

Rural Health Clinic Technical Assistance Webinar

This webinar is brought to you by the National Association of Rural Health Clinics and is supported by cooperative agreement 1UG6RH28684 from the Federal Office of Rural Health Policy, Health Resources and Services Administration (HRSA). It is intended to serve as a technical assistance resource based on the experience and expertise of independent consultants and guest speakers.

The contents of this webinar are solely the responsibility of the authors and do not necessarily represent the official views of HRSA.



Emergency Preparedness and Nondiscrimination Rules

Nathan Baugh
Director, Government Relations
(202) 544-1880
Baughn@capitolassociates.com
www.narhc.org

New Regulations Emergency Preparedness

§491.6(c) Emergency procedures.

The clinic assures the safety of patients in case of non-medical emergencies by:

- (1) Training staff in handling emergencies.
- (2) Placing exit signs in appropriate locations
- (3) Taking other appropriate measures that are consistent with the particular conditions of the area in which the clinic is located.



Old

New



§ 491.12 Emergency preparedness.

The Rural Health Clinic/Federally Qualified Health Center (RHC/FQHC) must comply with all applicable Federal, [State](#), and local emergency preparedness requirements. The RHC/FQHC must establish and maintain an emergency preparedness program that meets the requirements of this section. The emergency preparedness program must include, but not be limited to, the following elements:

(a) Emergency plan. The RHC/FQHC must develop and maintain an emergency preparedness plan that must be reviewed and updated at least annually. The plan must do all of the following:

- (1) Be based on and include a documented, facility-based and community-based risk assessment, utilizing an all-hazards approach.
 - (2) Include strategies for addressing emergency events identified by the risk assessment.
 - (3) Address [patient](#) population, including, but not limited to, the type of services the RHC/FQHC has the ability to provide in an emergency; and continuity of operations, including delegations of authority and succession plans.
 - (4) Include a process for cooperation and collaboration with local, tribal, regional, [State](#), and Federal emergency preparedness officials' efforts to maintain an integrated response during a disaster or emergency situation, including documentation of the RHC/FQHC's efforts to contact such officials and, when applicable, of its participation in collaborative and cooperative planning efforts.
- (b) Policies and procedures.** The RHC/FQHC must develop and implement emergency preparedness policies and procedures, based on the emergency plan set forth in [paragraph \(a\)](#) of this section, risk assessment at [paragraph \(a\)\(1\)](#) of this section, and the communication plan at [paragraph \(c\)](#) of this section. The policies and procedures must be reviewed and updated at least annually. At a minimum, the policies and procedures must address the following:
- (1) Safe evacuation from the RHC/FQHC, which includes appropriate placement of exit signs; staff responsibilities and needs of the patients.
 - (2) A means to shelter in place for patients, staff, and volunteers who remain in the facility.
 - (3) A system of medical documentation that preserves [patient](#) information, protects confidentiality of [patient](#) information, and secures and maintains the availability of records.
 - (4) The use of volunteers in an emergency or other emergency staffing strategies, including the process and role for integration of [State](#) and Federally designated health care professionals to address surge needs during an emergency.

(c) Communication plan. The RHC/FQHC must develop and maintain an emergency preparedness communication plan that complies with Federal, [State](#), and local laws and must be reviewed and updated at least annually. The communication plan must include all of the following:

- (1) Names and contact information for the following:
 - (i) Staff.
 - (ii) Entities providing services under arrangement.
 - (iii) Patients' physicians.
 - (iv) Other [RHCs](#)/[FQHCs](#).
 - (v) Volunteers.
 - (2) Contact information for the following:
 - (i) Federal, [State](#), tribal, regional, and local emergency preparedness staff.
 - (ii) Other sources of assistance.
 - (3) Primary and alternate means for communicating with the following:
 - (i) RHC/FQHC's staff.
 - (ii) Federal, [State](#), tribal, regional, and local emergency management agencies.
 - (4) A means of providing information about the general condition and location of [patients](#) under the facility's care as permitted under [45 CFR 164.510\(b\)\(4\)](#).
 - (5) A means of providing information about the RHC/FQHC's needs, and its ability to provide assistance, to the authority having jurisdiction or the Incident Command Center, or designee.
- (d) Training and testing.** The RHC/FQHC must develop and maintain an emergency preparedness training and testing program that is based on the emergency plan set forth in [paragraph \(a\)](#) of this section, risk assessment at [paragraph \(a\)\(1\)](#) of this section, policies and procedures at [paragraph \(b\)](#) of this section, and the communication plan at [paragraph \(c\)](#) of this section. The training and testing program must be reviewed and updated at least annually.

