

The Americans with Disabilities Act

Disabilities Act

What Health Care Providers Need to Know



Presented by

Robert Goodman, MSW

Accessible Publications Consultants

Objectives

- Learn about the legal rights of people with visual and other disabilities under the Americans with Disabilities Act, The Rehabilitation Act of 1973 and the Florida Civil Rights Law
- Learn how to accommodate the needs of patients with disabilities
- Learn how to effectively interact with people with disabilities: Disability Etiquette
- Learn about community resources

Legal Rights of People with Disabilities

- There are three civil rights laws regarding people with disabilities that impact health care providers.
 - *The Americans with Disabilities Act*
 - *The Rehabilitation Act of 1973*
 - *The Florida Civil Rights Law*



Americans with Disabilities Act

- Signed into law in July, 1990
 - The ADA guarantees that people with disabilities will have the same rights to employment opportunities, programs and services as people without disabilities.
 - The law covers government as well as places of public accommodation which includes health care providers



The Rehabilitation Act of 1973

- Section 504 of the Rehabilitation Act of 1973 protects individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to businesses and organizations that receive financial assistance from the Federal government.
- These include hospitals, nursing homes, home health agencies, mental health centers and human service programs that receive Medicare and Medicaid funds.



Florida Civil Rights Law

Chapter 760, Florida Statutes

- It is against the law to discriminate in employment on the basis of handicap
- It is against the law to refuse accommodations or services to any person on the basis of physical disability
- **Public Accommodations**
 - It is unlawful for an individual to be denied access or to receive poor service or lesser quality accommodations because of his or her disability.

Are You Waiting to be Sued?

- There are lawyers waiting to sue health care providers who fail to comply with Title III of the ADA
- It costs less to comply with the law than to pay expensive attorney fees
- ***BE PROACTIVE – NOT REACTIVE!***



Defining “Disability”

- **Impairment:** any loss or abnormality of psychological, physiological or anatomical structure or function.
- **Disability:** any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being.
- **Handicap:** a disadvantage for a given individual that limits or prevents the fulfillment of a role that is normal

Defining “Disability”

Under the ADA a person with a disability is defined as:

- A person with physical or mental impairment that substantially limits one or more major life activity such as walking, seeing, hearing, or speaking
- A person who has a record of such an impairment
- Someone who is associated with a person who has a disability

There are many types of disabilities some are obvious and some are hidden.

Prepare for the Future

The Future is Now!

Baby Boomers

- The number of people with visual impairments is expected to grow in the coming years as the baby boomer generation ages.
- Their needs have to be addressed **now** by businesses and health care providers. Don't wait to be sued, prepare now!



Prepare for the Future

The number of people who are blind in the United States is projected to increase by 70 percent to 1.6 million by 2020, with a similar rise projected for vision impairment.

Vision and Aging-Florida

Estimated Number of Cases by Vision Problem Age ≥ 40

- **Total Population ≥ 40** **9,591,550**
- **Vision Impairment & Blindness**
327,852
- **Blindness** **96,029**
- **Vision Impairment** **231,823**

Veterans with Disabilities

- Traumatic eye injury and other visual disorders from penetrating wounds rank 4th behind Traumatic Brain Injury (TBI) at 245,000 in terms of common injuries among active duty personnel
- 16% of all evacuated wounded from the wars in Iraq and Afghanistan

--(VHA Office of Public Health and Environmental Hazards, fourth quarter report, FY 2010)

Reasonable Accommodation

Auxiliary Aids and Services

- Under Title III of the ADA public accommodations such as health care providers:
 - Are required to provide reasonable accommodation in the way they communicate with their patients/clients with a visual disability.
 - They must provide auxiliary aids, services and other types of program access.
 - Health care providers must ensure that they can effectively communicate with people who have a range of disabilities, including people who have a mobility impairment, are deaf, hard of hearing or have a speech, vision or learning disability.

ADA: Reasonable Accommodation

- Is your office prepared to meet the needs of patient with a disability?
- How effectively is your staff working with patients with disabilities?
- Has your staff been trained on how to effectively interact with patients with disabilities?



Federal Government Initiatives

- Promoting health literacy
 - The need to understand medical information
- Preventing re-hospitalizations
 - Hospitals are being fined millions of dollars for patients being readmitted within 30 days of discharge



Health Care and Vision

- Among Medicare beneficiaries, 8.1 percent of people with severe vision impairments indicate dissatisfaction with the overall quality of their health care, compared with about 4 percent of the general population.
- About 11 percent of Medicare users who have vision impairments report that they do not receive adequate information from their providers about their health conditions, compared with 6 percent of people who do not have vision disabilities.

