

Woof! Dealing With Animals in Your Waiting Room or Exam Room

Shelly Reese | June 15, 2016

What Are the Rules?

There's a dog in your waiting room.

It's not a noble-looking German shepherd wearing a harness, or a soulful retriever wearing a service-dog vest. The dog's handler has no visible disability. He's just a guy—a patient, or perhaps a family member—with a dog on a leash. What do you do?

That scenario is becoming increasingly familiar in medical offices, and businesses of all types, as service, therapy, and emotional support animals (ESAs)—dogs, mostly—become increasingly common.

Under the Americans With Disabilities Act (ADA), a service animal is defined as any dog (and, rarely, even a miniature horse!) that's 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.^[1] State statutes vary and may expand upon—but not diminish—the level of access allowed under federal law.

By contrast, ESAs, also referred to as "assistance" or "comfort" animals, can be virtually any type of critter and don't have to have any special training. (Earlier this year, an emotional support turkey ruffled a few feathers on a Delta flight.) Certain federal laws allow ESAs to enjoy greater access than the family pet: They're covered under the Fair Housing Act and under the federal Air Carrier Access Act, which allows them to travel on airplanes.

However, the ADA doesn't entitle ESAs to access public accommodations, such as businesses, because these dogs have not been individually trained to perform a specific task related to an individual's disability. Therapy dogs are dogs that are trained to go with their owners into schools, hospitals, nursing homes, and other settings to improve people's lives. Although institutions may invite therapy dogs and their handlers in to help students, residents, and patients, the animals do not have any special legal rights in terms of access to these settings.

Although the legal distinction may be clear, the visible one isn't. You can't tell by the uniform: Anyone can buy a service-dog vest online, and service dogs aren't required to wear them anyway. You can't tell by the training, either; service dogs must be individually trained, but they aren't required to have any "official" certification.

Moreover, people with ESAs often carry notes from mental health professionals describing their need for the animal. (Critics say these notes are often too easy to get.) And because service dogs of all shapes, sizes, and breeds are increasingly being used to assist individuals with "invisible" disabilities, such as diabetes, posttraumatic stress disorder, hearing loss, and autism, appearance doesn't mean much either.

As if the situation weren't confusing enough, making detailed inquiries isn't allowed under ADA rules. In general, you can ask only two questions: "Is that animal required because of a disability?" and "What work or task has that animal been trained to perform?" That's it. You can't ask for a demonstration.

When the Fur Starts to Fly

So what should you do if a patient and his or her dog stroll into your office one day? If you have concerns about the animal's legitimacy, ask the two questions allowed under the ADA. "If the person gives you a relatively straightforward answer and the dog is behaving well, let it go and assume it's a service dog," advises Jenine Stanley, consumer relations coordinator for the Guide Dog Foundation for the Blind and its sister organization, America's VetDogs.

Yes, there's always the chance that you may be allowing undue access to a pet whose owner simply doesn't want to abide by the rules, but it's not worth the risk of violating a disabled individual's civil rights or creating a public relations

debacle, notes John Ensminger, a lawyer and author of *Service and Therapy Dogs in American Society: Science, Law and the Evolution of Canine Caregivers*. Stories about businesses—including doctors—refusing to abide by ADA requirements tend to make the local news and subsequently end up posted on the Internet.

"How much are you going to risk offending the patient or anyone else in your waiting room?" Ensminger asks. "That's not so much a Department of Justice issue as a marketing issue."

Amanda Kanaan, president of WhiteCoat Designs, a North Carolina medical marketing firm, agrees. "If a physician takes a hardline stance on this, it could be an online public relations nightmare," she says, "because that patient can go right to their car and write an awful review of the physician, and the physician looks like a bully."



If a patient comes into your office with a dog that is well groomed, well behaved, and seemingly healthy, assume that it has a right to be there, says Holly Stiles, an attorney with Disability Rights North Carolina. "What are you trying to accomplish? You may be denying someone's rights, and you may be upsetting them, none of which is going to be conducive to your physician/patient relationship."

Your Staff May Need Training

Toeing the line on service animals means your employees need to know how to handle these situations. That's where staff training comes into play. Kanaan likens training staffers on ADA requirements to educating them about HIPAA violations. "You don't want to wait to have the training until after you've had a violation."

In addition to training employees on how to politely address patients who bring animals into your office, you might consider a small sign by the front desk. A sign that reads, "Service dogs only, please" may not prevent some people from trying to bring their family pet into the office, Kanaan says, but at least it makes the office policy clear.

