

Service Animals at the Doctor's Office

By law, service animals should be allowed to go almost everywhere their owner goes. Unfortunately, people with disabilities often face problems when out and about with their service animal. This information packet will focus on your right under the Americans with Disabilities Act to have your service animal with you while you are receiving medical or other healthcare treatment. It will also provide tips on how to stand up for your right to use a service animal.

What does the Americans with Disabilities Act say about service animals?

The Americans with Disabilities Act (the ADA) is a federal law that says you have a right to the same service and treatment as someone who does not use a service animal. It also says that if there is a “no animals” rule, that rule usually does not apply to service animals.

Which animals qualify as “service animals?”

The ADA says that service animals are dogs that are trained to work or perform tasks for a person with a disability. Service animals are commonly used for help with seeing, hearing, walking, detecting seizures, and performing many other helpful tasks.

Do emotional support, comfort, or therapy animals qualify as service animals?

Currently, emotional support animals, comfort animals, and therapy animals are not specifically protected under the ADA. You must demonstrate that your emotional support, comfort, or therapy animal is individually trained to assist with your disability for it to qualify as a service animal.

Which healthcare providers must obey the ADA?

Anyone having an office open to the public must obey the ADA, such as the office of a general physician, cardiologist, chiropractor, dentist, etc. Also included are pharmacies and hospitals, and the county health department. Please note: Health clinics operated or funded by a religious organization are not covered. A health clinic operated at a religious organization, but not run by it, may still be covered.

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So I can take my service animal with me to the doctor, hospital, dentist, etc.?

Yes, within limits. Service animals are not allowed in operating rooms or other highly controlled and sterile environments. This same rule usually applies to humans. For example, your husband or mother is usually not allowed in the operating room because it increases the risk of germs and infections. Similarly, your service animal should not be in there either.

Can I be charged for bringing my service animal with me?

No. Your doctor's office or healthcare provider cannot charge you a cleaning fee for bringing your service animal with you to your appointment. If cleanliness is an issue, offer to schedule your appointment on the day that the office is cleaned. It may be even more helpful to schedule your appointment at the end of the day.

Who is responsible for the service animal?

You are responsible for the service animal at all times. The healthcare provider does not have to provide your service animal with food, water, or other care.

Must service animals be registered or certified?

No. There is no rule under the ADA that service animals must be registered or certified to be a "real" service animal. You cannot be made to show an ID card to prove that it is a service animal. However, if you are interested, North Carolina has a voluntary registry for service animals. For more information on registering your service animal, visit <http://www.ncdhhs.gov/document/registration-application-service-animal-people-disabilities>.

Should my service animal wear a vest or a special collar?

Many service animals wear special harnesses or collars to do their job. Most people understand that these animals are service animals. But what if you have a "hidden disability," such as epilepsy or diabetes? Your service animal probably does not need to wear special equipment while working. Unfortunately, many people will assume an animal without a vest or collar is a pet. You may find that you have fewer problems at your doctor's office if your service animal is wearing a special vest or collar. However, this is not required.

I've been asked whether my dog is a service animal. Is that legal?

Yes. You should be prepared to describe to your doctor or other medical professional how your service animal helps you, and how the animal has been trained.

For example, you are a person with diabetes that uses a service animal to detect your blood sugar level. Someone has asked whether your dog is a service animal. You would answer yes, and you would explain that your service animal is trained to detect changes in your blood sugar level and to alert you. That person might also ask if you have a disability. This question is okay, and you can answer with a simple "yes." You cannot be required to say that your disability is diabetes or to show proof of your disability -- unless you want to give this information. If you have registered your service animal, this would be a good time to show your service animal's registration tag.

What if the healthcare provider still refuses to admit the service animal?

Healthcare providers are legally allowed to exclude service animals that are a direct threat to others or are not under the control of their owner. For example, a service animal that is barking continuously or snapping at other patients is out of control. In contrast, another patient's allergies or fear of dogs generally *does not* mean that your service animal is a direct threat and should not be allowed in your doctor's office. Later in this fact sheet, there is information on how to complain if you were wrongfully separated from your service animal while seeking medical care.

Do any laws other than the ADA talk about service animals?

Yes. There is another federal law called Section 504 of the Rehabilitation Act of 1973 that is very similar to the ADA, but only applies if the healthcare provider is a recipient of federal funds (such as Medicaid or Medicare). In North Carolina, there are also state laws that protect your right to use a service animal in a public, place such as a healthcare provider's office.

Real Cases About Service Animals

These cases are only examples of cases about service animals. Some of these cases are from other parts of the country. Judges in North Carolina may or may not agree with the judges that decided these cases.

Branson v. West¹: A doctor worked at a Veteran's Administration (VA) hospital in Illinois. The doctor wanted to use her service animal at work to pull her wheelchair and do other tasks for her, but the hospital said no. The court said that the VA hospital *had* to allow the doctor to use her service animal at work. The only places that the service animal was not allowed to go were operating rooms, coronary care units, hemodialysis units, intensive care units, and areas designated as infectious care or isolation areas. The court said that the general rule is that service animals can go anywhere their owner goes unless the animal poses a greater hazard than the owner does in the same place.