(1) Training program. The RHC/FQHC must do all of the following:

- (i) Initial training in emergency preparedness policies and procedures to all new and existing staff, individuals providing services under arrangement, and volunteers, consistent with their expected roles.
- (ii) Provide emergency preparedness training at least annually.
- (iii) Maintain documentation of the training.
- (iv) Demonstrate staff knowledge of emergency procedures.

(2) Testing. The RHC/FQHC must conduct exercises to test the emergency plan at least annually. The RHC/FQHC must do the following:

- (i) Participate in a full-scale exercise that is community-based or when a community-based exercise is not accessible, an individual, facility-based. If the RHC/FQHC experiences an actual natural or man-made emergency that requires activation of the emergency plan, the RHC/FQHC is exempt from engaging in a community-based or individual, facility-based full-scale exercise for 1 year following the onset of the actual event.
- (ii) Conduct an additional exercise that may include, but is not limited to following:
 - (A) A second full-scale exercise that is community-based or individual, facility-based.
 - (B) A tabletop exercise that includes a group discussion led by a facilitator, using a narrated, clinically-relevant emergency scenario, and a set of problem statements, directed messages, or prepared questions designed to challenge an emergency plan.
- (iii) Analyze the RHC/FQHC's response to and maintain documentation of all drills, tabletop exercises, and emergency events, and revise the RHC/FQHC's emergency plan, as needed.

(e) Integrated healthcare systems. If a RHC/FQHC is part of a healthcare system consisting of multiple separately certified healthcare facilities that elects to have a unified and integrated emergency preparedness program, the RHC/FQHC may choose to participate in the healthcare system's coordinated emergency preparedness program. If elected, the unified and integrated emergency preparedness program must do all of the following:

- (1) Demonstrate that each separately certified facility within the system actively participated in the development of the unified and integrated emergency preparedness program.
- (2) Be developed and maintained in a manner that takes into account each separately certified facility's unique circumstances, [patient](#) populations, and services offered.
- (3) Demonstrate that each separately certified facility is capable of actively using the unified and integrated emergency preparedness program and is in compliance with the program.
- (4) Include a unified and integrated emergency plan that meets the requirements of paragraphs (a)(2), (3), and (4) of this section. The unified and integrated emergency plan must also be based on and include all of the following:

- (i) A documented community-based risk assessment, utilizing an all-hazards approach.
- (ii) A documented individual facility-based risk assessment for each separately certified facility within the health system, utilizing an all-hazards approach.