Ken Hertz, a principal with MGMA Health Care Consulting Group, agrees that staff training is essential, "especially if you're in a setting where people are going to be coming in with service dogs on a fairly regular basis." If some patients voice concern about the animals, he suggests posting an explanatory note on the practice's website or near the front desk, to the effect of, "Sometimes when you come into our office, you may see a patient assisted by a service dog. If you have any questions, please talk to our administrator." The practice needs to be "proactive and positive, not defensive," Hertz says.

What If a 'Bad Dog' Is in Your Office?

That's not to say anything goes. Service dogs are highly trained, and the ADA requires them to be housebroken and under control. (Hint: If a dog makes a mess in your waiting room or is wandering around sniffing your patients, chances are he's an imposter.) Healthcare providers are legally allowed to exclude service animals that are a direct threat to others or aren't under the control of their owner.

More specifically, Centers for Disease Control and Prevention (CDC) guidelines pertaining to infection control practices in healthcare facilities state that service animals must be allowed access to the facility in accordance with the ADA, unless the presence of the animal creates a direct threat to other persons or a fundamental alteration to the nature of services.^[2] The guidelines give you the right to evaluate these situations on a case-by-case basis and to modify your policies and procedures to lessen the risk for harm to anyone who may come into contact with the animal.

In general, according to the CDC, service animals should be allowed in emergency departments, patient rooms, radiology departments, treatment rooms, allergy clinics, cafeterias, waiting areas, and nursing homes—yeah, just about anywhere. The only exception would be a sterile environment characterized by gowns and masks, strict hand hygiene, or special air filtration. A dog, for example, would generally not be allowed in operating rooms, burn units, isolation rooms, some intensive care units and sterile environments, or areas requiring special ventilation.

Although it might appear logical that an allergy clinic would want to keep out animals, the government doesn't buy the

argument. After all, allergy clinics don't place restrictions on visitors who might be wearing cologne or have cat fur on their clothing.

That said, healthcare facilities may make "reasonable modifications" to mitigate risks. The Guide Dog Foundation's Jenine Stanley, who is blind and uses a guide dog, says an allergy clinic once asked her to enter through a side door and take an end-of-day appointment so they could clean the room immediately after her visit. Although she ultimately opted to leave her dog at home, she felt the request was reasonable.

Practical Solutions to Delicate Situations

Stanley empathizes with doctors and other business owners who find themselves accommodating ill-behaved dogs simply out of fear of violating the ADA, but she says the situation is even worse for disabled individuals using legitimate service dogs. These people may face a backlash as a result of the rule-breakers.

"I've had more trouble in some places, such as in Florida and in New York City," she recalls. "The restaurants in particular have gotten really twitchy. I can see where they're coming from, but unfortunately it's not the person whose dog is misbehaving who gets punished. It's the next person who walks in the door."

To help doctors and their staff members better address issues relating to animals in the medical office, experts advise physicians to be proactive. Among their suggestions:

- **Promote understanding.** The Guide Dog Foundation includes information on guide dog etiquette on its website to help people better interact with disabled individuals when they're using service animals.
- **Address phobias and cultural differences.** Helping staff members understand the function and professionalism of service animals may alleviate their fear and biases. If you have a comfortable rapport with a patient who uses a service animal, consider inviting him or her to speak with your staff about the animal and its importance, advises Stanley.
- **Have a plan.** Talk with your staff in advance about how you'll accommodate service animals, so that you aren't scrambling at the last minute, says MGMA consultant Ken Hertz.
- **Address any fears.** If someone on your staff is terrified of dogs, have someone else assist the patient. Attorney Holly Stiles notes that it's especially important that staffers at the front desk know the law and understand what questions they can legally ask— and make sure that if they need to ask those questions, they do so in a respectful way.
- **Find common ground.** If you know a patient uses a service dog and have concerns, work with him or her to devise a reasonable accommodation. For example, if you're a family physician and are worried about how parents might react to a strange dog around their young kids, you might ask the patient to take the first or last appointment of the day. "The law is kind of squishy," on what constitutes a reasonable accommodation, Stiles says. She recommends starting with the Golden Rule: Treat others the way you would want them to treat you.

Expect Some Occasional Pushback

Will these suggestions prevent pet-loving scofflaws from abusing the system and bringing Fido or Max into the office? Probably not.

"Those are the ones who are going to fight you the most," Stanley says. "The people who are the most strident about their animals are often the ones whose dogs weren't trained to do anything but to be there for them."

References

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