



PARKER | SMITH | FEEK

COMMERCIAL INSURANCE

EMPLOYEE BENEFITS

PERSONAL INSURANCE

RISK MANAGEMENT

SURETY



PRACTICE GROUP: HEALTHCARE

OCTOBER 19, 2017

MAN'S BEST FRIEND COMING TO A HEALTHCARE FACILITY NEAR YOU

[Sharon Hall](#) | Vice President, Healthcare Risk Management, Pet Partners Therapy Animal Team Handler

She stopped in front of a woman sitting on a hallway bench in a hospital. The woman, talking on her cell phone, looked at her, and said, "I've got to go now, there's a dog waiting to see me." As a conversation with the dog's handler started, she stroked the animal. When it was time to move on, the woman looked into the dog's eyes and said, "Thanks for stopping, I needed this, I just learned I need a breast biopsy."

It's a time of stress – violence in our communities, natural disasters, political uncertainty, and personal issues are on everyone's minds. All this, coupled with geographical distances separating people from family and friends, many individuals are turning to their furry friends for support. Years ago, guide dogs for the blind were recognized as a way to increase the independence of sight-impaired individuals. Emerging research continues to recognize the value of animals in the lives of humans. Animals have been found to have a positive effect on patients' pain levels, reducing pulse and blood pressure in hospitalized individuals. Walk with Me programs not only act as a bridge for loneliness, but increase senior wellness at retirement centers through activity. Reading with Rover programs offer children the opportunity to practice their reading skills

in a nonjudgmental environment. For children testifying in court and anxious families in hospital waiting rooms, animals help pass the time and ease tension. In addition, dogs trained to assist a person with autism may alert the handler to distracting repetitive movements, allowing the person to stop the movement. Studies have supported benefits from bringing animals into the workplace as well, resulting in reduced stress, enhanced employee productivity, and an increased level of trust and cooperation among coworkers.

As animals accompany individuals to healthcare facilities with increasing frequency, staff may be uncertain which animals are allowed and under what circumstances. Can a patient insist that you allow their "emotional support" rabbit to stay with them during their hospitalization? While federal regulations provide guidance for service animals, there are other animal categories that organizations' risk management policies may need to consider. These include emotional support animals, animal assistive interventions (AAI - new terminology encompassing pet therapy or animal-assistive therapy {AAT} and animal-assisted activities {AAA}), therapy animals, and facility animals.

continued >



Categories of Animals

1 SERVICE (ASSISTANCE) ANIMALS

In September 2010, the Department of Justice revised final regulations implementing the Americans with Disability Act for Title II (state and local government services) and Title III (public accommodations and commercial facilities), which included service animals. Service animals are defined as dogs that are individually trained to do work or perform tasks for an individual with a disability. In some cases, the ADA does permit the use of trained miniature horses as an alternative to dogs. A service animal is not a pet. Entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go. For hospitals, that might include waiting rooms, patient rooms, cafeterias, and exam rooms. Restricting access to areas generally not accessible to the public is permissible. Some state and local laws may define service animals more broadly than the ADA. According to ADA guidance, when it is not apparent whether an animal is a service animal, there are two questions that may be asked:

1. Is the animal required because of a disability?
2. What work or task has the animal been trained to perform?

A facility is not allowed to ask for documentation or proof that the animal has been certified, trained, or licensed as a service animal. While there are organizations that sell service animal certification or registration documents, the Department of Justice does not recognize them as proof that a dog is a service animal. Nor does a letter from a physician turn an animal into a service animal.

The patient/resident is responsible for caring for the animal or finding someone to do so – the healthcare organization is not responsible for this and may place the animal in a boarding facility if someone cannot be identified to provide for its care. Unless an animal is not housetrained or poses a direct threat to the health and safety of others, which cannot be mitigated or eliminated by modifying policies, practices or procedures, a disabled individual's animal cannot be removed. For example, if the dog is barking or growling consistently and the handler cannot stop the behavior, one could determine that the animal poses a threat. It is advisable to work with the disabled individual and, to the extent possible, document the threatening behavior, actions taken to gain control, and actions being taken to accommodate (or inability to accommodate) the animal. Unfortunately, there is little regulatory guidance available to help identify appropriate actions for repeated acts of what is perceived to be aggressive behavior. In such circumstances, documentation to substantiate your decision may be relied upon if challenged.

As animals accompany individuals to healthcare facilities with increasing frequency, staff may be uncertain which animals are allowed and under what circumstances.

2 EMOTIONAL SUPPORT (COMFORT) ANIMALS

Animals that provide only comfort or emotional support for their owners do not qualify as service animals, although they may be used as part of a medical treatment plan as therapy animals. To qualify as a service animal, the dog must be trained to provide specific tasks for an owner with a psychiatric diagnosis.

continued >



For example, a dog may qualify if it has been trained to recognize that a person is about to have an anxiety attack and can take a specific action to help avoid the attack or lessen its impact.



