

Health Law Bulletin

provided by:



MITCHELL • BLACKSTOCK
Mitchell • Blackstock • Barnes • Sneddon • PLLC

Federal Government Issues Guidance on Accessible Medical Care for Individuals with Mobility Disabilities

In late July, the United States Departments of Justice and Health and Human Services issued guidance on how health care providers can comply with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act in providing medical services to persons with mobility disabilities.

The general requirements are that medical care providers must provide individuals with disabilities (1) full and equal access to health care services and (2) facilities and reasonable modifications to policies, practices, and procedures when necessary to make health care services fully available.

The guidance provides specific information regarding accessible examination rooms and accessible medical equipment. The guidance also provides a summary of some of the primary issues in the form of eleven commonly asked questions:

1. **Is it ok to examine a patient who uses a wheelchair in the wheelchair, because the patient cannot get onto the exam table independently?** Generally no. If examining the patient in the wheelchair is less thorough than on the exam table, then the exam table should be accessible to a person with a wheelchair.
2. **Can I tell a patient that I cannot treat her because I don't have accessible medical equipment?** Generally no. You must examine the patient as you would any patient.
3. **Is it OK to tell a patient who has a disability to bring along someone who can help at the exam?** No. A patient may choose to bring a friend or family member, but if the patient comes alone, the provider must provide reasonable assistance to enable the individual to receive the medical care.
4. **If the patient does bring an assistant or a family member, do I talk to the patient or the companion? Should the companion remain in the room while I examine the patient and while discussing the medical problem or results?** You should always address the patient directly, not the companion, just as you would with any other patient. It is up to the patient to decide whether a companion remains in the room during your exam or discussion with the patient.

5. **Can I decide not to treat a patient with a disability because it takes me longer to examine them, and insurance won't reimburse me for the additional time?** No, you cannot refuse to treat a patient who has a disability just because the exam might take more of your or your staff's time.
6. **I have an accessible exam table, but if it is in use when a patient with a disability comes in for an appointment, is it OK to make the patient wait for the room to open up, or else use an exam table that is not accessible?** Generally, patients with disabilities should not wait longer than other patients because they are waiting for a particular exam table. Also see question 7 below.
7. **In a doctor's office or clinic with multiple exam rooms, must every examination room have an accessible exam table and sufficient clear floor space next to the exam table?** Probably not. The number of accessible exam tables depends on the size of the practice, the patient population and other factors.
8. **I don't want to discriminate against patients with disabilities, but I don't want my staff to injure their backs by lifting people who use wheelchairs onto exam tables. If my nurse has a bad back, then she doesn't have to help lift a patient, does she?** Staff should be protected from injury, but that doesn't justify refusing to provide equal medical services to individuals with disabilities. The medical provider can protect his or her staff by providing accessible equipment and training on proper patient handling techniques.
9. **What should I do if my staff does not know how to help a person with a disability transfer or know what the ADA requires my office to do? Also, I am unsure how to examine someone with spasticity or paralysis.** To provide medical services in an accessible manner, the medical provider and staff will likely need to receive training. In the end, it is always best to ask the patient if assistance is needed and if so, what is the best way to help. If the provider is unsure of how to handle something, it is absolutely OK to ask the patient what works best.
10. **If I lease my medical office space, am I responsible for making sure the examination room, waiting room, and toilet rooms are accessible?** Yes. Both tenants and landlords are equally responsible for complying with the ADA.
11. **Are there any tax breaks for making accessibility changes to my medical office?** Yes. Subject to IRS rules, federal credits and deductions are available to private businesses to offset expenses incurred to comply with the ADA.

For more information, you can access the complete publication at www.ada.gov/medcare_mobility_ta/medcare_ta.pdf.