



Medical Providers and the Americans with Disabilities Act Part 7: Providing Medical Documentation - Service Animals

Medical providers may be asked by a patient to provide medical documentation of the patient's need for a service animal. This is never a straightforward situation, however. The rights of an individual with a disability to utilize a service animal are covered under a variety of laws and each law applies in a different setting, has a different definition of service animal, and has different requirements related to medical documentation. This article will look at three federal laws that contain service animal provisions: the Fair Housing Act (FHA), the Air Carrier Access Act (ACAA), and the Americans with Disabilities Act (ADA). Knowing the different requirements under each of these laws will improve the quality of the medical documentation you provide and can increase your patient's opportunity for successful use of a service animal when appropriate.

The Fair Housing Act prohibits discrimination against people with disabilities in residential housing situations and allows the use of animals that assist, support, or provide service to people with disabilities as a reasonable accommodation. The Fair Housing Act does not use the term "service animal", but rather "assistance animals" fall within the reasonable accommodation provisions. Emotional support animals are recognized assistance animals under the FHA. If the need for an assistance animal is not readily apparent, a tenant who would like to use an assistance animal may need to provide written documentation that they have a disability and that an assistance animal is necessary to afford the person with an equal opportunity to use and enjoy a dwelling. Healthcare or mental health providers should provide a signed letter on letterhead to the housing provider that establishes that the patient is an individual with a disability under the FHA definition, that the animal is needed to assist with the disability, and that there is a relationship between the disability and the assistance the animal provides. Persons who are seeking the reasonable accommodation of an emotional support animal may be required to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides support that alleviates at least one of the identified symptoms or effects of the disability.

The Air Carrier Access Act prohibits discrimination against people with disabilities in airline travel and the Act defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. Animals that assist persons with disabilities by providing emotional support qualify as service animals under the ACAA. If a passenger cannot provide credible assurances that an animal has been individually trained or is able to perform a task or function to assist the passenger with his or her disability, the airline may require medical documentation. For an animal that is used for emotional support, airlines may require current documentation (i.e. not more than one year old) on letterhead from a mental health professional stating that the passenger has a mental health related disability, that having the animal accompany the passenger is necessary to the passenger's mental health or treatment or to assist the passenger with his or her disability, and that the

individual providing the assessment of the passenger is a licensed mental health professional and the passenger is under his or her professional care. The documentation does not have to specify the type of mental health disability (e.g. panic attacks).

The Americans with Disabilities Act prohibits discrimination against people with disabilities in employment under Title I, in state and local government programs under Title II, and in places of public accommodation under Title III. Places of public accommodation include private businesses and organizations that provide goods and services (including but not limited to sales and service establishments, restaurants, theaters, hotels, doctors' offices, child care centers fitness centers and homeless shelters). Under Title I, if an employee is requesting the use of service animal as a reasonable accommodation and the need for the service animal is not obvious, employers can request medical documentation. Please see our last article "Medical Providers and the ADA – Act 6: Disability Evaluation" for more information on how to effectively provide that documentation.

Under Title II and III of the ADA, everything changes. The definition of service animal under these titles is any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. This definition specifically excludes emotional support or comfort animals. In addition, under the ADA, state and local government programs and places of public accommodation cannot ask for any documentation to verify the need for a service animal. Under Titles II and III of the ADA, a place of public accommodation or a 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?

Even if a healthcare or mental health professional provides appropriate documentation there is still no guarantee that a housing provider, an airline or an employer will allow the presence of a particular service animal because other requirements must still be met. All three of these federal laws have provisions that allow the exclusion of any animal that poses a direct threat to the health or safety of others (e.g. displaying threatening behaviors by growling, snarling, lunging at, or attempting to bite other persons). Also under all three laws, the care and supervision of a service animal is solely the responsibility of the handler. The individual with a disability must meet all the provisions under the regulations for each law to be able to enjoy utilizing their service animal in each setting.

For additional information on effective medical documentation for service animals under these three laws, please contact the Rocky Mountain ADA Center at 1-800-949-4232.