

# Service, Please

*Some non-disabled people are tempted to pass off their pets as “service dogs.” Here’s what real service dogs do, and why faking is bad.*

BY STEPHANIE COLMAN

**F**or people living with disabilities, a dog can be the key that opens the door to independent living. It’s been estimated that there are more than 500,000 service-dog/handler teams in the United States, and by law, these teams are accorded the right of access to nearly every place that the human handlers can go. Most dog owners love seeing well-trained service dogs enabling their disabled humans to ride public transportation, navigate shopping and workplaces, and enjoy a night out in restaurants and the theater.

Few of us, however, like seeing obviously *untrained* or out-of-control dogs in public places where they may reflect badly on the service-dog industry. They may also engender hostility from business owners and managers, who often feel they have no recourse when ill-mannered dogs wreak havoc in their establishments.

We discussed the moral and legal considerations associated with the growing problem of “fake service dogs” in “Artificial Needs” (WDJ July 2013). It’s a complex conundrum, in part due to the Department of Justice’s use of an “honor system” as to whether or not a dog is a trained service animal, the various agencies involved, and the challenging nature of drafting regulations designed to protect – without infringing upon – the rights of those living with a disability.

Adding to the confusion is another class of companion animals who, teamed with their disabled handlers, are accorded expanded rights of access in certain

situations: emotional-support animals, often referred to as “ESAs.” Many people believe – *falsely* – that emotional-support animals are allowed to go anywhere with their handlers that service-dog/handler teams can go.

It seems that almost everyone is confused about which dogs can go where, and how one can determine which dogs are legitimate helpers and which are pets whose owners may be taking advantage of the confusion! Let’s sort it all out.

## THE “ADA”

The law that gives service-dog/handler teams the right to enter places where dogs are not usually permitted is the Americans with Disabilities Act (ADA). First enacted in 1990, the ADA is overseen by the United States Department of Justice. An amendment process began in 2008, with revisions to the Act taking effect in 2011. (Technically, the current regulation is known as the Americans with Disabilities Act Amendment Act (ADAAA), though most people still refer to the “ADA” when referencing federal service-dog law.)

The ADA was enacted to “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities,” and to protect a disabled person’s access and right to “fully participate in all aspects of society.”

The ADA defines a disabled person as one who “has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.”

The phrase “major life activities” is defined in the ADA as including “caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning,

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**Moe has been Steve Killips’ service dog for 8½ years. The handsome Labrador, who was trained by Paws With a Cause in Wayland, Michigan, often helps pull Steve’s wheelchair, vastly increasing Steve’s ability to enjoy the outdoors.**



reading, concentrating, thinking, communicating, and working.”

The ADA recognizes that disabled persons may require “reasonable accommodations or auxiliary aids or services” in order to “fully participate in society.” Service animals are included as one of those aids; that’s why dog/handler teams are granted expanded rights of access to areas that are typically off limits to animals. Under the ADA, “state and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go.”

Currently, only dogs and miniature horses who have been individually trained to do work or perform tasks for a disabled person may be considered service animals. (Miniature horses are regulated with slightly different guidelines; we will discuss only service dogs in this article.)

Keep in mind that it’s the task that the dog is specifically trained to perform, in order to entirely or partly mitigate the handler’s disability, that gives handlers the right to have that dog in public areas that are typically off limits to dogs. The ADA’s definition of a service animal includes these clarifications:

“Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with post traumatic stress disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person’s disability.”

The ADA imposes reasonable restrictions on the use of service animals in public; the Act is certainly not a license to bring just any dog anywhere at any time. The dog must be harnessed, leashed, or tethered, unless the device interferes with the animal’s ability to work, in which case the individual must still be able to control the animal through

## WORDS MATTER (BUT VARIATIONS ON THESE TERMS ARE COMMON)

Jeanine Konopelski is a spokesperson for Assistance Dogs International (ADI), a non-profit coalition of more than 100 organizations working together to promote assistance dogs and the benefits they provide to people with disabilities. Konopelski recommends the phrase “assistance dog” as an umbrella term that covers a variety of working dogs who are specially trained to aid people in different ways.

