

Health Employment and Labor

Labor and Employment Law for the Health Care Industry

Accessibility Obligations of Medical Providers to Provide Care to Individuals with Disabilities

By Kara M. Maciel on February 26, 2012

Under Title III of the Americans with Disabilities Act (“ADA”), private health care providers, including clinics, hospitals and doctor’s offices, as places of public accommodation, are required to provide their services to individuals with disabilities in an accessible manner. Specifically, the ADA requires that providers provide individuals with disabilities full and equal access to their health care services and facilities and provide reasonable modifications to policies, practices and procedures when necessary to make health care services fully available to individuals with disabilities, unless the modifications would alter the essential nature of the services.

The Department of Justice enforces the ADA through investigations and injunctive relief. Moreover, the ADA provides a private right of action for individuals to seek injunctive relief and attorneys’ fees (but not monetary damages) against medical providers if barriers prevent the full and equal access to health care services. As a result of recent changes in the ADA and the spread of individual plaintiff lawsuits across the country, more health care providers are seeing an increase in potential litigation and investigations under Title III.

Below are some frequently asked questions that medical providers should be aware of when providing care to individuals with disabilities:

- **What areas within my medical space must be accessible for individuals with disabilities?**

A medical provider must ensure all areas of its space is accessible, including entry doors, an accessible route to and through the waiting area and examination room, adequate floor space inside the room for side transfers and the use of lift equipment, and accessible restrooms.

- **Can I tell a patient that I cannot treat her because I do not have accessible medical equipment?**

No. Medical practitioners may not deny a service to a patient who you would otherwise service because of a disability. The physician must examine the patient just as any other patient, and include equipment such as an accessible exam table, accessible stretcher, a patient lift or have trained staff that can assist the patient.

- **If a patient is accompanied by a service animal, can I ask the patient for proof before allowing it into my office space?**

No. Service animals (defined as dogs) must be permitted when the task performed is related to a disability. A medical provider may not require proof of certification of medical documentation as condition of entry. A service animal may only be excluded if the dog is out of control and the owner cannot gain control of the animal, or the dog is not housebroken.

- **Can I examine a patient in a wheelchair if the patient is unable to get onto the exam table independently?**

Generally no. Examining a patient in a wheelchair may be less thorough than on an exam table and does not provide equal access to medical services as a non-disabled patient. A transfer system should be provided or staff should be trained on how to maneuver a person onto the exam table.

- **If I lease my medical office space, am I responsible for making sure the examination room, waiting room and toilet rooms are accessible?**

Yes. A private entity that owns, leases, or operates a place of public accommodation is responsible for complying with the ADA. Both tenants and landlords are equally responsible.

- **What should I do if my staff does not know how to help a person with a disability or know what the ADA requires my office to do?**

It is important that both the medical provider and staff be trained on how to provide medical services in an accessible manner. Such training would include how to operate accessible equipment, how to assist with transfers and positioning of individuals with disabilities and how not to discriminate against individuals with disabilities.

As the obligations of a health care provider to comply with the accessibility requirements under the ADA are complex and centered on design elements, having a thorough understanding of what is necessary to avoid a discrimination complaint or lawsuit is key. Medical providers can conduct a walk through audit of the facilities and elements to see what may need to be updated or renovated to comply with the ADA. However, compliance does not end with just accessibility design requirements, but staff training and knowledge in communicating with patients with disabilities will go a long way in fending off unnecessary lawsuits.

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