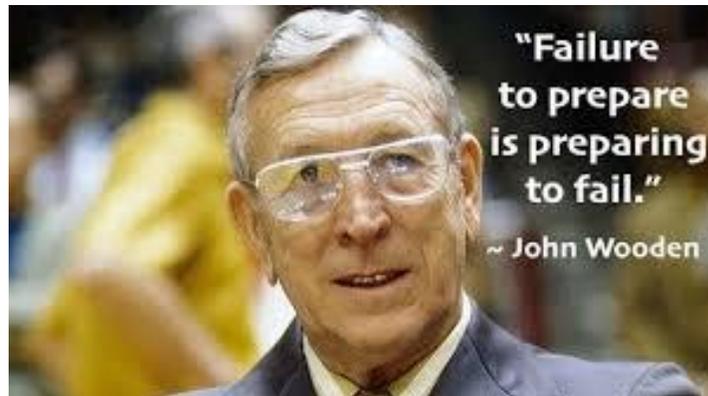
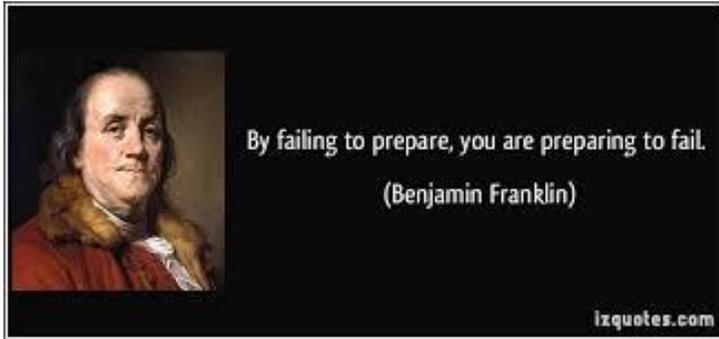
- (5) Include integrated policies and procedures that meet the requirements set forth in [paragraph \(b\)](#) of this section, a coordinated communication plan, and training and testing programs that meet the requirements of paragraphs (c) and (d) of this section, respectively.

Emergency Preparedness



- Implementation Date Nov. 15th 2017
- Old Regime:
 - Training staff in handling emergencies
 - Placing exit signs in appropriate locations
 - Taking other appropriate measures consistent with conditions of the area where the clinic is located
- New regime is much more detailed and can be found in the CFR: **§491.12**

§491.12 (a) - Emergency Preparedness Plan



- Emergency Preparedness Plan must be created and updated every year
- CMS gives some RHCs some leeway
 - Must have a strategy to address the various emergency events the clinic is at risk for
 - Must analyze RHC capability during and after emergency including delegations of authority and succession plans
 - Must include a process to cooperate with the broader community on emergency preparedness

§491.12 (b) Policies and Procedures

- Policies and Procedures must be reviewed and updated annually
- Policy on evacuation w/ exit signs and staff responsibility
- A means to shelter in place
- A system of medical documentation that preserves patient info
- How the RHC might use volunteers to address surge needs during an emergency

§491.12 (c) Communication Plan

- Communication plan must be updated annually
- Include contact info for:
 - Staff, contractors, patients' physicians, other RHCs/FQHCs, volunteers as well as all government emergency preparedness staff
- Must have primary and alternate means of communication with RHC staff and governmental agencies
- A way to provide info about the condition of RHC and location of patients (example where they shelter in place)
- A way to communicate to authorities about the ability of the RHC to provide assistance

§491.12 (d) Training and Testing

- RHC must train all staff and contractors consistent with their expected roles
- One documented training a year for all staff and staff must demonstrate understanding of the emergency procedures
- RHC must participate in 1 full scale community-based exercise annually (check your state HHS website for more info)
- Additionally there must be a 2nd full scale exercise or tabletop exercise
- RHCs must document these drills and analyze their performance

- CMS is working on providing training resources for providers and surveyors
- Two drills/exercises must be performed before Nov. 15

§491.12 (e) Integrated Healthcare Systems



- If you are part of a larger healthcare system you can elect to participate in the system's coordinated emergency preparedness program instead if it does the following:
 - Demonstrate that each separate facility actively participated in the program
 - Plan must be developed in a manner that takes into account each facilities unique circumstances
 - Each separate facility must be in compliance

Emergency Preparedness Links/More Information

- ▶ SCGEmergencyPrep@cms.hhs.gov
- ▶ <https://www.cms.gov/medicare/provider-enrollment-and-certification/surveycertemergprep/emergency-prep-rule.html>
 - ▶ Above link has several useful FAQs as well as links to the state Healthcare Coalitions
- ▶ <https://asprtracie.hhs.gov/cmsrule>
 - ▶ ASPR TRACIE also has a lot of resources for healthcare providers.
 - ▶ Assistant Secretary for Preparedness and Response (ASPR) Technical Resources, Assistance Center, and Information Exchange (TRACIE)