ADI further refers to “guide dogs” (those that are specifically trained to assist handlers who are visually impaired), “hearing dogs” (those who are specifically trained to assist handlers who are deaf or hard of hearing), and “service dogs.” The latter is a broad category that can include dogs with skills such as alerting to impending seizures, recovering dropped items, assisting with mobility, retrieving medication or emergency equipment, or interrupting self-mutilation caused by obsessive-compulsive disorder. These are just a few ways in which a service dog can be trained to assist his or her handler. The common denominator is the *specific task or tasks for which the dog has been trained to assist a disabled handler.*

### WHAT ABOUT “THERAPY DOGS”?

Many people confuse therapy dogs with service dogs, but they are very different. Therapy dog teams are volunteers with pet dogs who have been trained to a standard that deems them safe and appropriate for interactions that provide emotional comfort to others. These volunteer teams are routinely found in hospitals, assisted living facilities, and other care centers, but can also be found on college campuses during finals week, alongside children while in family court, or as part of literacy programs in public libraries.

Therapy dog teams are usually registered with a therapy dog organization. To become registered, the dog and handler are evaluated to ensure that the dog is of a sound temperament and that the dog and handler work well together as a team. Therapy dog teams are not guaranteed public access; whether or not they are welcomed in any facility that doesn’t ordinarily allow dogs is entirely up to the individual establishment.

voice commands, hand signals, or other means of effective control.

The dog must also be well-behaved and entirely under control. “Through the ADA, if a dog is misbehaving in public – if they’re in a restaurant and the animal is not house-trained, or is eating food off of the table, the business owner



**Lori Wetz is a disabled veteran whose Dogue de Bordeaux service dog, Diesel, helps her by bracing (so she can balance and get up), pulling her out of chairs or up small stairs, and picking up items that she drops. Diesel and Wetz, shown here after Wetz’s spine surgery, trained together at the All American Dog Training Academy in Clearwater, Florida.**

has the right to ask the individual to remove the dog from the premises,” says Jeanine Konopelski, a spokesperson for Assistance Dogs International (ADI).

The ADA also states that, in some cases, it might be appropriate to exclude a service animal. For example, although a service dog can’t be excluded from

the general-access areas of a hospital (patient rooms, exam rooms, or the cafeteria), he can be reasonably excluded from operating rooms and other sterile environments.

## PROTECTING THE RIGHTS OF THE DISABLED

Of course, ordinary dogs are barred by law from many public areas. But disabled people can bring their trained service dogs with them almost anywhere, because the ADA makes it against the law to discriminate against or restrict access to disabled persons – in this case, ones who are using an auxiliary aid (a dog) to mitigate their disabilities. When a business owner or employee is unsure whether the dog is a service animal, he may ask only two specific questions of the handler:

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

Staff may not inquire as to the specifics of the handler's disability, require any special documentation, or ask that the animal demonstrate its ability to perform the work or task. However, the handler's answers must be credible. "He's trained to dance on his hind legs and it makes me happy," would not qualify as a credible answer to Question 2. The trained tasks must be relevant to the handler's disability.

## EMOTIONAL SUPPORT

Now, buckle up, because this is where the ride gets bumpy.

There is another type of commonly referenced animal that assists disabled humans and is granted greater access in certain situations than most pets: the "emotional-support animal" (ESA). These are personal pets (different types of animals, not just dogs, can be used) who have *not* been trained to perform specific tasks, but whose presence is physically or psychologically beneficial to their disabled handlers.

It's a safe bet that *many* of us would be happier if our dogs were allowed to accompany us on all of life's adventures. But there's a significant difference between being happier when in the company of a beloved pet dog and experiencing a psychiatric disability in its absence. The key word is *disability*, which

must meet a clearly defined standard. In order to qualify as disabled, one or more of a person's activities of daily life must be severely impacted by the condition. A treating medical provider must diagnose the individual's disability *and* state that having access to the animal will benefit the disabled handler.

