



Equal Access to Medical Facilities for Individuals with Disabilities Under the Americans with Disabilities Act (ADA)

**This fact sheet is designed to provide general information and
is not a substitute for legal advice**

According to the United States Census Bureau 1 in 5 Americans have a disability. For individuals with disabilities access to medical care and medical facilities may simply begin with being able to park and making it through the front door. When attempting to access medical care, individuals with disabilities must be aware of their rights concerning equal access under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act.

- **Removing Barriers to Health Care: A Guide for Health Professionals**

As outlined in this guide found at <http://www.fpg.unc.edu/~ncodh/rbar/>, produced by The Center for Universal Design and The North Carolina Office on Disability and Health the guide includes but is not limited to ADA requirements and recommendations that federal, state, public and private medical facilities that receive government funds must/should adhere to:

- Accessible parking spaces close to entrances
- Accessible front entrance with ramp and curb cut at appropriate grades and surfaces
- Interior and exterior doors that are wide and easy to open
- Accessible route throughout the facility connecting all accessible features and service areas
- Clear floor space so people, even those using wheelchairs, can get close to and reach all controls and other features
- Controls, storage facilities and amenities such as magazine and literature racks within reach ranges for short people and wheelchair users
- Low counters, service windows or receptionist stations for transactions with short or seated people

□ 2671 Executive Center Circle West,
Suite 100
Tallahassee, FL 32301-5092
tel. 850.488.9071
fax 850.488.8640
toll free 800.342.0823
toll free TDD only 800.346.4127

□ 2901 Stirling Road
Suite 206
Ft. Lauderdale, FL 33312
tel. 954.967.1493
fax 954.967.1496
toll free 800.350.4566
toll free TDD only 866.478.0640

□ The Times Building
Suite 513 1000 N. Ashley Drive
Tampa, FL 33602
tel. 813.233.2920
fax 813.233.2917
toll free 866.875.1794
toll free TDD only 866.875.1837

- Desk-height writing surfaces with knee space for use by wheelchair users and others who cannot stand while transacting business
- Accessible toilet and dressing rooms large enough for a person using a wheelchair to navigate
- Audible and visual alarm systems
- Qualified sign language interpreters for communication with people who are deaf
- Large printout capability of key papers and documents for people with low vision
- Raised lettering and Braille on selected signs such as room and elevator controls

Additional information on the Americans with Disabilities Act can be found at: <http://www.ada.gov/>.

- **Section 504 of the Rehabilitation Act of 1973**

Section 504 of the Rehabilitation Act requires that all programs or services that receive federal money, either directly or indirectly, be accessible and provide reasonable accommodations to individuals with disabilities. Public services receiving federal funds are to comply, which includes but is not limited to medical and health care facilities.

“No otherwise qualified individual with a disability. . . shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance...” (29 U.S.C. §794(a)). For additional information please see: <http://www.dol.gov/oasam/regs/statutes/sec504.htm>.

Additional information and detail on the Rehabilitation Act of 1973 including Section 504 can be found at the United States Department of Health and Human Services website at: <http://www.hhs.gov/ocr/504.html>.

- **Accessible Parking**

A medical or health care facility that owns and manages a parking lot or structure must provide accessible parking under the ADA and Florida Statutes (F.S.0 553.5041 when readily achievable to do so. If a medical or health care facility leases, the responsibility for providing accessible parking falls to both the landlord and the lessee.

The number of accessible parking spaces a medical or health care facility is required to have by law is determined by F.S. 553.5041, entitled “Parking spaces for persons who have disabilities” and the Americans with Disabilities Act Accessibility Guidelines (ADAAG) Section 4.1.

To review F.S., 553.5041, go to:

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0553/SEC5041.HTM&Title=->2004->Ch0553->Section%205041#0553.5041 and to view ADAAG Section 4.1 please visit <http://www.access-board.gov/adaag/html/adaag.htm#4.1>.

