that conveys the information in paragraphs (a)(1) through (7) of this section, and the content of a sample nondiscrimination statement that conveys the information in paragraph (a)(1) of this section, in English and in the languages triggered by the obligation in paragraph (d)(1) of this section (translated resources are available from <http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/>).
- d. Each facility shall:
1. As described in paragraph (f)(1) of this section, post taglines in at least the top 15 languages spoken by individuals with limited English proficiency of the relevant State or States; and
 2. As described in paragraph (g)(2) of this section, if applicable, post taglines in at least the top two languages spoken by individuals with limited English proficiency of the relevant State or States. Translated resources are available from <http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/>).
- e. For use by covered entities, the Director shall make available, electronically and in any other manner that the Director determines appropriate, taglines in the languages triggered by the obligation in paragraph (d)(1) of this section.
- f.
1. Each facility shall post the notice required by paragraph (a) of this section and the taglines required by paragraph (d)(1) of this section in a conspicuously-visible font size:
 - i. In significant publications and significant communications targeted to beneficiaries, enrollees, applicants, and members of the public, except for significant publications and significant communications that are small-sized, such as postcards and tri-fold brochures;
 - ii. In conspicuous physical locations where the entity interacts with the public; and
 - iii. In a conspicuous location on the facility's Web site accessible from the home page of the facility's Web site.
 2. A facility may also post the notice and taglines in additional publications and communications.
 3. Each facility shall include the notice required by paragraph (a) and the taglines required by paragraph (d)(1) in this section in patient registration documents upon admission.
 - i. Facility will obtain attestation from each patient at admission for receiving the notice required by paragraph (a) and the taglines required by paragraph (d)(1) in this section.
- g. Each facility shall post, in a conspicuously-visible font size, in significant publications and significant communications that are small-sized, such as postcards and tri-fold brochures:
1. The nondiscrimination statement required by paragraph (b)(2) of this section; and
 2. The taglines required by paragraph (d)(2) of this section.
- h. A facility may combine the content of the notice required in paragraph (a) of this section with the content of other notices if the combined notice clearly informs individuals of their civil rights under Section 1557 and this part.

IMPORTANT NOTE: Facilities are responsible for ascertaining whether any state-specific notifications are required to be made to patients or to any state agencies or government units. If such notifications are required, facilities are responsible for obtaining contact information for the respective state agency or government unit.

Procedure Steps:

A) Designation of Responsible Teammate

The Facility Administrator will be the Civil Rights Coordinator unless they have designated in writing that another facility leader will serve as the Coordinator.

B) Grievance Procedures

1. Patients who wish to file a complaint or grievance against SCA for violation of this policy must be given a copy of the **Statement of Non-Discrimination and How to File a Grievance (Attachment B)**. This explains the process for filing a written complaint or grievance with SCA or directly to the Office for Civil Rights.
2. Grievances must be submitted to the Civil Rights Coordinator within **60 days** of the date the person filing the grievance becomes aware of the alleged discriminatory action.
3. A complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
4. The Civil Rights Coordinator (or her/his designee) shall conduct an investigation of the complaint. This investigation may be informal, but it will be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Civil Rights Coordinator will maintain the files and records of the facility Civil Rights Coordinator will take appropriate steps to preserve the confidentiality of files and records relating to grievances and will share them only with those who have a need to know.
5. The Civil Rights Coordinator will issue a written decision on the grievance, based on a preponderance of the evidence, no later than **30 days** after its filing, including a notice to the complainant of their right to pursue further administrative or legal remedies.
6. The person filing the grievance may appeal the decision of the Civil Rights Coordinator by writing to the facility Governing Board within 15 days of receiving the Civil Rights Coordinator's decision. The Governing Board shall issue a written decision in response to the appeal no later than 30 days after its filing.

The availability and use of this grievance procedure does not prevent a person from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, sex, gender identity, age or disability in court or with the U.S. Department of Health and Human Services, Office for Civil Rights. A person can file a complaint of discrimination electronically through the Office for Civil Rights Complaint Portal, which is available at: <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>, or by mail or phone at:

**U.S. Department of Health and Human Services,
200 Independence Avenue SW., Room 509F, HHH Building,
Washington, DC 20201.**

All written complaints or grievances relating to alleged discrimination under this policy must be forwarded within thirty (30) days of the incident to:

**Surgical Care Affiliates (SCA)
Attn: Legal Services Department - Grievance Review
569 Brookwood Village Suite 901
Birmingham, AL 35209**

The Legal Services Department will review the grievance and will review the written response to the complainant. The response must include a description of the steps taken to investigate the grievance and the findings of the review.

When appropriate, the Legal Services Department will require the completion of a corrective action plan by the facility. Corrective action may include, but is not limited to, reasonable modifications in policies, practices or procedures when necessary to ensure appropriate access to items, services or accommodations in accordance with federal law.