A team comprised of a disabled person and her emotional-support animal does *not* qualify for any special protections by the ADA, which states clearly, "Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA."

However, there are two other federal departments that grant ESA/handler teams more access than people with ordinary pets. Their access to housing that is otherwise not available to people with pets is protected by the U.S. Department of Housing and Urban Development's "Fair Housing Act," and their access to air transportation is protected by the U.S. Department of Transportation's "Air Carrier Access Act."

Both Acts stipulate that the disabled person has a letter from his or her treating medical professional corroborating the disability, and the professional's opinion that a specific emotional-support animal ameliorates the symptoms of disability.

The Fair Housing Act prevents landlords from refusing to make reasonable accommodations in rules and policies (such as a "no pets" policy), as needed in order for a disabled person to use the housing. Service dogs and most emotional-support animals are considered reasonable accommodations. There are some exceptions to this provision of the Fair Housing Act; for example, a person with an ESA may be denied housing in a building containing four or fewer units where the owner lives in one, and in cases where an individual who owns three or fewer single-family homes and does not use a broker to manage those homes.

The Air Carrier Access Act states "carriers shall permit dogs and other service animals used by persons with a disability to accompany the persons on a flight." Airlines are not required to permit emotional-support snakes (or other reptiles), rodents, or spiders in the cabin.

People often ask about the difference between PTSD dogs (that is, dogs who are used to assist a person who has been diagnosed with post traumatic stress

disorder) and emotional-support dogs. PTSD dogs are a type of psychiatric service dog. Like all legitimate service dogs, PTSD dogs have been trained to perform specific tasks that mitigate the handler's psychiatric disability. For example, a PTSD dog might be trained to recognize and respond to an impending panic attack or interrupt self-mutilation behaviors.

Emotional-support dogs are not trained to perform specific tasks related to the psychiatric disability, yet in many cases, the dog's presence is considered physically or psychologically beneficial to the disabled handler.

To review: PTSD dogs are service dogs and emotional-support animals are not. Handlers with medically necessary emotional-support animals can fly with their animal and request that the animal be accepted in most housing situations that wouldn't otherwise allow pets. However, they are not allowed in typical "no pets" areas such as inside restaurants, shops, hospitals, office buildings, etc.

## SO MANY QUESTIONS, WITH ANSWERS

When it comes to navigating the seemingly endless sea of information pertaining to service-dog law, the following questions are most commonly asked:

### ■ DO ALL SERVICE DOGS COME FROM PROFESSIONAL ORGANIZATIONS?

No. Service dogs are not required to be trained by a professional organization in order to earn the ADA's right to access, and many handlers choose to self-train their dogs. However, it's important that prospective handlers carefully evaluate their own skills when deciding whether to self-train, train with the help of a professional trainer, or look for an already trained dog from a reputable organization.

For a person who has never previously had a dog, working with a service-dog program can be helpful. Dailyah Rudek, a service-dog law and mediation expert and executive director of The ProBoneO Program, says, "For someone who is a novice dog handler, we definitely have a bias toward a program-trained dog."

Handlers with a bit of dog training experience under their belt have access to myriad resources to assist them throughout the owner-training journey. Rudek says it's imperative that those looking to owner-train familiarize

## TAKING ADVANTAGE OF THE ACTS?

Whether it's the most common violation of these three Acts (ADA, Fair Housing, and Air Carrier Access) or the one that makes advocates for the disabled the angriest is a matter of debate, but the most talked-about abuse of legislation that protects the rights of disabled people has to do with "fake service dogs."

In some cases, this is a matter of people who are *not* disabled trying to pass off their dogs as service dogs in order to bring their dogs with them into places dogs are not ordinarily allowed. In others, it's people taking emotional-support dogs into places where only *service dogs* are allowed, such as restaurants, grocery stores, and public transportation.

The perpetrators of these violations may themselves be ignorant of the laws they are breaking, or knowingly taking advantage of the ignorance (or resignation) of the business owners or operators who could – theoretically – lawfully turn them away or even (in some states) summon law enforcement officials to enforce the health codes or other state laws that restrict non-service dogs.