<u>Total Parking Spaces in Lot</u>	<u>Required Accessible Parking Spaces</u>	<u>Total Parking Spaces in Lot</u>	<u>Required Accessible Parking Spaces</u>
1 to 25	1	201 to 300	7
26 to 50	2	301 to 400	8
51 to 75	3	401 to 500	9
76 to 100	4	501 to 1,000	2% of total
151 to 200	6	1,001 and over	20 plus 1 for each 100 over 1,000

Additional parking spaces beyond what is required under Florida Statutes and ADAAG may be necessary in certain situations and are allowed for under F.S. 553.5041(4)(c), which states:

“(c) The number of parking spaces for persons who have disabilities must be increased on the basis of demonstrated and documented need.”

Additional requirements for disabled parking may be found within F.S. 553.5041. This Statute may be viewed by visiting http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0553/SEC5041.HTM&Title=->2004->Ch0553->Section%205041#0553.5041 (see Attachment “A”).

- **Barrier Removal**

Medical and health care facilities are obligated under the ADA to remove architectural barriers to ensure access for patients where it is possible to do so and is readily achievable. Architectural barriers can be areas of a facility that obstruct access for individuals with disabilities. Examples of barriers are inaccessible parking spaces, curbs and steps; narrow exterior and interior doorways and aisles; paths of travel; rest room doorways and stalls that are too narrow for use by an individual who uses a wheelchair; inaccessible drinking fountains and telephones; elevators without Braille or large raised letters; etc. In addition, within health care facilities barriers that may impede an individual with disability in receiving appropriate care may be inaccessible examination tables or inaccessible examination equipment such as X-ray machines.

In reference to barriers that may be removed under a readily achievable standard, the ADA §301 defines "readily achievable" as "easily accomplished and able to be carried out without much difficulty or expense." Examples of possible barrier removal include providing an accessible ramp meeting federal

and state code for one or more steps, widening doorways, reconfiguring display shelves to increase aisle width, widening bathroom doorways to code, moving toilet stall partitions, and installing grab bars to code (see Attachment "B").

- **Effective Communication**

Medical offices and facilities are required under the ADA and Section 504 of the Rehabilitation Act to provide reasonable accommodations and equal access including effective communication. Effective communication is defined under the ADA §3, as "auxiliary aids and services" and may include sign language interpreters; written materials; assistive listening devices; Telecommunication Devices for the Deaf (TDDs); taped, Brailled, or large print materials; readers; and other communication tools. A physician or medical facility must provide auxiliary aids and services at no cost to individuals with disabilities.

Under Title III of the ADA, 28 C.F.R. §36.303 -- Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities

Subpart A -- General

"36.303 Auxiliary aids and services."

"(a) General. A public accommodation shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden, i.e., significant difficulty or expense.

(b) Examples. The term "auxiliary aids and services" includes --

(1) Qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

(c) Effective communication. A public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities.

(d) Telecommunication devices for the deaf (TDD's). (1) A public accommodation that offers a customer, client, patient, or participant the opportunity to make outgoing telephone calls on more than an incidental convenience basis shall make available, upon request, a TDD for the use of an individual who has impaired hearing or a communication disorder.

(2) This part does not require a public accommodation to use a TDD for receiving or making telephone calls incident to its operations.

(e) Closed caption decoders. Places of lodging that provide televisions in five or more guest rooms and hospitals that provide televisions for patient use shall provide, upon request, a means for decoding captions for use by an individual with impaired hearing.

(f) Alternatives. If provision of a particular auxiliary aid or service by a public accommodation would result in a fundamental alteration in the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or in an undue burden, i.e., significant difficulty or expense, the public accommodation shall provide an alternative auxiliary aid or service, if one exists, that would not result in an alteration or such burden but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the goods, services, facilities, privileges, advantages, or accommodations offered by the public accommodation.”

See Title III of the ADA at <http://www.ada.gov/reg3a.html>.

- **Service Animals**

According to the United States Department of Justice publication entitled “ADA Business Brief: Service Animals” (see Attachment “C”), service animals are defined as:

“Service animals are animals that are individually trained to perform tasks for people with disabilities such as guiding people who are blind, alerting people who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or performing other special tasks. Service animals are working animals, not pets.”

The ADA requires admission of service animals to medical and health care facilities unless it would result in a fundamental alteration or jeopardize the safe operations of the facility. The determination of a direct threat to health or safety must be established upon medical or other supporting evidence.