Nondiscrimination Requirements

- RHCs must not discriminate on the basis of race, color, national origin, sex, age, or disability and activities
- RHC must provide aids and services free of charge including qualified interpreters for individuals with disabilities (Example: Sign language)
- RHC must provide language assistance services free of charge
- Covered entity with more than 15 employees must designate at least one employee responsible for nondiscrimination policies
- Covered entity with more than 15 employees must adopt grievance procedures that provide for prompt resolution of section 1557 violations
- RHCs must have in multiple languages a notice informing the individual of the nondiscrimination rule including how to file a complaint (example notices available in all languages online)
- <https://www.hhs.gov/civil-rights/for-individuals/section-1557/>
- <https://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/index.html>

Nondiscrimination Taglines

- ▶ The following phrase must be posted in all “significant communications” that are not “small sized”
 - ▶ Language assistance services are available free of charge
 - ▶ ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1-xxx-xxx-xxxx (TTY: 1-xxx-xxx-xxxx).
 - ▶ 注意：如果您使用繁體中文，您可以免費獲得語言援助服務。請致電 1-xxx-xxx-xxxx (TTY : 1- xxx-xxx-xxxx) 。
 - ▶ ВНИМАНИЕ: Если вы говорите на русском языке, то вам доступны бесплатные услуги перевода. Звоните 1-xxx-xxx-xxxx (телетайп: 1-xxx-xxx-xxxx).
 - ▶ ATTENTION : Si vous parlez français, des services d'aide linguistique vous sont proposés gratuitement. Appelez le 1-xxx-xxx-xxxx (ATS : 1-xxx-xxx-xxxx).
 - ▶ ملحوظة: إذا كنت تتحدث اذكر اللغة، فإن خدمات المساعدة اللغوية تتوافر لك بالمجان. اتصل بالكم الصم ه: 1-xxx-xxx-xxxx رقم (). (xxx-xxx-xxx رقم 1-

Nondiscrimination Top 15 languages rules

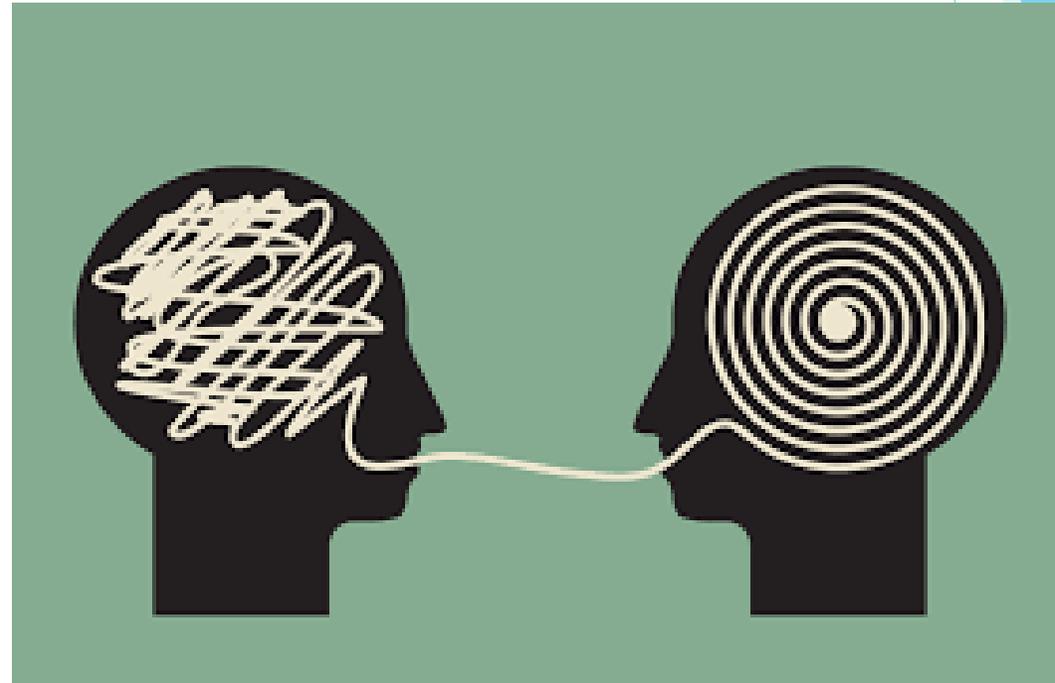
- In significant publications/communications to beneficiaries, enrollees, applicants, and the public. Exception for significant communications that are small-sized...Ex: postcard
- In conspicuous physical locations where there is public interaction
- On your web site accessible from the home page
- FROM CMS: “Covered entities are in the best position to determine, within reason, which of their communications and publications are significant in the context of their own health programs and activities.”