Individual state laws vary. In the case of misrepresenting a pet dog as a service dog, the relevant laws often deal with the misrepresentation of the *person*, not the dog – meaning, it is a crime to falsely present oneself as being disabled and therefore in need of a service dog.

There is no *federal* law against representing a pet dog as a service dog. The Americans with Disabilities Act is a civil rights act designed to protect the rights of people with disabilities, including those who use service dogs. The ADA does not address individuals *without* disabilities, such as anyone who might falsely claim that a pet is a service animal.

"Because this issue does not address the civil rights of people with disabilities, it is not in our regulating authority under the ADA to issue regulations to penalize false claims that a pet is a service animal. However, we note that state civil or criminal



**Dailyah Rudek and her service dog, Riley, enjoy a break. A passionate supporter of service dogs, Rudek started The ProBoneO Program, a non-profit organization that provides legal resources to people who use service dogs.**

law may already penalize such claims in some circumstances," a Department of Justice spokesperson told us.

That's the law, but what's morally and ethically *right*? We think it's important to keep the people that the laws are in place to protect – the disabled – foremost in consideration. When in "mixed" company, dogs who are less than perfectly behaved make it more difficult for actual service dogs to perform their own important work. Also, poorly behaved dogs may increase the slow-burning resentment of business operators toward *all* dogs, leading to an atmosphere of suspicion and a distinct lack of welcome.

### HOW TO IDENTIFY A FAKER

This is a trick; the fact is, you *can't* always identify a fake service dog, just like you often can't always visually detect a person's disability. As dog lovers, we can't help but notice other dogs, especially in places that don't welcome all dogs. And when we see dogs with people who appear perfectly abled, it can be easy to wonder why the person has a service dog and if it's legitimate.

"Society has a lot of issues with invisible disabilities – the whole 'you don't *look* disabled' thing," says Matthew Karpinski, chief legal officer for The ProBoneO Program. "Just because a person doesn't look disabled doesn't mean he's not. I don't know anybody with a disabled parking placard who isn't in a wheelchair who hasn't been confronted by some self-efficacious person challenging them. What somebody looks like gives you no information about their disability status."

Even assessing the dog's behavior isn't 100 percent accurate when it comes to spotting what you might think is a "fake" service dog. Often, the dog suspected to be a "fake" is owned by a disabled person who is doing the best she can to train her dog for public access, but whose dog might be struggling with that facet of the job.

"There are people who take a pet dog they already have and try to turn it into a service dog because they can't afford to get or keep two dogs," says ProBoneO's executive director, Dailyah Rudek. "Some people will wash out a dog with problems, but many won't; they'll try and work through the issue because they don't feel like they have any other options."

"I have met several task-trained service dogs who aren't dogs you'd want to take with you for public access because they aren't comfortable in public," Karpinski says. "That doesn't mean they aren't true service dogs, but it might mean that they are useful to their partners only at home."

Bottom line: Whether the dog is a legitimate task-trained service dog or dog-in-training, or belongs to a pet owner trying to get away with cruising the coffee shop with his Cockapoo, if the dog is ill behaved, the problem should be immediately addressed by the business establishment.

## ACKNOWLEDGING INAPPROPRIATE DOG BEHAVIOR IN PUBLIC

Responsible service-dog handlers aim to keep their dogs as inconspicuous as possible, and are quick to take corrective action if the dog's behavior becomes problematic. When they don't, businesses are legally allowed to ask the handler to remove the dog. While many business owners are afraid to exercise this right, not doing so has created significant problems for the disability community.

"Many businesses aren't asking handlers to remove their dogs because they are afraid of being sued and just think the problem will go away in an hour or so," says Dailyah Rudek, executive director of The ProBoneO Program. "Then, unfortunately, they go and talk to their lawmakers." This has led to attempts to draft tighter state service-dog laws. While states cannot enact service-dog laws that are narrower in scope than the federal law, they can draft laws that retract state-specific enhanced protections, such as removing access that had previously been granted to service dogs in training. Additionally, the increased public attention to proposed regulation changes often means that all service-dog teams are more harshly scrutinized. "Handlers have fought so hard over the years to get higher protections, and now we're seeing more language that would potentially pull back some of those extra protections," Rudek says.

