



**NEVADA'S PROTECTION & ADVOCACY SYSTEM
FOR
INDIVIDUALS WITH DISABILITIES**

**Your Healthcare Rights under the
ADA and other Civil Rights Laws**

For more information or to request services,
please visit www.ndalc.org or call 1-888-349-3843

Nevada Disability Advocacy & Law Center (NDALC) is a statewide, private non-profit organization. NDALC serves as Nevada’s federally-mandated protection and advocacy system for human, legal, and service rights for individuals with disabilities. NDALC was designated as Nevada’s protection and advocacy system by Governor Bob Miller in March, 1995.

Services provided by NDALC include, but are not limited to information and referral services, education, training, negotiation, mediation, investigation of reported or suspected abuse/neglect, legal counsel, technical assistance, litigation services, and public policy work.

This publication is for informational purposes only; it is not intended to be legal advice. If you have questions about a specific situation please contact NDALC or a private attorney.

This booklet focuses on the rights of people with disabilities when accessing healthcare. Healthcare includes the following: medical/treatment facilities, services, information offered by doctor or their office, all other medical providers, and insurance plans. For many Nevadans, medical services are provided either by a public entity, such as a county or state agency, or through a Managed Care Organization (MCO), which is a network of providers managed by an umbrella corporation or agency. When providing Nevada Medicaid services, MCOs are doing so under a contract with the State. All healthcare providers are prohibited from discriminating against people with disabilities and must provide access in a variety of ways.

The **Americans with Disabilities Act (ADA)** and **Section 504 of the Rehabilitation Act** (Section 504) are the main federal laws that protect your rights. Privately owned and operated hospitals or medical offices are covered under Title III of the ADA because they are “public accommodations.” Medical facilities run by government bodies, such as county or other public hospitals, clinics and medical offices are covered under Title II of the ADA; because they are public entities. Section 504 covers medical providers that receive federal financial assistance, such as Nevada Medicaid. Similar state law provisions are outlined in the Nevada Revised Statutes 449.700 – 449-750.

General Provisions

Both Titles II and Title III of the ADA and Section 504 require that medical care providers offer individuals with disabilities the following:

- Full and equal access to their healthcare services and facilities;
- Reasonable modifications to policies, practices, and procedures when necessary to make healthcare services accessible; and,
- Effective communication, including auxiliary aids and services, such as the provision of sign language interpreters or written materials in alternative formats.

However, a health care provider cannot refuse to provide a person with a disability an accommodation unless the provision of the accommodation would result in an “undue hardship” or a “fundamental alteration” to the services provided by healthcare provider creating significant difficulty or expense.

However, even if the requested accommodation may result in an undue hardship or fundamental alteration, the healthcare provider still has the duty to consider other alternatives and furnish an alternative reasonable accommodation that would not result in a fundamental alteration or undue burden.

Building access for a wheelchair, walker, or crutches –

If the building or facility is newly constructed or altered, it will need to comply with federal and state laws requiring physical accessibility. Access requirements are detailed in state and federal laws and regulations. Those laws and regulations require accessible paths of travel, elevators, ramps, doors that open easily, reachable light switches, accessible restrooms, accessible parking and signage that can be used by individuals who are blind or have low vision.

Buildings, not altered since 1990, are subject to the accessibility requirements for existing buildings. A government healthcare provider (under Title II) must ensure that its programs as a whole are accessible. This might include making buildings physically accessible, removing architectural barriers or relocating services to an accessible location on a temporary or permanent basis.