3 ANIMAL ASSISTIVE INTERVENTIONS (AAI) ANIMALS

Animal-assisted therapy (AAT) involves therapeutic interventions directed by health and human service providers as part of their profession. Examples might be a physical therapist utilizing a dog to enhance range of motion activities for a stroke patient through petting or grooming the animal or a counselor in treating a child with autism. Animal-assisted activities (AAA) provides opportunities for motivational, educational and/or recreational benefits to enhance quality of life. AAA activities can be more informal in nature and may involve a healthcare professional and volunteer team (the volunteer owns the dog and works in conjunction with the professional). Therapy animals are not service animals and have no special rights of access except where they are welcomed. They may not enter businesses with “no pet” policies.

4 THERAPY ANIMALS

These animals provide affection and comfort to members of the public. Animal therapy programs are often utilized

in hospitals, retirement and assistive living facilities, schools, camps, as well as other social service organizations. Animal/handler teams are usually volunteers. Similar to those dogs performing AAI activities, they have access to facilities only when welcome and may not enter businesses not allowing pets.

5 FACILITY ANIMALS

Resident animals are regularly present in a residential or clinical setting. Many assisted living and retirement facilities have resident animals. Such animals are not restricted to dogs and may include cats, fish, and/or birds. They may live with a handler who is an employee of the facility or live at the facility full time under the care of a primary staff person. Facility residents may also be permitted to have their own pets live with them. Similar to therapy animals, this category of animals does not qualify for access to public spaces under the ADA unless they are accompanying and directly supporting a resident with a disability.

Best Practices

Is your organization thinking about having therapy animal teams or allowing pets on your campuses? Risk management strategies ensuring safe public access to the animal encompass more than permitting a staff member to bring their dog to work. Not all animals are therapy material – the animal must be social and at ease with all types of touching and medical equipment. Reliable house training and obedience is essential. Additionally, the handler team partner must have good social skills and a bond with the animal that translates into pleasant interactions.

Healthcare organizations should develop comprehensive policies and procedures that include not only service animals, but other categories that might be on the

continued >



premises. They should take into account the ADA, relevant state laws, and any other federal regulations that may be applicable.

Policies and procedures should address issues such as:

- Criteria for prospective therapy animals - e.g. age over one year, suitability as previously noted, appropriate vaccinations and routine parasite screening, determination of health status and regular re-evaluation, prohibition of raw protein diets, and no history of aggression. Having a requirement that teams be registered or certified with an organization adopting standards assures facilities of a minimum level of competency for both the dog and handler.
- Areas where animals are not allowed, including food preparation areas, laundries, central supply and areas for clean storage, medication preparation areas, surgery, isolation areas, and areas where immunocompromised patients are located unless these patients are able to receive visitors without using protective garments.
- Infection control – use of hand hygiene before and after touching an animal, cleaning of any “accidents,” avoidance of contact with certain types of infectious patients, animal grooming prior to visits, use of a barrier if the animal is placed on the bed, and when pets or handlers may not visit.
- Designating an individual to be in charge of the visitations.
- Patient and staff education.
- Limitations or restrictions - under what circumstances an animal may be removed from the premises and, for service animals, documentation associated with removal.
- Handling of animal-related incidents and occurrences.
- Volunteer handlers should participate in the facility’s orientation program, including privacy training and handling requests for photography, emergency response, incident reporting, and other applicable policies. In addition, teams should be shadowed annually to ensure competency.

Despite the demonstrated value of the human animal connection, not all healthcare organizations feel comfortable allowing all animals in their organizations, citing infection control, allergy, and/or liability concerns. According to the CDC, measures can be taken to prevent and mitigate concerns such as these. Continued research in the animal/human connection that will likely validate additional benefits and the establishment of core competencies for teams is underway. Organizations such as Pet Partners and Therapy Dogs International evaluate animals for therapy work and require their members to adhere to certain standards and ethical practices, thus ensuring an added level of safety. Both of these organizations also offer members liability insurance. While incidents involving third parties are infrequent and organizational liability policies should cover such incidents, it is advised that you still check your policies or call your broker to confirm coverage.

continued >

COMMERCIAL INSURANCE

EMPLOYEE BENEFITS

PERSONAL INSURANCE

RISK MANAGEMENT

SURETY



PARKER | SMITH | FEEK

References and Resources

1. U.S. Department of Justice, ADA Requirements Service Animals www.ada.gov/service_animals_2010.htm
2. U.S. Department of Justice, Frequently Asked Questions About Service Animals and the ADA, www.ada.gov/regs2010/service_animal_qa.html, 2014
3. Fisher & Phillips, Gone to the Dogs: Rules on Service Animals to Become Much Stricter, March 2011
4. Pet Partners, www.petpartners.org/learn/benefits-human-animal-bond/; www.petpartners.org/learn/terminology/; www.petpartners.org/volunteer/become-a-handler/program-requirements/; and www.petpartners.org/volunteer/our-therapy-animal-program/volunteer-policies-procedures/
5. EHS Today, Why Man's Best Friend Might Be a Good Office Mate, 06242014.
6. ADA National Network, Service Animals and Emotional Support Animals, 2014, <http://adainfo.us/serviceanimalbook>
7. CDC, Guidelines for Environmental Infection Control in Health-Care Facilities, 2003
8. Journal of Pediatric Oncology Nursing, Animal-Assisted Activities: Results From a Survey of Top-Ranked Pediatric Oncology Hospitals, 2015
9. ECRI, Documentation Important when Allowing Animals in Healthcare Facilities, 10/28/2015