Day v. Sumner Regional Health Systems, Inc.²: A patient wanted to bring her service animal with her into the emergency room treatment area. The Tennessee hospital said that no animals, including service animals, were allowed past the waiting room area. The court said that this rule was wrong. Instead, hospitals and healthcare providers can only keep a service animal out of the treatment area when they can prove that a particular patient's service animal poses a risk that cannot be eliminated.

Johnson v. Gambrinus Co.³: A beer brewery in Texas offered tours to the public. A man wanted to take his service animal on the tour. The brewery said no because they would get in trouble with the Food and Drug Administration if an animal got that close to their beer brewing process. The brewery was worried that animal hair might get into the beer. The court did not buy the brewery's argument, and said that humans and animals were equally likely to get their hair in the beer. The court even hinted that service animals might be less likely to get hair in the beer because of their regular grooming.

Roe v. Providence Health Systems⁴: An Oregon hospital patient had her service animal in her hospital room. The hospital asked her to remove the dog because of its overwhelming smell. The dog also growled and snapped at hospital staff. Before asking that the dog leave, the hospital tried to accommodate the dog by putting an air filter in the room, by shutting the door to the room, by assigning staff allergic to the dog to other areas of the hospital, etc. Nothing worked. Although the dog was truly a service animal, the hospital was allowed to have the dog removed. The court said that the dog threatened the health and safety of others at the hospital. The court also pointed out that patient did nothing to help the hospital contain the smell or help with

¹ See *Branson v. West*, 1999 U.S. Dist. LEXIS 7343 (N.D. Ill. 1999).

² See *Day v. Sumner Regional Health Systems, Inc.*, 2007 U.S. Dist. LEXIS 94615 (M.D. Tenn. 2007); cf. *Pool v. Riverside Health Services, Inc.* 1995 U.S. Dist. LEXIS 12724 (D.K. 1995) (finding that exclusion of service animal from treatment area of emergency room did not violate ADA).

³ See *Johnson v. Gambrinus Co./Spoetzl Brewery*, 116 F.3d 1052 (5th Cir. 1997).

⁴ See *Roe v. Providence Health System-Oregon*, 655 F. Supp. 2d 1164 (D. Or. 2009).

other problems related to the presence of the service animal. She also refused to close the door and complained about the noise from the air filter.

Standing Up For Your Right To Use A Service Animal at the Doctor's Office

- 1. If you've never brought your service animal to this office before, call the doctor or healthcare provider at least a week before your appointment to ask if they will accommodate your service animal.**

- 2. If you are told that your service animal is not welcome ...**
 - a. By the receptionist or nurse: Get a second opinion. Politely ask the receptionist or nurse to take your request directly to the doctor, other treating professional or office manager. Explain that you use a service animal, which is your right under the Americans with Disabilities Act.
 - b. By the doctor or treating professional: Ask if the doctor or treating professional knows that the Americans with Disabilities Act says that you have the right to use a service animal. Explain that you can give them a letter that explains your right to use a service animal.

- 3. Give the healthcare provider a letter that explains your right to a service animal.**
 - a. A sample letter is included in this packet.
 - b. In addition to the letter, you may also give them information about service animals from the U.S. Department of Justice. You can find this information online at <http://www.ada.gov/svcabrpt.pdf>.

- 4. Follow up on your letter.**

After a few days, call the office. Ask if the provider has read the letter, and if she has changed her mind and will allow you to use your service animal in her office. If she says no, ask why not. Ask if she understands the Americans with Disabilities Act. You may also want to say that you are prepared to complain against her to the U.S. Department of Justice (the agency that enforces the ADA) and/or the U.S. Department of Health and Human Services. Ask again if she will reconsider and allow you to use your service animal.

5. If you are still unable to have your service animal with you, ask for help.

- a. You may call Disability Rights NC (at 877-235-4210), your local office of Legal Aid of North Carolina, or a private attorney to help you stand up for your right to use your service animal.
- b. You may file a complaint with the U.S. Department of Justice. If you have questions about how to file a complaint or would like to request a complaint packet, you may call the Department's ADA Information Line at (800) 514-0301 (voice) or (800) 514-0383 (TTY). Their website and online complaint form can be found at www.ada.gov. You may also write to them at U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Civil Rights Division, Disability Rights Section – 1425 NYAV, Washington, DC 20530.
- c. You may also be able to file a complaint with the N.C. Department of Health and Human Services if the healthcare provider receives public funds (like Medicaid). If you have questions about how to file a complaint or would like to request a complaint packet, visit <http://www.ncdhhs.gov/about/department-initiatives/ada-grievance-procedure>.

Date:

Dear Doctor, Nurse, or other Medical Professional:

I am a person with a disability who uses a service animal. Under the Americans with Disabilities Act, I have the right to use my service animal in offices that are open to the public, including those of healthcare providers. This letter will provide you with information on my rights.