Private healthcare providers (under Title III) are required to remove architectural barriers where such removal is readily achievable, or can be easily accomplished without much difficulty or expense. In the alternative, they need to make other arrangements, again provided this is readily achievable. Examples include but are not limited to keeping paths of travel clear of barriers or offering a healthcare appointment at an alternative accessible location. If you want more specific information on accessible design, go to <http://www.ada.gov/>

Physical access to medical equipment and exam rooms –

The U.S. Department of Justice (DOJ) guidelines provide that it is generally not acceptable for a healthcare provider to deny treatment due to an inaccessible examination table, inaccessible medical equipment or because of concern that staff might be injured if they assist in transferring a patient with a mobility disability. The DOJ requires medical providers to have accessible equipment and to use a lift or a trained staff person as necessary to ensure equal access to medical examinations and tests. The DOJ’s guidelines are available here: http://www.ada.gov/medcare_mobility_ta/medcare_ta.htm

Service animals in the healthcare setting –

The ADA and Section 504 require both public and private healthcare providers to allow a person with a disability to be accompanied by their service animal. For information on regulations about service animals generally under the ADA, you can go to: http://www.ada.gov/service_animals_2010.htm.

“Service animals” are dogs or in certain cases miniature horses. Entities can make limited inquiries regarding the necessity of the service animal such as what task or work the dog has been trained to perform, but may not ask detailed questions about the individual’s disability.

Service animals are to accompany the individual with a disability in all areas of the medical facility where health care personnel, visitors, and patients are normally allowed during inpatient services, unless the animal’s presence or behavior creates a fundamental alteration in the nature of a facility’s services in a particular area or a direct threat to other persons in a particular area.

However, there are some restrictions on service animals. It may be appropriate to exclude a service animal from limited access areas that employ general infection control measures, such as operating rooms or a burn unit. However, fear and allergies are not valid reasons for denying access to a service animal or refusing service to people using service animals. For some guidance on accommodating the use of service animals in healthcare settings, you can go to:

<http://www.phe.gov/Preparedness/planning/abc/Pages/service-animals.aspx>.

Communicating with healthcare providers –

Under the ADA and Section 504 of the Rehabilitation Act, healthcare providers must provide effective communication for patients, family members, and visitors who are deaf or hard of hearing using auxiliary aids and services. Since people who are deaf or hard of hearing use a variety of ways to communicate, the method that the healthcare provider must provide will vary depending on the abilities of the individual, their preferences for communication, and the complexity and nature of the communications required. **The method of communication requested by the person with a disability should be given priority by the healthcare provider.**

A healthcare provider cannot charge the individual for providing sign language interpreter services. **It is inappropriate for a provider to ask a family member or other companion to interpret for a deaf or hard of hearing patient.** In addition, being able to call your provider on the phone is very important. A provider should have telephone access through TTY, video or other relay services.

The DOJ has the following guidance regarding effective communication in hospital settings:

<http://www.ada.gov/hospcombr.htm>

Accessible information for individuals who are blind or visually impaired –

Both the ADA and Section 504 of the Rehabilitation Act require healthcare providers to provide auxiliary aids and services for effective communication to patients, family members, and visitors who are blind or have low vision.

Examples of these services may include readers, taped texts, Braille materials, modifying equipment, or other effective means of conveying the information.

All information that generally is made available in print must be effectively communicated; including general health guidance, medication and treatment side effect information, billing invoices, and appointment reminders.

Additional examples of auxiliary aids and services may include, but are not limited to:

- Assistance with reading and completing admission and consent forms, or reading discharge information, medication names and dosages;
- Providing text materials in accessible, electronic format;
- Providing documents in Braille or audio;
- Providing a Braille-output TTY to a patient who is deaf and blind; or,
- Making healthcare plan websites accessible.

Modification requests for accessing healthcare –

The ADA provides protection from discrimination for people with all types of disabilities, including people with physical, cognitive, communication, and mental health disabilities. Healthcare providers must make “reasonable modifications in policies, practices and procedures” when necessary to avoid discrimination on the basis of disability, unless the provider can demonstrate that making the modification would “fundamentally alter the nature of the service, program or activity.” This means that the provider must make changes to the way it does business to accommodate people with disabilities in many types of situations. For example:

- Taking extra time to explain a procedure to a patient who has a cognitive disability and might have difficulty understanding;
- Scheduling an appointment at a specific time to accommodate a patient with an anxiety disorder who has difficulty waiting in a crowded waiting room; or
- Providing assistance to help a patient who is blind choose food in the cafeteria line at a clinic/hospital.