- **U.S. Department of Justice (DOJ) Settlement Agreements with Health Care Facilities**

Examples of a few of the settlement agreements with health care facilities include but are not limited to:

Davis Hospital and Medical Center

Davis Hospital and Medical Center's settlement contains the following provisions:

"...Davis will provide to Patients and Companions who are deaf or hard of hearing, any of the following appropriate auxiliary aids and services that may be necessary for effective communication, as soon as practicable after making such determination: written materials, note takers, assistive listening devices, and sign language interpreters as specified in Sections II and III below."

"Nothing in this Agreement will require that an electronic device or equipment constituting an appropriate auxiliary aid be used when or where its use may interfere with medical or monitoring equipment or may otherwise constitute a threat to a Patient's medical condition." "All appropriate auxiliary aids and services required by this Agreement will be provided free of charge to the Patient or Companion who is deaf or hard of hearing."

Below are a few examples where interpreter's services would be appropriate:

- a) "determination of a Patient's medical history or description of ailment or injury;
- b) provision of Patients' rights, informed consent or permission for treatment;
- c) religious services and spiritual counseling;
- d) explanation of living wills or powers of attorney (or their availability);
- e) diagnosis or prognosis of ailments or injuries;
- f) explanation of procedures, tests, treatment, treatment options or surgery;
- g) explanation of medications prescribed (such as dosage, instructions for how and when the medication is to be taken and side effects or food or drug interactions);
- h) explanation regarding follow-up treatments, therapies, test results or recovery;
- i) blood donations or apheresis;
- j) discharge instructions;
- k) provision of mental health evaluations, group and individual therapy, counseling and other therapeutic activities, including grief counseling and crisis intervention;
- l) explanation of complex billing or insurance issues that may arise; and

- m) educational presentations, such as classes concerning birthing, nutrition, CPR and weight management. The foregoing list of circumstances is neither exhaustive nor mandatory and does not imply that there are not other circumstances when it may be appropriate to provide interpreters for effective communication nor that an interpreter must always be provided in these circumstances.”

“Within thirty (30) days upon entry of this Agreement, the Hospital will enter into an agreement with a sign language interpreter service or services ("the SLI Service") to establish and operate a program ("the SLI Service Program") to provide qualified sign language and oral interpreters at the request of the Hospital.”

“The Hospital will require that the SLI Service maintains a response time of one (1) hour in at least eighty percent (80%) of non-scheduled incidents within any six (6) month period measured from the time beginning fifteen (15) minutes after it is determined that an interpreter is necessary for effective communication with a Patient or Companion who is deaf or hard of hearing.

In one hundred percent (100%) of non scheduled incidents, the SLI Service's response time will be two (2) hours or less. If the SLI Service does not provide, for reasons other than force majeure events, service meeting the requirements of this section twice within any six (6) month period, then Davis shall enter into a contract with a new SLI Service, which contract shall incorporate the requirements of this section.”

A ‘force majeure’ event are “...events outside the reasonable control of the Hospital, the SLI Service or the interpreter called to respond, such as weather problems and other Acts of God, unanticipated illness or injury of the interpreter and unanticipated electronic transmission problems relating to computer-assisted sign language interpretation, or transportation problems (including without limitation mechanical failure of the interpreter's automobile, automobile accidents and roadway obstructions).”

For detailed information on this settlement, please see: <http://www.usdoj.gov/crt/foia/utahdavishosp.html>.

Middlesex Memorial Hospital

Middlesex Memorial Hospital's settlement with DOJ is similar to the settlement agreement with Davis hospitals. For detailed information regarding the provision of effective communication and auxiliary aids can be found at <http://www.usdoj.gov/crt/foia/ctmiddle.html>.

Maine Medical Center (MMC)

Maine Medical Center's agreement is similar to Middlesex Memorial and Davis Hospital in the list of instances where an interpreter should be summoned. Maine also requires a prompt calling of an interpreter within 15 minutes of determining an interpreter is necessary. Maine is also required to maintain a contract with an interpreting agency to provide qualified interpreters whenever necessary Monday through Friday 8:00-4:30 p.m. or 8:30-5:00 p.m.