C) Nondiscrimination Provisions

The facility will ensure that all patients or their personal representatives receive the **Notice of Patient Rights and Responsibilities**. This informs patients they have a right to, among other things:

- Access to treatment without regard to race, ethnicity, national origin, color, creed/religion, sex, gender

identity, age, mental disability, or physical disability. Any treatment determinations based on a person's physical status or diagnosis will be made on the basis of medical evidence and treatment capability.

- Expect the facility to establish a process for prompt resolution of patients' grievances and to inform each patient whom to contact to file a grievance. Grievances/ complaints and suggestions regarding treatment or care that is (or fails to be) furnished may be expressed at any time.
- Exercise your rights without being subjected to discrimination or reprisal.

D) Specific Application of Nondiscrimination Provisions

1) Notice of Anti-discrimination Procedures:

Facilities will create the Anti-discrimination document through SmartWorks to be posted on the facility website, in the facility's physical location, and in large significant communications and publications, including patient registration. Facilities will follow the steps below to create the Anti-discrimination document in SmartWorks:

1. Login to SmartWorks at <https://login6.smartworks.com>
2. Search and then select "ADP-1117-ENG"
3. Select "Add Detail Set"
4. Enter in applicable facility specific information
5. Select "View Proof" (pop ups should be enabled)
6. Once proof is reviewed for accuracy, right click and Save As a PDF
7. Approve the proof and order poster for facility

Facility will use the PDF version of the Anti-discrimination document to post on their facility website as well as to print and give to patients at patient registration. Once the poster is received, the facility will post the poster in a physical location where the entity interacts with the public (i.e. patient waiting area).

If the facility chooses to use their own vendor to create the Anti-discrimination notice, it must include all notice requirements listed in section (E) and must submit the notice to Regulatory Compliance for approval prior to publication and distribution.

2) Limited English Proficiency Procedures:

For SCA facilities the general guidelines below will be followed. In order to better determine a language someone is speaking, you may use **Attachment C** (See the **Attachments/Links** tab) of this policy to provide to the patient. **Attachment C** is from the Department of Commerce, Bureau of the Census. It is an "I Speak" Language Identification Flashcard and is written in 38 languages which can be used to identify the language spoken by an individual accessing services provided by federally assisted programs or activities.

Facilities will create the Limited English Proficiency document through SmartWorks to be posted on the facility website, in the facility's physical location, and in large and small significant communications and publications, including patient registration. Facility will follow the steps below to create the LEP document in SmartWorks:

1. Login to SmartWorks at <https://login6.smartworks.com>
2. Search and then select "LEP-1117"
3. Select "Add Detail Set"
4. Enter in applicable facility specific information
 - i. Text-telephone (TTY) number will be "711" if language vendor does not offer text telephone services
5. Select "View Proof" (pop ups should be enabled)
6. Once proof is reviewed for accuracy, right click and Save As a PDF
7. Approve proof and order poster for facility

Facility will use the PDF version of the LEP document to post on their facility website as well as to print and give to patients at patient registration. Once the poster is received, the facility will post the poster in a physical location where the entity interacts with the public (i.e. patient waiting area).

If the facility chooses to use their own vendor to create the Limited English Proficiency document, the facility must submit the document to Regulatory Compliance for approval prior to publication and distribution.

Oral Interpretation

SCA will provide oral interpretation for treatment purposes. The Company has access, through its GPO, to a contract with Language Services Associates (LSA) to provide these services to facilities. Facilities must enroll in order to obtain services at the contracted pricing. To enroll, a facility must contact the SCO HelpDesk (1.866.643.0758 or scohelp@scasurgery.com) and the SCA Contract Specialist will sign off on the GPO designation form and connect the facility to contract # SV0920. The attached Client Agreement Letter will provide the pricing terms for the facility's records. It does not need to be completed. Additionally, state relay services can

help facilities to provide communication access to telephone service for people who are deaf, deaf-blind, hard of hearing and speech disabled. These services allow hearing callers to communicate with text-telephone (TTY) users and vice versa through specially trained relay operators. Telecommunications Relay Services permit persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device to call persons with or without such disabilities.

To make using TRS as simple as possible, you can simply dial 711 to be automatically connected to a TRS operator. By dialing 711, both voice and TRS users can initiate a call from any telephone, anywhere in the United States.

Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and after an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the persons file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest should be considered. If the SCA teammate reasonably believes that the family member or friend is not competent or appropriate for any of these reasons, an alternate interpreter service should be provided to the LEP person.

Other patients will not be used to interpret, in order to ensure confidentiality of information and accurate communication.

Contracted Oral Interpretation Services and HIPAA: A facility is not required to obtain an individual's authorization to use or disclose protected health information (PHI) to contracted interpreting service providers. However, if a facility has a contractual relationship with an interpreting service provider other than Language Services Associates, a Business Associate Agreement (BAA) must be obtained.

Written Materials

SCA facilities have an obligation to provide translation of written materials for LEP patients.

The translation language is: "You may request oral translation of the written materials that SCA is providing to you. This will be provided at no cost to you."