Examples of disability-related discrimination that might violate the ADA –

Examples of discrimination might include, but are not limited to:

- Requiring you to wait longer to be examined because there is only one accessible examination room;
- Requiring you to bring an attendant or companion to your provider’s office to assist with lifting, understanding or interpreting- unless you want that person there;
- Refusing to serve you because the exam may take longer due to your disability;
- Charging an extra fee to provide sign language interpretation when needed for effective communication;
- Providing limited appointment dates or times due to an individual’s disability;

- Refusing to provide effective communication assistance such as: providing your files in an alternate format; providing a sign-language interpreter when appealing a health plan's refusal to authorize treatment, or refusing to provide assistance when you are filing a grievance or complaint with a health plan.

What to do if you cannot access your healthcare provider or healthcare plan due to a disability –

If you have problems with access, the provision of the accommodations, or securing auxiliary aids and services (or any other form of discrimination) you should start by talking directly to the health care provider and/or healthcare plan.

In addition, public healthcare providers, large private facilities, and healthcare plans should have an ADA or Section 504 coordinator who is responsible for ensuring compliance with the law and dealing with complaints by consumers.

If you cannot work it out with the provider or healthcare plan, you can call or file a complaint with the ADA coordinator for the entity. Information on filing a complaint should be posted on the healthcare provider's website, found in patient right's materials provided to you, or obtained by calling member services.

How to file a complaint when you cannot resolve the complaint with the healthcare provider or plan –

When a problem cannot be resolved with the public or private provider or their Section 504/ADA compliance officer, you can file a complaint with any of the following state and federal agencies that are responsible for enforcing the ADA, Section 504 or Nevada law:

- **U.S. Department of Health and Human Services (for providers that receive federal funding or accept Medicaid)**
Office of Civil Rights (OCR)
90 7th Street, Suite 4-100
San Francisco, CA 94103
Voice Phone: 800-368-1019
Fax: 415-437-8329
TDD: 800-537-7697
<http://www.hhs.gov/ocr/office/file/index.html>

- **United States Department of Justice (DOJ)**

950 Pennsylvania Avenue, NW

Civil Rights Division

Disability Rights Section – 1425 NYAV

Washington, DC 20530

ADA Information Line: 800-514-0301 (voice) or 800-514-0383 (TTY)

Online Complaint: <http://www.ada.gov/complaint/>

In Spanish: <http://www.ada.gov/complaint/?language=es>

- **Nevada Division of Public and Behavioral Health**

Bureau of Healthcare Quality and Compliance

(general complaints about any licensed Nevada Healthcare facility)

Northern Nevada Office

727 Fairview Drive, Suite E

Carson City, NV 89701

Voice Phone: 775-684-1030

Fax: 775-684-1073

Southern Nevada Office

4220 S. Maryland Pkwy, Suite 810, Building D

Las Vegas, NV 89119

Voice Phone: 702-486-6515

Fax: 702-486-6520

E-mail: HCQCComplaint@health.nv.gov

http://health.nv.gov/HCQC_HealthFacilities.htm#complaint

- **Nevada Equal Rights Commission**

Northern Nevada Office

1325 Corporate Boulevard, Room 115

Reno, NV 89502

Voice Phone: 775- 823-6690

Fax: 775- 688-1292

Southern Nevada Office

1820 East Sahara Avenue, Suite 314

Las Vegas, NV 89104

Voice Phone: 702-486-7161

Fax: 702-486-7054

NV Relay 711

http://detr.state.nv.us/Nerc_pages/public_accomodation_discrimination.htm

There may be time deadlines to file complaints and/or take other legal action such as filing a lawsuit. You should consult an a private attorney or contact NDALC for more information . Also, the State Bar of Nevada’s Lawyer Referral Service can provide you with a low cost initial consultation.

- **State Bar of Nevada Lawyer Referral & Information Service**

Voice Phone: 800-789-5747

<http://www.nvbar.org/content/lawyer-referral-information-service>