To help combat this problem, The ProBoneO Program is launching a campaign targeting business owners with the goal of educating them about their rights and the responsibilities of service-dog handlers. When a dog is behaving inappropriately in public, Rudek says it's important that business owners exercise their right to ask the handler to remove the dog. Doing so encourages legitimate service-dog handlers to maintain minimum public access standards for their dogs, while discouraging pet owners from attempting to "fake it" by bringing ill-mannered pet dogs into establishments that don't ordinarily permit pets.

Rudek has the following recommendations for business owners who are concerned about risks to their establishments or other customers posed by ill-behaved real or "fake" service dogs:

- ✓ Know the legally allowable questions that can be asked: 1. Is the dog a service animal required because of a disability? 2. What work or task has the dog been trained to perform? Business owners should understand that the questions must be answered in a credible fashion.
- ✓ Consider compromising with the handler. Acknowledge that the team is struggling, and perhaps invite them to return on a less busy day when the business could offer a bit more leeway with the dog's behavior. This is especially helpful for handlers who are trying to train through an issue while in public.
- ✓ Offer an alternate means of accommodation that does not involve the dog. For example, an employee can gather the items on the handler's shopping list or otherwise assist the person in the absence of the dog.
- ✓ Seek out a witness or two who can attest to the dog's inappropriate behavior; this could go a long way toward preventing a lawsuit.
- ✓ If the establishment utilizes surveillance video, keep any related footage for at least two years.
- ✓ Proactively call the Department of Justice ADA Hotline to report having to require that a dog be removed, and why.

themselves with – and utilize – as many of the resources as possible.

"If folks are diligent about it and go step by step, and if they're lucky enough to get a dog who has the right temperament, owner-trained dogs can be incredibly successful," she says.

People searching for a professionally trained service dog must exercise due diligence. While the members of ADI are screened as part of their paid membership, dog training remains an unregulated industry, which means any trainer can advertise "trained service dogs" for sale, often with shockingly high price tags.

"People need to be *beyond* careful," Rudek says. "You hear stories all the time – people who paid \$10,000 for a dog and it doesn't even know how to sit. I wouldn't pay that kind of money unless I knew they had successfully trained at least 15 different teams, and I'd had a chance to speak with some of those satisfied customers and see them in action."

### ■ ARE SERVICE DOGS REQUIRED TO BE CERTIFIED?

No. There is no legally recognized, nor federally required, national certification for service dogs, nor is there a legitimate national registry for service dogs. However, a quick Internet search reveals any number of websites offering to "register" a dog as a service dog – for a fee, and without *any* type of evaluation. Such sites typically sound authoritative, with names boasting words such as "national," "United States," and "official," and offer things like registration certificates, photo identification cards, and service-dog patches – all for a price.

While it is not required, some legitimate dog/handler teams choose to pay for the official-looking paperwork and other accessories, as showing such items sometimes simplifies access issues when dealing with business owners who are not familiar with the law. However, to those truly knowledgeable of the regulations, such paraphernalia is a potential red flag.

"Personally, I am inherently suspicious of anyone who shows me an identification card because the law says you don't need one," cautions Matthew Karpinski, chief legal officer for The ProBoneO Program.

It's also been said within the service-dog community that legitimate handlers who choose to show things like identifi-

cation cards inadvertently make it harder for those within the community who don't, because it sends a mixed message to businesses, many of which become more resistant to teams who lack the same gear.

### ■ ARE THERE ANY STANDARDS FOR SERVICE DOGS AT ALL?

The answer to this depends on what is meant by standards. As discussed above, service-dog/handler teams don't need any official certifications in order to have public access. However, many service-dog advocacy organizations, including International Association of Assistance Dog Partners and Assistance Dogs International, promote a similar set of minimum training standards for service dogs, which they recommend handlers meet or exceed when training or working a service dog in public.