Top 15 Foreign Languages in Iowa (Example)

▶ Spanish	49,357
▶ Chinese	6,025
▶ Vietnamese	4,552
▶ IA Serbo-Croatian*	3,795
▶ German	2,624
▶ Arabic	2,213
▶ Laotian	1,997
▶ Korean	1,950
▶ Hindi	1,078
▶ French	937
▶ Pennsylvanian Dutch*	875
▶ Thai	872
▶ Tagalog	789
▶ Karen*	780
▶ Russian	614

Nondiscrimination Top 2 language rules

- Entities must post both the nondiscrimination statement and taglines in these languages
- Entities shall post in conspicuously-visible font size, in significant publications and communications, even small-sized communications such as postcards and tri-fold brochures.



Nondiscrimination Statement

- [Name of covered entity] complies with applicable Federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, or sex.



©DESIGNABLE ENVIRONMENTS INC.

Nondiscrimination FAQ

- ▶ <https://www.hhs.gov/civil-rights/for-individuals/section-1557/1557faqs/index.html>
- ▶ **What are some examples of documents that are not considered significant publications or communications?**
- ▶ The following are not significant publications and significant communications under Section 1557:
 - ▶ Radio or television ads;
 - ▶ Identification cards (used to access benefits or services);
 - ▶ Appointment cards;
 - ▶ Business cards;
 - ▶ Banners and banner-like ads;
 - ▶ Envelopes; or
 - ▶ Outdoor advertising, such as billboard ads.

Nondiscrimination FAQ

▶ **What are publications and communications that are small-sized?**

Examples of documents that are “small-sized” include:

- ▶ Postcards,
- ▶ Tri-fold brochures, and
- ▶ Pamphlets.
- ▶ Significant publications and significant communications that are presented on 8.5 x 11 inch paper are not considered “small-sized,” even if the information conveyed fits on one side of a page.

Trump Executive Orders

- ▶ President Trump issued a presidential memorandum (technically not an E.O.) on his first day in office suspending all pending regulation.
- ▶ It is unclear if things that were finalized but not yet enforced/implemented will be affected
 - ▶ Emergency Preparedness rule
“effective” Nov 2016, “implemented”
Nov 2017



Trump Executive Orders

▶ **Minimizing the economic burden of the ACA**

- ▶ “...shall exercise all authority and discretion available to them to waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the Act that would impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications.”
- ▶ Nondiscrimination rules are a part of the ACA

▶ **Reducing regulation and controlling regulatory costs**

- ▶ Plus 1, minus 2
- ▶ Cost of new regulatory burden for FY 2017 must be zero
- ▶ Emergency Preparedness estimated cost of compliance for RHCs is just over \$6,000

NARHC Listservs

- ▶ <http://narhc.org/resources/listserve-ta-calls/>
- ▶ Free
- ▶ Technical Assistance - RHC specific info - 1 way communication
- ▶ News - RHC community conversation - 2 way communication - more emails
- ▶ TA Webinars/Calls
 - ▶ To view past webinars go to:
<http://www.hrsa.gov/ruralhealth/resources/conferencecall/index.html>

Questions?





Nathan Baugh
Director, Government Relations
(202) 543-348
Baughn@capitolassociates.com
www.narhc.org