

Q&A Series

REASONABLE ACCOMMODATIONS UNDER THE ADA IN PUBLIC HEALTH SETTINGS

What is the Americans with Disabilities Act (ADA)?

The ADA is a **federal civil rights law** that **prohibits discrimination** on the **basis of disability**. The ADA requires public, private and non-profit entities that provide goods and services to the public to provide equal access for people with disabilities. Equal access means the ability to participate in, receive, or enjoy the entity's programs, services, or benefits. See <https://www.ada.gov/>

What federal laws protect people with disabilities in health care settings?

The ADA applies to health care settings.

- **Title II** of the ADA applies to public hospitals, clinics and health care services.
- **Title III** of the ADA applies to private entities, including non-profits, hospitals, clinics and other health care providers.
- **Section 504 of the Rehabilitation Act**, which also bans discrimination on the basis of disability, applies to any health care facility that is a recipient of federal financial assistance, such as Medicaid and Medicare.
- **Section 1557 of the Affordable Health Care Act**, in covered health care programs or activities.

Are there state laws that protect access to health care facilities and services for people with disabilities?

The Massachusetts public accommodations law prohibits discrimination on the basis of disability in places of public accommodation. If you believe your civil rights have been violated under this statute, you can file a complaint with the Massachusetts Office of the Attorney General, (phone (617) 963-2917 or online at: <https://www.mass.gov/how-to/file-a-civil-rights-complaint>).

Reasonable Accommodation or Modification

Who is protected by the ADA?

It is unlawful to discriminate against a person with a disability under the ADA. The ADA defines a person with a disability as a person with a **physical** or **mental impairment** that **substantially limits a major life activity** or a person with a record of such impairment. Major life activities are those functions that are important to most people's daily lives. Examples of major life activities are breathing, walking, talking, hearing, seeing, sleeping, caring for one's self, performing manual tasks, and working.

How does the ADA help people with disabilities gain equal access to health care services?

Under the ADA, private and public entities are **required** to provide equal access, which may be done **through reasonable accommodations** for customers, clients and members of the public with a disability. A reasonable accommodation, (also sometimes referred to as a "reasonable modification") is a change or adjustment to a policy, practice or rule in order to provide a person with a disability equal access to facilities and services.

Key Legal Term

Reasonable Accommodation (or "*reasonable modification*"):

A change or adjustment to a policy, practice, or rule in order to provide a person with a disability equal access to facilities and services

Example of reasonable accommodations in hospitals and health care settings:

In 2020 due to the COVID-19 pandemic, the Massachusetts Department of Public Health directed hospitals to implement a no-visitor policy. However, this policy prevented some individuals with disabilities from receiving equal access to treatment. As a result, hospitals were required to provide reasonable accommodations for designated support people to assist with communication, medical decision-making, personal care, and other needs. See [Attorney General Guidance: Rights of Disabled Persons To Accommodations During Covid-19.](#)

How is a request for an accommodation made?

A person with a disability can make the request, or someone can make the request on their behalf. The request does not have to be in writing, nor does it have to use any particular language. However, putting the request in writing is usually a good idea. At a minimum, the request should make clear the nature of the person's disability and why the accommodation being requested is necessary for the person to have equal access to the goods or services involved. We have provided a sample template for requesting a reasonable accommodation.

Will I have to provide any documentation?

It depends. You may be asked for limited medical documentation regarding your disability, if the disability and/or need for accommodation is not obvious. You may also need to provide information, such as a letter from your physician or other provider, on how the disability affects you and why the accommodation is needed.

Can a requested accommodation be denied?

It depends on the request. Requests for accommodation should be individualized and considered on a case-by-case basis. There are two factors to consider when assessing whether an accommodation is "reasonable."

- Is the requested accommodation necessary to allow the person equal access to the entity's programs, services, or benefits?
- Does the requested accommodation result in undue hardship or fundamental alteration for the entity involved?

An accommodation does not have to be provided if it would result in a significant expense or if it would significantly alter the essential nature of the good or service being provided.

What if an alternative accommodation is offered?

The hospital or other healthcare setting may offer to provide an alternative accommodation, as long as that alternative is effective. It can be helpful to engage in a dialogue to see if you can come to an agreement that would be acceptable to you and the healthcare staff and would effectively provide equal access.

What can I do if the hospital or health care facility refuses my request for an accommodation?

Contact the patient advocacy office or **ADA coordinator** within the facility you are trying to access and begin any internal complaint or grievance process.

Contact the Intake Line at the **Center for Public Representation** at (413) 586-6024 if your request for an accommodation has been denied.

File a complaint with the **Massachusetts Office of the Attorney General**, at (617) 963-2917 or online at: <https://www.mass.gov/how-to/file-a-civil-rights-complaint>.

File a complaint under Title III of the ADA with the **Civil Rights Division of the Department of Justice** either online or in writing. https://civilrights.justice.gov/report/?utm_campaign=499a0d26-884a-47aa-9afc-70094d92e6f5

For more information, contact info@cpr-ma.org.



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