ADA: Reasonable Accommodation

The Doctor's Office

- Are your intake, medical history, and advance directives forms available in large print, Braille or electronically?
- Is your staff prepared to read and help patients fill out any paperwork in a private area?



ADA: Reasonable Accommodation

The Doctor's Office

- Is your staff prepared to communicate with a person who is deaf or hard of hearing



ADA: Reasonable Accommodation

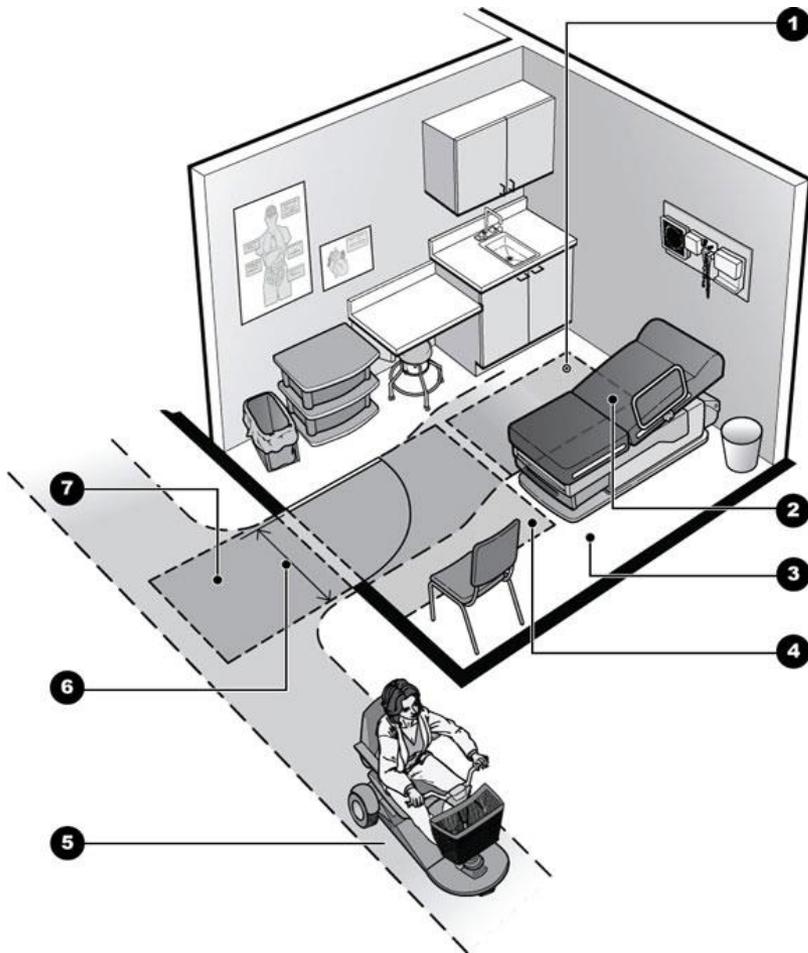
The Doctor's Office

- Is there a clear path of travel from the front to other areas in the office?
- Are your examination tables accessible to patients with mobility impairments?
- Are your bathrooms accessible?
- Are your labs accessible?



ADA: Reasonable Accommodation

The Doctor's Office



- 1.) A clear floor space, 30" X 48" minimum, adjacent to the exam table and adjoining accessible route make it possible to do a side transfer.
- 2.) Adjustable height accessible exam table lowers for transfers.
- 3.) Providing space between table and wall allows staff to assist with patient transfers and positioning. When additional space is provided, transfers may be made from both sides.
- 4.) Amount of floor space needed beside and at end of exam table will vary depending on method of patient transfer and lift equipment size.
- 5.) Accessible route connects to other accessible public and common use spaces.
- 6.) Accessible entry door has 32" minimum clear opening width with door open 90 degrees.
- 7.) Maneuvering clearances are needed at the door to the room.

Note: Additional clear floor space can be provided by moving or relocating chairs, trash cans, carts, and other items.

ADA: Reasonable Accommodation

The Doctor's Office

- Is information explaining the diagnosis, treatment, medical procedures, and follow-up procedures in large print or other format?
- Are therapy instructions or information on the management of chronic conditions available in alternate format?



ADA: Reasonable Accommodation

The Doctor's Office

- Is prescription and medication information available in an alternate format?
- Are appointment reminders given to patients in a format that they can read?



Health Literacy

- If patients with a visual impairment are discharged from a health care facility and are unable to read the discharge plans, how can they be expected to follow the doctor's orders?



ADA: Reasonable Accommodation

Hospitals / Nursing Homes

- Are brochures that describe your services and admission information available in an alternate format?
- Are there clear paths of travel on each floor?
- Are menus read to patients with visual disabilities?
- Are examination areas and labs accessible?