"MMC shall never request a family member, companion, case manager, advocate or friend of a person who is deaf to interpret communications between hospital personnel and that person. If a person who is deaf rejects MMC's offer of a free qualified interpreter and instead requests that a family member, companion, advocate, case manager, friend or other person be used to facilitate communication, MMC must:

- 1) Secure a signed "Refusal of Maine Medical Center Interpreter Services" form (set forth in Exhibit B to this Decree) from the person who is deaf (or note in the patient's chart that the patient has both refused a hospital-supplied interpreter and refused to sign the Refusal form); ascertain that the family member, companion, advocate, case manager or friend is willing to facilitate communication; and explore with the patient other more effective means of communication (including repeating the offer of a qualified interpreter) when it appears to hospital personnel or is stated by the person who is deaf or the person facilitating communication that there is a lack of effective communication between the person who is deaf and hospital personnel."

"...In an emergency situation in which the patient has not refused interpreter services and where the patient's medical condition might be compromised by waiting for an interpreter to arrive before beginning the assessment and treatment, MMC shall immediately contact a qualified interpreter, and use flash cards, pictograph forms, written notes, charts, diagrams and its best efforts to provide the most effective communication possible until such time as the qualified interpreter arrives at MMC."

Maine Medical Center's settlement regarding the provision of effective communication and sign language interpreters can be found at <http://www.usdoj.gov/crt/foia/mainedevinney.html>.

- **Complaints and Resolutions**

If you have concerns about your access to a medical or health care facility and you have addressed these concerns with your physician or the facility manager and you still believe that your rights under the ADA or Section 504 are being violated, you may choose to file a formal complaint.

You may file a complaint with the United States Department of Health and Human Services' Office of Civil Rights, visit their website at: <http://www.hhs.gov/ocr/discrimhowtofile.html>, (See Attachment "D") or contact them at:

Office for Civil Rights
U.S. Department of Health & Human Services
61 Forsyth Street, SW. - Suite 3B70
Atlanta, GA 30323
(404) 562-7886; (404) 331-2867 (TDD)
(404) 562-7881 FAX

How to file an ADA complaint with the U.S. Department of Justice?

You can locate this information by going to their website at:
<http://www.ada.gov/enforce.htm#anchor218282>.

You can also mail your complaint to:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Disability Rights Section - NYAV
Washington, DC 20530
800-514-0301 Toll Free
800-524-0383 TDD

You may also elect to file a complaint against an individual doctor. You may do this by contacting the State of Florida Board of Medicine at:

Florida Board of Medicine

4052 Bald Cypress Way, BIN C06
Tallahassee, FL 32399
Telephone: (850) 488-0595
Tollfree: 888-419-3456
Fax: (850) 487-9874
Email: MQA_Osteopath@doh.state.fl.us
Website: <http://ww2.doh.state.fl.us/mqaservices/PublicServices.asp>

- **Advocacy Center for Persons with Disabilities, Inc.**

The Advocacy Center for Persons with Disabilities, Inc. (Advocacy Center) is a not-for-profit Section 501(c)(3) organization that currently houses eight federally mandated programs to help protect the legal, human and civil rights of individuals with disabilities.

The Protection and Advocacy of Individual Rights (PAIR) Program is mandated under Section 509 of the Rehabilitation Act (see 29 U.S.C. § 794(e)) to promote the legal and human rights of individuals with disabilities. Among other disability/civil rights concerns, PAIR is currently investigating access to medical and health care facility related complaints for individuals not eligible for the other protection and advocacy programs (P&A).

If you or someone you know has concerns about the ADA or Section 504 accessibility of a medical or health care facility, you may choose to contact the Advocacy Center for information and referral or to request an investigation into your complaint.

To request an intake to the PAIR Program, please call Program Specialist, Ms. Barbara Jones toll-free at (800) 342-0323, ext. 239; locally at (850) 488-9071, ext. 239; or via TTY at (800) 346-4217. You may also send your request by email to barbaraj@advocacycenter.org or by fax at (850) 488-8640.

*This fact sheet is not a substitute for legal advice.
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