The two above-mentioned organizations address a minimum number of training hours for basic obedience and public access-specific issues. They also provide basic guidelines for obedience and the ability to perform disability-related tasks on cue. The standards state

that a service dog must not display any signs of aggression (either natural or elicited on-cue, such as in protection work), and further include the handler's responsibilities as part of the dog-handler team.

Both sets of standards can be used as a road map of sorts for handlers wishing to train their own service dogs, or when training in partnership with a professional trainer. They are also used by professional organizations that provide fully trained service dogs. When a dog/handler team successfully meets the minimum standards or passes the public access test, the team is often considered "certified" by virtue of meeting the standard. It's a tricky choice of words, as it likely contributes to the public's confusion regarding the lack of a legally required certification. (Perhaps referring to such dogs as "verified" versus "certified" would lessen the confusion?)

"We at ADI call a dog who has passed our public access test a 'certified dog,' but it's not a certification that's required by law," Jeanine Konopelski explains. "It's sort of like, if you work in finance and you have an MBA; you're not legally required to have that certification. The certification is something we do to make sure that the dog can abide by and adhere to the different guidelines for public access," she adds, pointing out that the certification is for the dog/handler pair as a team and not the individual dog.

### ■ WHY ISN'T THERE A NATIONAL CERTIFICATION FOR SERVICE DOGS?

Experts cite two major challenges of implementing a national certification process for service dogs: Who would be responsible for testing, and how would such a program be funded?

"The disabled are statistically in the lowest economic bracket," Rudek says. "To have a test become mandatory, you'd have to make it super accessible to a bunch of people, many of whom don't drive and who have no money. How do you make that work? Many people say, 'Well, what about making it like a driver's license?' and the problem with that is that driving is a privilege, not a right. If you're disabled, having your service dog with you is a civil right."

Currently, a Canadian province is exploring new regulations that will potentially limit access to "no pets" areas to only those teams trained by professional ADI partners and the International Guide Dog Federation.

Such a move, while likely initiated in an effort to raise the training standards, could severely limit the disabled community's access to service dogs. Karpinski estimates that in the United States, only 1 to 5 percent of all service dogs are trained through a professional training organization.

### ■ CAN STATES PASS DIFFERENT LAWS TO PROTECT OR PROHIBIT THE USE OF SERVICE DOGS OR ESAS?

Service-dog law is complicated by the fact that there are two levels of legislation to be considered – state and federal, says Karpinski. While the ADA provides *federal* protection for the public access of service-dog teams that meet its qualifications, individual counties and states have the option of drafting *additional* laws that *extend* ADA accommodations. For example, many states have their own laws that prohibit denying access to a service-dog team, making it a state crime that carries a hefty fine. States may not, however, pass legislation that limits the disabled person's protections to less than what the ADA provides.

The difference between state versus federal protection is most relevant when addressing public access violations. If a team is denied access where it is against *state* law to do so, the police can be called and the issue is likely to be promptly resolved. In states without that enhanced protection, the team's only recourse is to file a complaint with the Department of Justice – a much longer process.

### ■ CAN STATES REQUIRE THAT SERVICE DOGS BE CERTIFIED, OR REQUIRE THAT HANDLERS SHOW PROOF THAT THE DOG HAS BEEN VACCINATED?

Remember, state laws cannot be more restrictive than federal law. Therefore, states can't require any special certification in order for the team to be granted the public access rights that are outlined in the ADA. However, individual states can designate certain requirements in order for the team to receive state-specific enhanced protections.

For example, let's say the law in a handler's state specifies that service dogs must be identified via orange vests. The handler may choose not to follow this rule, since state laws cannot be more restrictive than federal laws, and the ADA does not require service dogs to work in vests. However, should an issue arise



**Paul Vaughn of Kennesaw, Georgia, purchased Hunter as a puppy. Paul and his wife trained Hunter to be Paul's service dog. Hunter's primary duties are to help Paul around the house, picking up and giving Paul items as needed. And when Paul's arm falls off his armrest, preventing him from driving his power chair, Hunter pushes Paul's arm back up on the armrest.**

**Bri Benton is a Florida dog trainer who trained her own service dog, Dallas. Bri's disability is invisible. She suffers from vasovagal syncope and severe allergies that can cause anaphylaxis. Dallas has been trained to detect changes in Bri's chemistry and consciousness and alert Bri in time to summon help.**



– say, a local business owner denies the team access – the handler will not have state law on his side. It's still a crime to deny the team access, but the denial must be dealt with through the Department of Justice as a federal rights violation as opposed to a state law violation.