ADA: Reasonable Accommodation

Hospitals / Nursing Homes

Discharge Planning

- Are discharge plans written in large print or other accessible format?
- How can we expect patients to follow discharge plans if they cannot read and understand them?
- The result: poor health outcomes and rehospitalization (and fines by Medicare)

Health Literacy

Home Health Care

- When home health care patients are given a stack of papers that are difficult to read, how are they expected to improve health outcomes and prevent re-hospitalization?



Reasonable Accommodation

Home Health Care

- Admission booklets or papers that include information such as:
 - Patient's rights and responsibilities
 - HIPAA
 - Important phone numbers
 - Emergency procedures
 - Care plans
 - Service agreements
- Need to be available in an accessible format so the patient can refer to them as needed

ADA: Auxiliary Aids and Services

- Providers may use a variety of auxiliary aids and services to help facilitate communication.

Examples include:

- Sign Language interpreter
- TDD / TTY
- Text telephone
- Written notes
- Reader
- Braille
- Large Print
- CD
- Signature Guide



ADA: Effective Communication

- Other examples of auxiliary aids and services include:
 - Assistance with reading and completing admission and consent forms, or reading written directions, discharge information, medication names and dosages;
 - Providing documents in large print, Braille or audio;
 - Providing a Braille-output TTY to a patient who is deaf and blind; or,
 - Making healthcare related websites accessible.

Providing Materials in Large Print

- Enlarging a document onto 11x17 paper does not qualify for “large print”
- Print size is too small for most to read
- 11x17 paper is too cumbersome to hold and file



ADA: Effective Communication

- Write the medication name and dosage in large, high contrast print and affix it to the bottle with tape or a rubber band
(some drug stores provide large print labels and drug information)
- Communicate dosages by taping large dot stickers on the bottle to indicate the regimen (e.g. two dots = twice daily)
- Talking Pill Reminder



ADA: Effective Communication

- A health care provider cannot require a person who is blind to bring someone with him or her to facilitate communication, and cannot rely on a companion to interpret or facilitate communication.



Reasonable Accommodation Policies and Procedures

- Health care providers may have to modify their policies or procedures in order to accommodate a person with a disability, such as:
 - Allowing guide dogs into a facility
 - Helping patients fill out forms



ADA: Reasonable Accommodation

- **Consumer Responsibility**

- It is the responsibility of the patient to let you know that they have a visual disability and their need for assistance with paper work.
- You should ask them what kind of help works best for them.



ADA: Undue Burden

- The ADA does not require the provision of any auxiliary aid or service that would result in an undue burden.
- An undue burden is something that involves a significant difficulty or expense.
- Key factors include the
 - cost of the aid or service
 - the overall financial resources of the health care provider.
- Undue burden will always be determined on a case-by-case basis.

Tax Credits

- Businesses get federal tax breaks for their efforts to comply with the ADA. Small businesses get a tax credit equal to 50% of "qualifying expenses" between \$250 and \$10,250.
- The credit is capped at \$5,000. Small businesses are those with total revenues of \$1,000,000 or less in the previous tax year or those with 30 or fewer full-time employees.
- Qualifying expenses include the costs of providing Braille, large print, and audio tape materials for clients.

Professional Medical Education

Disability Competency

- Americans w/ Disabilities Act of 1990
- Who Are People with Disabilities & Activity Limitations?
- Disability and Functional Categories
- Attitudes
- Welcoming Language
- Customer Service

--Center for Disability Issues and the Health Professions

Staff Training

- Health care providers are impacted by the ADA both as employers and as providers of goods and services. It is important that each health care provider prepare its employees for the ADA by providing appropriate information and personnel training on:
 - the provisions of the ADA,
 - its relevance to the functioning of the organization as a whole,
 - the responsibilities of specific personnel, and
 - how to interact with people with disabilities

Staff Training

- training presents a prime opportunity to expand the knowledge base of all employees
- training and development provides both the company as a whole and the individual employees with benefits that make the cost and time a worthwhile investment

Discharge Planning Community Resources

Medical staff and discharge planners and should be aware of:

- Services in the community to help a patient cope with an illness or disability (and refer them to those programs)
- the range of abilities of persons with vision loss and other disabilities
- the availability of equipment and devices that can make self-care possible

Disability Etiquette

- Use Person first language
- Make your presence known to a blind person
- Talk directly to the person, not through a third party
- Don't lean on a wheelchair, talk at eye level
- Let a blind person take your arm above the elbow



ADA Compliance is Good for Business

- Gain new clients with accessible printed materials and accessible facilities
- Improve health literacy and health outcomes
- Avoid rehospitalization of clients
- Limit Legal Liability: Compliance is cheaper than paying lawyer fees
- Receive Federal tax credits
- Be in compliance with Federal and State Civil Rights Laws

THANK YOU