



Accommodating Patients with Disabilities

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Many providers have likely dealt with patients with a variety of disabilities, patients who speak a different language or patients from different cultures, religions and the like. As our communities grow and become more diverse, it is likely that you will see more and more of your patients falling into these categories. Accordingly, it is important to understand your legal obligations when dealing with such individuals.

What is considered a “disability”?

Under the Americans with Disabilities Act (“ADA”), “places of public accommodation” cannot discriminate against any individual with a disability. Providers, such as doctors and dentist offices, are “places of public accommodation” and thus, are subject to ADA requirements.

A person is an “individual with a disability” if he or she: (1) has a physical or mental impairment that substantially limits one or more major life activity; (2) has a record of physical or mental impairment that substantially limits one or more major life activity; or (3) is regarded as having such an impairment, whether they have the impairment or not. A physical impairment includes physiological disorders or conditions, cosmetic disfigurement or an anatomical loss that affects one or more of the major body systems (ie: neurological, musculoskeletal, special sense organs, respiratory, speech organs, cardiovascular, reproductive, digestive, skin, etc.). Common examples of physical impairments include visual, speech and hearing impairments, muscular dystrophy, diabetes, cancer, drug addiction and alcoholism. Mental impairments include all types of mental or psychological disorders, including mental retardation and learning disabilities.

What are a provider’s obligations to a patient with a disability?

A provider cannot deny the patient full and equal enjoyment of the services and benefits that the provider offers. If the provider does so, this may be considered discrimination. In addition, the provider must allow those patients to receive the services and benefits the provider offers in the most integrated setting possible (“mainstreaming”).

As providers, you may often see someone who falls under the above-definition of an individual with a disability. While you must not deny your services on the existence of a disability alone, there are limits. Here are a couple of common examples:

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1. A patient comes to you for treatment and obtains pain prescriptions. It becomes clear that the patient is a “drug-seeker.” If the person’s drug addiction is substantially limiting one or more of the patient’s life activities, then he or she is technically an individual with a disability. However, you are not required to treat the patient if the patient is engaged in the current and illegal use of drugs and may lawfully withhold your services on such basis. On the other hand, if the patient has been successfully rehabilitated or is currently in rehab and not using drugs, you may not legally withhold health care services. Importantly, your decision as to whether to withhold services (and the current status of the patient’s addiction or rehabilitation) should be based upon reasonable and verifiable information – not coffee shop talk or rumors.

2. A patient who is obese comes to you for medical services. Obesity in and of itself is not considered a disability, but it can be if it substantially limits one or more major life activities such as caring for oneself, walking, breathing or working. Also, if the obese patient has another disease, such as diabetes, he/she may be considered disabled. You cannot refuse to treat this patient simply because he or she is obese or has diabetes, and you must provide those services for the same price, at the same location and under the same conditions that you do to other patients. However, if it is unsafe to “mainstream” the patient, you may perform your services differently. For example, if the patient exceeds the weight restrictions for a dental chair and thus, it creates a safety issue, the dentist may perform the services by having the patient sit in a different type of chair.

What Accommodations Must a Provider Make?

Whether a certain accommodation is required is determined by weighing the avoidance of discrimination with the modification’s effect on the nature of the goods, services, facilities, privileges or advantages provided and the burden imposed on the public place. Perhaps the most commonly requested accommodation is for individuals with hearing impairments. These types of accommodations must be made where necessary to ensure effective communication. The type of accommodation necessary to ensure effective communication will vary depending on the length and complexity of the communication. For example, if a deaf individual comes to your office requesting an appointment, it is likely sufficient for your staff and the deaf individual to exchange written notes to make the appointment. If you are simply performing a routine check up on this patient, written communication is also likely sufficient. If, however, you need to discuss more major procedures with the patient, such as surgery, continuing treatments or other more serious conditions, a sign language interpreter may be required. Often, the deaf patient will have a family member or friend who is a sign language interpreter that can accompany him or her. If this is not the case, however, you may be required to provide and pay for the interpreter. The interpreter must be qualified, and it will likely not be sufficient to have a staff member who can just sign “pretty well.” In order to avoid providing and paying for an interpreter, you would have to show that it is causing you an “undue burden”, which is defined as a “significant difficulty or expense.” In determining whether an accommodation causes you an undue burden, the following factors should be considered: (1) the nature and cost of the action; (2) the overall financial resources of your office, the number of persons employed, the effect on expenses and resources; and (3) legitimate safety requirements necessary for safe operation or any other impact on operations of your practice. The situation and considerations are similar when it

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comes to non-English speaking patients. Although non-English speaking patients are not considered disabled, they are protected from discrimination based upon their race and national origin. Often, insurance companies have resources to assist with finding and/or providing an interpreter for deaf or non-English speaking patients. Medicaid and/or insurance policies may also pay for part or all of these interpretive services.

There is no easy answer in how far you must go to accommodate a patient. Rather, it is a balancing act. However, if you treat these patients with respect and concern, you can build a relationship with that patient that will enable you to work together to accommodate whatever disability he or she may have.

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