



# Medical Providers and the Americans with Disabilities Act

## Part 4: Service Animals

The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination against individuals with disabilities and requires medical providers to make their services accessible. The ADA requires that medical providers allow service animals to accompany people with disabilities in all areas of their facility where the public is normally allowed to go. There are limits, which we will discuss momentarily.

The ADA covers employment, state and local government programs and private businesses. The Department of Justice adopted new service animal regulations for Title II (state and local government programs) and for Title III (private businesses) which went into effect March 15, 2011.

The new regulations define a service animal as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, or intellectual disability. In limited circumstances, a miniature horse can also be used as a service animal. Other species, whether wild or domestic, trained or untrained, are not service animals under the ADA.

The tasks performed by a service animal must be directly related to the disability. These tasks include but are not limited to guiding a person who is blind or has low vision, alerting a person with hearing loss to certain sounds, pulling a wheelchair, picking up or retrieving objects, alerting an individual of an oncoming seizure, assisting a person with psychiatric disabilities by interrupting impulsive behaviors, alerting individuals to the presence of allergens, or providing assistance with balance.

An animal that only provides emotional support, comfort or companionship is not considered a service animal under the ADA because it does not perform specific tasks associated with a person's disability.

Under the ADA, a private business or state or local government program cannot require a person with a disability to produce certification papers or a doctor's note to verify the authenticity of their service animal nor can they require that the service animal wear an identifying vest. If the need for a service animal is not obvious, they are permitted to ask two questions:

- Is this a service animal required because of a disability?
- What work or task has this animal been trained to perform?

Covered entities cannot inquire about the nature or extent of the individual's disability nor request demonstration of the work or tasks.

The service animal must always be under the handler's control. Service animals must be on a harness or leash unless the handler's disability prevents their use or they would interfere with the animal's work. If the animal is disruptive, threatening, or not housebroken, you may ask the individual with a disability to remove their service animal. Note that the animal can be excluded but the person cannot.

Service animals generally must be allowed in all areas of a medical facility where the public is normally allowed to go. Usually it would be inappropriate to exclude a service animal from areas such as waiting rooms, patient examination rooms, clinics, patient rooms in a hospital, or cafeterias.

However, under the ADA a service animal might be excluded from any location in which the animal's presence results in a direct threat. A direct threat is considered to be a significant risk to the health or safety of others that cannot be eliminated or reduced to an acceptable level by reasonable modifications. The determination of a direct threat must be based on objective medical evidence, not on generalizations or stereotypes. Service animals can appropriately be excluded from surgical or burn units or any other location where the animal's presence may compromise a sterile environment. Allergies to or fear of dogs are not valid reasons for denying access to a person with a service animal.

The care and supervision of a service animal is the responsibility of the handler. Medical practices are not required to provide food, water, or assistance taking the animal outside to eliminate. Accordingly, it may be inappropriate for a patient with a disability who has been admitted as an in-patient to keep their service animal with them if they are unable to provide care and supervision.

Medical providers cannot charge a deposit or any other surcharge to an individual who utilizes a service animal. However, if you charge all patients for damage they cause, a patient with a disability can be charged for damage caused by his or her service animal.

Be aware that there are other disability laws that cover service animals in other settings and those provisions are different than the service animal provisions in the ADA. The Fair Housing Act covers service animals in housing situations. The Air Carrier Access Act covers service animals on airline flights. Both of these laws allow emotional support animals as service animals. Other differences exist as well.

For additional information, please contact the Rocky Mountain ADA Center at 1-800-949-4232. We are available to answer questions, provide trainings and disseminate materials regarding the ADA.