If a facility needs additional languages translated for the notice of patient rights', it can contact the SCO HelpDesk for assistance.

If a facility has any LEP language group that is 5% of admissions (applies to both inpatient and outpatient settings) or 1000 patients (whichever is less) eligible to be served or likely to be affected or encountered, then the facility should contact the SCO HelpDesk for assistance in obtaining vital document translations.

3) Sensory Impairment Procedures

FOR PERSONS WHO ARE DEAF AND HARD OF HEARING:

Each facility will offer alternatives to interpreters as long as the result is effective communication. Any alternative should be discussed with hearing impaired patients, especially those unaware that alternatives are permissible under the law. Acceptable alternatives may include note taking, written materials, lip reading, and electronic mail.

In the event that the person requests an interpreter or that the facility determines that the information should be given by another party, then the following alternatives are available depending upon the person's situation. Some persons who are deaf and hard of hearing may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the person who is deaf and hard of hearing will not be used as interpreters unless specifically requested by that individual and after an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the persons file. If the person who is deaf and hard of hearing chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest should be considered. If the SCA teammate reasonably believes that the family member or friend is not competent or appropriate for any of these reasons, an alternate interpreter service (a or b below) should be provided to the person who is deaf and hard of hearing.

Other patients will not be used to interpret, in order to ensure confidentiality of information and accurate communication.

- a. *Sign-language interpreter:* If a facility is unaware of a local sign-language interpreter, contact the Registry of Interpreters for the Deaf <https://myaccount.rid.org/Public/Search/Interpreter.aspx>.
- b. *Telecommunications device for the deaf (TDD):* Each facility will produce written documentation indicating where the TDD is located, how to operate it, and the telephone number. If a facility does not have a TDD device, the facility can dial 711 to contact a Telecommunications Relay Service.

Depending upon the facility's technological equipment, the facility may choose to offer voice-to-text or video relay/remote interpretation.

FOR PERSONS WITH VISUAL IMPAIRMENTS:

For persons with visual impairments, the facility will provide a reader, who may be a member of the staff, who will read out loud to the patient the content of any written material concerning benefits, services, waivers of rights, and consent to treat forms. When a reader is provided the facility should have a witness to the reading of the documents and make a notation in the patient medical record regarding the materials that were read and witnessed.

OR

The facility may also provide large print, taped and Braille materials. The facility must also have written documentation as to what aids are available, where they are located, and how they are used.

FOR PERSONS WITH SPEECH IMPAIRMENTS:

The facility may use a combination of the methods above depending on the level and type of impairment. In any case, the facility should have written documentation indicating what written materials, typewriters, TDD and computers are available to facilitate communication with speech impaired persons.

4) Cognitive Disorder Procedures:

For persons with cognitive disorders, including learning disabilities, a facility will need to utilize various avenues, which would depend on the type and severity of the patient's disorder, to determine the manner in which to best communicate with the patient.

Examples of access features for individuals with cognitive disorders may include:

- Provision of reading services and/or verbal service descriptions, upon request.
- Depending upon the facility's technological equipment, the facility may offer voice-to-text or video relay/remote interpretation. The facility contacting a disability service organization such as local affiliates of The ARC of the US, United Cerebral Palsy, Easter Seals, National Association for Mental Illness, etc. that better understand individuals with disabilities' customer service needs and issues.

TRAINING/EDUCATION:

The Civil Rights Coordinators are responsible for ensuring that all teammates and applicable business associates are familiar with this policy.

Enforcement:

Any teammate found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

Business associates found to have violated this policy may be subject to financial penalties, up to and including termination of contract.

These policies, procedures, and forms are compiled based on both legal and regulatory requirements as well as industry standard best practices. Persons are expected to use established practices and sound judgment in making decisions.

SCA policies and procedures are confidential proprietary information that should not be disclosed to individuals outside SCA. All confidential or proprietary information should be protected against theft, loss, and unauthorized disclosure.

Review and Update:

This policy is to be reviewed annually to determine if the policy complies with current regulations and SCA practices. In the event that significant related changes occur, the policy will be reviewed and updated as needed.

Referenced Documentation:

References used within this document that also reside in policyIQ are located and can be accessed via the

"Attachments/Links" tab.

Contact Information:

If you have questions or concerns regarding this policy, please click on "Approval Details" (on the top right) and email the "Approved By" person. Include the policy name and number in your email. If you cannot reach the policy approver or if you need further assistance, please email regcomp@scasurgery.com.

Reviews and Approvals Prior to MCN:

Reviewed by	Date
C. Scott Thompson	07/08/2009
C. Scott Thompson	12/20/2010
C. Scott Thompson	01/09/2013
C. Scott Thompson	03/19/2014
C. Scott Thompson	04/15/2015
Michelle George	01/18/2016; 02/12/18
Michelle George, Scott Thompson	10/19/2016
Approved by	Date
Compliance Committee of SCA Board of Directors	February 2009
P&P Task Force	July 2009
Policy Advisory Review Committee (PARC)	November 2016