Regarding proof of vaccination, Rudek says it's likely that states assert that service-dog handlers must be ready to show proof of vaccination for rabies by virtue of the numerous jurisdictional laws that say *all* dogs must have current rabies vaccinations. "In many cases, courts have found that the presence of a current rabies tag on the service dogs'

collar is sufficient proof that the dog is up to date on vaccinations," she says.

### ■ ARE SERVICE DOGS IN TRAINING PROTECTED BY THE ADA?

No. ADA's public access protection is extended only to service dogs who have been successfully task-trained to mitigate the handler's disability.

That said, individual *state* laws may address service dogs in training. Where they do, the laws are as varied as the states' topography. For example, in Montana, handlers with service dogs in training are granted public access provided that the dogs are clearly identified as such.

Georgia and Virginia specify that dogs in training must be with professional trainers. Michigan also specifies that dogs in training must be with professional trainers, and the state's Department of Labor even maintains a list of approved trainers. The trainers must show photo ID stating they are representatives of an approved organization, if requested.

We all love dogs, and anytime we bring a dog out in public – anywhere that dog is legally allowed to join us – we have a responsibility to ensure that the dog can behave appropriately. Ill-behaved dogs are seen as a nuisance and can indirectly create additional challenges for people who rely on service dogs. Handlers of service and emotional-support dogs have enough challenges, without having to face discrimination or hostility over the use of their canine aids. 🐾

*Stephanie Colman is a writer and dog trainer in Los Angeles. See page 24 for contact info.*

## REGARDING THOSE ONLINE "PRESCRIPTION" LETTERS

A "hot button" topic within the service-dog community is the availability of online prescription letters for emotional-support animals. It's important to remember that an emotional-support animal is required to mitigate a disability. The legal definition of disability is when one or more of a person's activities of daily life is severely impacted. If you are truly experiencing the impairment of a major life function, it's reasonable to assume that you'd be under the care of one or more medical professionals, and would not need to turn to the Internet for a letter that purportedly documents your disability.

"The idea is that the letter is supposed to be written by a treating mental health professional who is familiar with your case," says Dailyah Rudek, executive director of The ProBoneO Program. "I don't understand how someone can talk to you on the phone for 30 minutes, and suddenly be familiar enough with your case to do that."

We asked a representative of the American Psychological Association for a comment. "The APA Guidelines for the practice of telepsychology encourage psychologists to meet with the consumer first before providing services online as good professional practice," says Luana Bossolo, associate director and practice directorate, public relations.

The APA also recommends that consumers consider the following issues before purchasing any kind of "prescription letter," assessment/testing, or other health-related service

online without the benefit of meeting in person with a clinician:

- ✓ Is the clinician licensed to provide the services he offers?
- ✓ Is the clinician licensed where the consumer is located? Healthcare licensing boards around the country take the position that providers need to be licensed where the patient/consumer is, as well as in the state where the provider is located. Otherwise, Bossolo says, that provider could be liable for practicing in another state without a license.
- ✓ Is the testing/assessment designed to be conducted online? Most psychological test instruments are designed to be conducted in person.

According to Rudek, it's highly unlikely that anyone would ever need to legitimately rely on a paid service in order to obtain a letter for an emotional-support animal. Why? Because to legally qualify for an emotional-support animal, one must meet the legal definition of disabled, in which case the person is most likely already under the care of a medical professional who would be able to provide a letter.

If you consider paying for a "prescription letter," you probably don't legally qualify for one. It's no different than parking in a handicapped spot when you don't legally qualify for the special parking. It's dishonest, and potentially further complicates life for those who live with various disabilities.

