

SERVICE ANIMALS: WHAT WE NEED TO KNOW

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So, you have a patient walk in with a service animal. The patient is blind and the service dog is clearly helping him or her along the way. They request that the dog remain on site. What do you do?

Well, this situation, for the most part, is pretty cut and dry. The dog in this case is clearly a “seeing eye dog” and the patient is clearly visually impaired. The law, and just common sense, would dictate that you allow the dog to stay the night.

Well, what if we muddy up the scenario. Let’s say it isn’t a dog, but rather a cat. Or a rabbit. Or whatever. And let’s say your patient is not visually impaired, but rather, has PTSD, or depression, or agoraphobia, or any one of a myriad of “invisible” disabilities. What do you do then? What can you ask the patient? Can you demand proof?

Let’s review some basics of the Service Animals section of the ADA (Americans with Disabilities Act of 1990). However, be aware that regulations at the state and local levels may supersede or complement some parts of the ADA. You should sit down with the sleep center manager and iron out a plan of action and include it in your Policy and Procedures manual (if it isn’t there already).

So, let’s start with defining a few terms...

(1.) What is the Americans with Disabilities Act (ADA)? The ADA is a US labor law that prohibits unjustified discrimination based on disability. The ADA also requires covered employers to provide reasonable accommodations to employees with disabilities, and imposes accessibility requirements on public accommodations.

(2.) What is a service animal? Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The tasks performed by the dog must be directly related to the person’s disability. Examples of such work or tasks include guiding

people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person’s disability. Please note, that as of March 15, 2011, the ADA specifically and explicitly defines a service animal as a dog, no matter the breed, but no other animal species other than a dog. See: https://www.ada.gov/service_animals_2010.htm

There are only two questions you are legally entitled to ask someone when they show up with their service animal.

In situations where it is not obvious that the dog is a service animal, you may ask: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform? You are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person’s disability.

What about animals that calm the person down during a panic attack? Do dogs whose sole function is to provide comfort or emotional support qualify as service animals under the ADA? The answer is no... and yes. It depends on whether the animal is considered a “psychiatric service animal” or an “emotional support animal”. The distinction lies in the dog’s training. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify it as a service animal. However, if the dog’s mere presence provides comfort, that dog would not be considered a service animal under the ADA. **It is important to note however, that local or state authorities may have a wider definition and include other animals too. They may also include emotional support animals under similar protection as the service dogs.**

Who is responsible for the service animal?

The handler is responsible for the care and supervision of the service animal, which includes toileting, feeding, and grooming and veterinary care. Covered entities (that means the hospital, sleep center, you, doctors, etc) are not obligated to supervise or otherwise care for a service animal. As we will see next, this is slightly different in a hospital setting.



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Does a hospital have to allow an in-patient with a disability to keep a service animal in his or her room? Generally, yes. Service animals must be allowed in patient rooms and anywhere else in the hospital the public and patients are allowed to go. They cannot be excluded on the grounds that staff can provide the same services. But what happens if the patient is unable to care for the dog while at the hospital? Remember that under normal conditions, the handler is responsible to care for the service animal. However, things are different at a hospital. If the patient is not able to care for the service animal, the patient can make arrangements for a family member or friend to come to the hospital to provide these services, as it is always preferable that the service animal and its handler not be separated, or to keep the dog during the hospitalization. If the patient is unable to care for the dog and is unable to arrange for someone else to care for the dog, the hospital may place the dog in a boarding facility until the patient is released.

When at the hospital, the sleep center, or anywhere else for that matter, the service animal is legally entitled to accompany the person with the disability in all areas that members of the public are allowed to go. The service animal is seen as an extension of the person with the disability. That means, at the sleep center, the service dog can go to the bathroom with the patient, can enter the patient's room, enter the set-up room, walk the halls, use the elevator, go into the kitchen, or wait in the waiting room. Anywhere a patient is allowed to enter, so too is their service animal.

There are provisions in the ADA where certain circumstances would allow exclusion of service animals.

The ADA: (1) does not require covered entities to modify policies, practices, or procedures if it would “fundamentally alter” the nature of the goods, services, programs, or activities provided to the public (2) does not overrule legitimate safety requirements (3) does not cover a service animal that is out of control and the handler cannot take effective action to control it, and (4) does not cover a service animal if it is not housebroken. Note that for our purposes, the presence of a service animal does not “fundamentally alter” the nature of the service we offer, and except under very few exceptions, there would not be any legitimate safety issue with the presence of a service animal at the sleep center (we will review this point shortly, however). Therefore, a likely (legal) reason to exclude a service animal from the sleep center would be if the patient failed to effectively keep the dog under control, or if the dog is not housebroken. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. Consequently, the person must use voice, signal, or other effective means to maintain control of the animal. Therefore, in the case where the service animal is not adequately controlled by its handler, you can ask that the service animal be removed. However you must still accommodate the patient if they decide to stay.

Sleep technologists who work alone and have severe allergies to pet dander pose an interesting dilemma. This would put the technologist at risk for an allergic reaction, especially critical if they go into anaphylactic shock when they are alone. Although this scenario was not specifically addressed in the background research I did, the ADA does allude to such allergic reactions being a viable reason to exclude the service animal from the premises. I would suggest care here though, especially if the patient is known to have a service animal and the technologist is known to have severe allergies. The sleep center should have made special accommodations to have another technologist working that night. Even so, although it may be a valid excuse to keep the service animal from the sleep center, you should still offer to run the test on the patient if they are willing to stay.

What else do you need to know?

The service animal does not have to be professionally trained, nor does it need to carry any proof of training, a special vest or patch or harness or collar to identify it as a service animal. All service animals are subject to local licensing, vaccination and registration requirements. There is no requirement for special registration, for example, as a service animal. Service animals are not limited to any breed of dog, and in fact, can even be a breed that is banned by local authorities. Municipalities that prohibit specific breeds of dogs must make an exception for a service animal of a prohibited breed. That means, if the person has a pit bull and they tell you that it is a service animal, you must accommodate it as a service animal, even if they are banned locally by the local or state government.

So... plan of action. Get to know the ADA. Get to know the local and state statutes regarding service animals. Come up with a detailed and comprehensive plan of action (and possible contingencies) and include it in the Policy and Procedures manual. Have it written and reviewed by management and even the legal team if you have one available. Have all sleep technologists read it and understand it. And remember, a service animal is there to do a job. It is not a pet. It is not a toy. It is not there to be petted or played with.

I hope this helped clarify some of the issues around accommodating service animals in the sleep center.

Resources:

<https://www.ada.gov/archive/qasrvc.htm>

https://www.ada.gov/service_animals_2010.htm

https://www.ada.gov/regs2010/service_animal_qa.html

https://en.wikipedia.org/wiki/Americans_with_Disabilities_Act_of_1990#Service_animals

<https://www.vetinfo.com/pet-dander-allergy-symptoms.html> ❖