

LEGAL EAGLE EYE NEWSLETTER

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Disability Discrimination: Hospital Is Not Required To Allow Service Animal To Stay.

The US District Court for the District of Oregon agreed with the patient that she is a person with a disability for purposes of the Americans With Disabilities Act (ADA).

A hospital is a place of public accommodation which is required by the ADA to make reasonable accommodation to a patient's disability.

What Is Reasonable?

The question was just how reasonable it was for the hospital to accommodate the patient's insistence that her service animal, a large dog, remain with her at her bedside 24/7.

Her dog helps her by retrieving dropped objects, getting her crutches and by steadying her when she transfers from sitting to standing.

The patient has been an inpatient at the hospital for several days to a week for complications of multiple sclerosis on more than one hundred occasions over the last dozen years.

Her dog was with her in the hospital the last twenty-nine times before the hospital informed her she would be refused readmission the next time if she brought her dog with her.

The court ruled the hospital was not guilty of disability discrimination and issued an injunction against her bringing this or any other animal with her to the hospital in the future.



A hospital must keep all of its patients safe, must provide all of its patients with quality health care and must assure that all of its employees have a safe place to work.

What this particular patient saw as less than equal treatment was the hospital's attempt to accommodate not just her but other patients, visitors and staff as well.

UNITED STATES DISTRICT COURT
OREGON
August 31, 2009

Problems With This Service Animal In A Hospital Setting

The dog smelled bad. The hospital had to transfer certain patients off the floor because they could not tolerate the odor. It took at least a day to clean and deodorize the rooms afterward.

Hospital aides had trouble stepping over the animal even to serve meals to the roommate, not to mention the safety hazard if there was an emergency.

Hospital staff had to escort the dog outside several times a day to urinate and defecate. Some hospital staff were allergic to the dog and had to be reassigned to different units.

Finally, the physician epidemiologist connected with the hospital's infection-control department obtained confirmation from the dog's veterinarian that the dog had infections which were wholly inappropriate in a sanitary healthcare setting.

Hospital administrators felt compelled to sue for an injunction. In turn, the patient counter-sued for disability discrimination. In defining the word "reasonable" in the phrase "reasonable accommodation" the court ruled that the needs of other hospital patients, staff and visitors, on balance, outweighed this patient's attachment to her animal. ***Jane Roe v. Providence Health System***, ___ F. Supp. 2d ___, 2009 WL 2882947 (D. Or., August 31, 2009).

Inside this month's issue...

October 2009

New Subscriptions
See Page 3

Parkinson's Disease - Central Venous Catheter - HIV Status
Perioperative Nursing - Pregnancy Discrimination
Refractive Schizophrenia/Psychiatric Nurse Practitioner
Disability Discrimination - "English-Only" Rule/Discrimination
Home Health/Dementia/Elopement - Wheelchair/Restraints/Fall
Choking/Supervision - Child Abuse/Mandatory Reporting
Alcohol Withdrawal - Fall/Assistance To Ambulate - Morphine Pump
Sexual Abuse/Hearsay Evidence - Breast Cancer/Delayed Diagnosis