# IT'S NOT THAT COMPLICATED!

## A GUIDE TO WHICH DOGS ARE ALLOWED WHERE

TYPE OF DOG	DEFINED AS	REGULATED BY	TYPE OF ACCESS GRANTED
<p><b>Assistance/ Service Dogs</b></p>	<p>A broad category that can include dogs trained to perform a variety of skills, such as alerting to impending seizures, retrieving dropped items, assisting with mobility, and easing the symptoms of psychiatric disorders by interrupting self-mutilating behaviors.</p> <p>Also includes:</p> <p>Guide dogs – Dogs specifically trained to assist handlers who are visually impaired.</p> <p>Hearing dogs – Dogs who are specifically trained to assist handlers who are deaf or hard of hearing.</p>	<p>Americans with Disabilities Act (ADA) for public access, including public transportation and some rail travel.</p> <p>Fair Housing Act (FHA) for housing access.</p> <p>Air Carrier Access Act (ACAA) for air travel.</p>	<p>Service-dog teams are afforded public access under the ADA. Some restrictions apply. For example, service dogs are not allowed in sterile or food-prep areas, and handlers must be given permission to bring a service dog into religious buildings, federal court, jail/prison cells, private clubs, etc. No type of certification or documentation is required for federal protection. However, individual states can set requirements to receive additional enhanced protections.</p> <p>Teams are generally allowed to rent in most “no pets” housing under the Fair Housing Act. Exceptions include: Buildings of four or fewer units when the owner lives in one. Private individuals who do not own more than three single-family homes, and who do not use a broker, are also exempted from the Fair Housing Act. Written documentation supporting the handler’s need for a service/assistance dog is required.</p> <p>Dog/handler teams are generally permitted to fly together in the cabin. No special documentation or requirements apply except in the case of psychiatric service dogs. Handlers with psychiatric service dogs can be required to show written documentation (on the treating medical provider’s letterhead, which must include the provider’s medical license number) supporting the handler’s need for a psychiatric service dog, and the documentation must be less than one year old. Airlines can also require that handlers with psychiatric service dogs notify the airline regarding travel with the dog at least 48 hours in advance.</p>
<p><b>Emotional-Support Animals</b></p>	<p>Personal pets who have not been trained to perform a specific task, but whose presence is beneficial to the disabled handler.</p> <p>Not limited to dogs. However, certain animals can be excluded under the relevant acts. For example, the Air Carrier Access Act says airlines are never required to permit snakes/reptiles, rodents, or spiders in the cabin. Fair Housing Act requires that the animal be considered a “reasonable accommodation,” “reasonable” being the key word.</p>	<p>ADA does not recognize emotional-support animals.</p> <p>FHA for housing access.</p> <p>ACAA for air travel.</p>	<p>Not allowed in public places such as restaurants, stores, etc., which are not already pet-friendly.</p> <p>ESA teams are allowed to rent in most “no pets” housing. Exceptions include: Buildings of four or fewer units when the owner lives in one. Private individuals who do not own more than three single-family homes, and who do not use a broker, are also exempted from the Fair Housing Act. Written documentation supporting the handler’s need for an emotional-support animal is required.</p> <p>ESAs are allowed to fly in the cabin alongside the disabled handler. Written documentation supporting the handler’s need for an emotional-support animal is required. Airlines can impose requirements regarding advanced notification, check-in/boarding procedures, etc.</p>
<p><b>Therapy Dogs*</b></p> <p>(* Therapy animals can also be other species.)</p>	<p>Personal pets owned by volunteers who wish to visit others with their pets, with the goal of providing emotional comfort.</p>	<p>No federal or state regulation specific to therapy dogs. Therapy dog teams are often registered with an umbrella organization such as Pet Partners (formerly Delta Society) or Therapy Dogs International.</p>	<p>No protected public access. Individual establishments determine whether or not to allow access. Teams visiting hospitals, etc. are there by special invitation.</p> <p>Not permitted in “no pets” housing.</p> <p>Not permitted to fly alongside the handler in the cabin.</p>