The Americans with Disabilities Act protects me from discrimination based on my disability.¹ Places of public accommodation, including the professional offices of a health care provider, hospitals, and pharmacies, are forbidden to discriminate against me and other persons with disabilities.² A disability is defined as a physical or mental impairment that substantially limits one or more major life activities of an individual.³ Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.⁴ I am a person with a disability because I am substantially limited in the major life activity/activities of _____.

Prohibited discrimination against me and others with disabilities includes denying us services and providing us with a lesser service than is provided to persons without disabilities.⁵ Unless an accommodation for a person with a disability would fundamentally alter the nature of your services or result in significant difficulty or expense, you must:

- 1) modify your policies, practices, or procedures;
- 2) provide auxiliary aids and services; and
- 3) remove architectural and communication barriers when readily achievable to ensure that people with disabilities enjoy equal access to your services or facility.⁶

An example of a reasonable modification to your facility's policies includes permitting the use of service animals in your facility.⁷ Service animals are defined by the ADA 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, intellectual, or other mental disability."⁸

My service animal is individually trained to assist me by _____.

Please be advised that the ADA does not require me to register my service animal with a state or federal agency to qualify it as a "real" service animal, nor is there a mandatory service animal registration program in North Carolina. Thus, you may not require any further verification that my animal is a service animal beyond asking what tasks it has been individually trained to do.

¹ 42 U.S.C. § 12101, *et seq.*

² 42 U.S.C. § 12181(7)(F); 28 C.F.R. § 36.104.

³ 42 U.S.C. § 12102(1).

⁴ 42 U.S.C. § 12102(2).

⁵ *See* 42 U.S.C. § 12182(b)(1)(A).

⁶ *See* 42 U.S.C. § 12182(b)(2)(A).

⁷ *See* 28 C.F.R. § 36.302(c).

⁸ 28 C.F.R. § 36.104.

If you are hesitant to allow my service animal in your offices, facility, or treatment room because you fear that it will harm the health or safety of another of your patients, you must be able to demonstrate both the severity of the risk posed and the likelihood of an injury actually occurring.⁹ For instance, if you are concerned about admitting a service animal into a “dander free” area, you must conduct an individualized assessment to determine the risk posed by the service animal and whether reasonable modifications may be undertaken to mitigate the risk.¹⁰ Courts generally find that service animals are to be allowed in hospitals and other medical settings, regardless of other’s allergies, immunodeficiencies, or fears related to dogs.¹¹ Also, please be advised that many courts have found a blanket policy banning all animals from medical settings to be discriminatory under the ADA.¹² As demonstrated by the cases referenced in the footnotes below, places of public accommodation must satisfy a very high burden before excluding service animals from their facility or particular locations in their facility.

An easy and inexpensive way for your office to mitigate known allergic reactions from the presence of a service animal in your offices is to ask if I can schedule my appointment at the end of the day and before scheduled cleaning. This way, any dander that is left behind will be removed before your next morning’s appointment. Another approach is to purchase an air purifier to mitigate any potential impact that a service animal has on the air quality of a patient room, as well as the impact from other patients with pets. However, a blanket policy of excluding service animals is not generally considered an acceptable strategy.

If you have any questions or would like more information about your responsibility to accommodate persons with disabilities, please visit the Department of Justice ADA website at www.ada.gov or consult with your attorney. Your professional association may also have information about accommodating clients. You may also want to consult with your accountant about the positive tax benefits available for providing accommodations under the ADA.

Please contact me in writing or by phone within ten business days to let me know of your office’s or facility’s service animal accommodation policy going forward. My number is _____ and my address is _____. I look forward to hearing from you.

Sincerely,

⁹ See 28 C.F.R. § 36.208.

¹⁰ See 28 C.F.R. § 36.208; *see also* Lockett v. Catalina Channel Express, 496 F.3d 1061 (C.D. Cal. 2007), *aff’d*, 496 F.3d 1061 (9th Cir. 2007) (statement that lounge was reserved as “dander free” insufficient under ADA; ferry boat required to attempt modification of policies or procedures to allow service dog in “dander free” zone).

¹¹ Branson v. West, 1999 U.S. Dist. LEXIS 7343 (N.D. Ill. 1999) (ruling that service animal is allowed in hospital setting; was reasonable to restrict service animal from hospital operating room).

¹² See *Day v. Sumner Regional Health Systems, Inc.*, 2007 U.S. Dist. LEXIS 94615 (M.D.Tenn. 2007) (finding that service animals in ER treatment area are not, as matter of law, a direct threat to health or safety).

Disability Rights North Carolina is a 501(c)(3) nonprofit organization headquartered in Raleigh. It is a federally mandated protection and advocacy system with funding from the U.S. Department of Health and Human Services, the U.S. Department of Education, and the Social Security Administration.

Its team of attorneys, advocates, paralegals and support staff provide advocacy and legal services at no charge for people with disabilities across North Carolina to protect them from discrimination on the basis of their disability. All people with disabilities living in North Carolina are eligible to receive assistance from Disability Rights NC.

Contact us for assistance or to request this information in an alternate format.

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