



CHALLENGES OF THE AMERICANS DISABILITIES ACT: **Healthcare**

Part 4 of a 5 Part ADA Series

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The Americans with Disabilities Act (ADA) was enacted to ensure equal rights and opportunities for individuals with disabilities, including healthcare, across all facets of society.

However, the healthcare system in the United States often falls short of providing equitable access and quality care for individuals with disabilities, leading to numerous challenges and barriers. This article explores the failures of the American healthcare system in meeting the needs of the disabled population, the role of litigation and advocacy, and strategies for protecting the rights of individuals with disabilities in healthcare settings.

Many healthcare facilities lack adequate accommodations and accessibility features for individuals with disabilities, such as wheelchair ramps, easily accessible exam tables, and sign language interpreters, making it difficult for people with disabilities to receive care in hospitals and doctor offices. Healthcare providers may lack sufficient



training and awareness of disability-related issues, leading to misunderstandings, misdiagnoses, and subpar care for patients with disabilities.

Individuals with disabilities often face discrimination in healthcare settings, including denial of treatment, unequal access to medical services, and inadequate communication accommodations, violating their rights under the ADA. An example of inadequate communication accommodations is individuals who suffer from severe asthma. Asthma is a chronic respiratory condition characterized by inflammation and narrowing of the airways. In instances of a severe asthma attack, victims cannot speak due to phlegm blocking airways or restricting the lungs from expanding. Calling 911 is a crucial step in receiving life-saving care and lacking the ability to speak places people with respiratory disabilities in danger of

Examples of Disabilities



Diabetes

Post Traumatic Stress Disorder

HIV/AIDS

Autism

Cerebral Palsy

Food Sensitivities/ Allergies

Deafness/ Hearing Loss

Blindness/Low Vision

Epilepsy

Mobility Disabilities

Intellectual Disabilities

Major Depression Disorder

Traumatic Brain Injury

Respiratory Issues

Bowel/ Urinary Issues

[For more information please visit
https://www.ada.gov/topics/intro-to-ada/](https://www.ada.gov/topics/intro-to-ada/)



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possibly losing their lives. Some counties have implemented a 911 text option with little notification to the masses to inform them of this feature. However, many other counties throughout the United States have yet to adopt this method for their asthmatic and mute populations.

Disabled Americans can take several steps to protect themselves from the challenges within the healthcare system.

Familiarize yourself with your rights under the Americans with Disabilities Act (ADA) and other relevant laws or join an advocacy organization like Disability Rights Education & Defense Fund (DREDF)[i] if you suffer from an impairment that does not allow you to vocalize or express your needs. Understand what accommodations you are entitled to in healthcare settings, including accessibility requirements for facilities and communication accommodations.

Find Healthcare Providers Who Understand Your Needs. Seek out medical professionals who have experience working with individuals with disabilities. They may be more knowledgeable about your specific needs and better equipped to provide appropriate care. Anticipate potential challenges and plan to address them. This may involve scheduling

appointments during less busy times, arranging transportation or mobility assistance, or preparing a list of questions or concerns to discuss with your healthcare provider.

Stay informed about policy changes that may affect your access to healthcare services, insurance coverage, or disability rights through the U.S. Department of Health and Human Services (HHS)[ii]. Get involved in advocacy efforts to promote policies that support the needs of disabled individuals within the healthcare system.

If you experience discrimination or encounter violations of your rights within the healthcare system, don't hesitate to report them to the appropriate authorities, such as the U.S. Department of Health and Human Services Office for Civil Rights[iii] or disability rights organizations.

While many cases involving ADA violations in healthcare settings are resolved through informal means or alternative dispute resolution methods like mediation, some cases do proceed to litigation. However, the exact number of cases that go to court and the success rate of these cases can vary widely depending on factors such as jurisdiction, the nature of the violations, and the strength of the evidence presented.



Landmark Cases That Reshaped Disability Healthcare

Justice Department vs. Skilled Nursing Facilities (2018)

The Justice Department sued a skilled nursing facility for violating the Americans with Disabilities Act (ADA) after refusing to treat a patient with substance use disorder who needed medication for sobriety. Similar discrimination cases were settled with other skilled nursing facilities. (iv).

PARC v Pennsylvania (1971)

Issue: This case questioned whether Pennsylvania state laws violated the constitution by excluding children with intellectual disabilities from public education.

Decision: The district court ruled in favor of the parents of intellectually disabled children, obligating schools to provide appropriate educational programs for each student based on their learning capacity. (vi).

Mills v. Board of Education of District of Columbia (1972)

Issue: Could schools in D.C. exclude children with disabilities from publicly funded education due to budgetary constraints?

Decision: The DC District Court held that the school had a legal duty to provide publicly supported education suited to each student's needs, regardless of funding limitations. (v).



Civil Mediation & ADA Violations

Mediation can offer a constructive and efficient means of resolving disputes related to ADA violations or discrimination in healthcare settings. By facilitating dialogue and negotiation between the parties involved, mediation can help individuals with disabilities seek redress for unlawful actions by healthcare providers, reach mutually acceptable resolutions, and implement changes to improve accessibility and inclusivity in healthcare delivery.

Addressing the challenges of the Americans with Disabilities Act in the healthcare system requires concerted efforts to eliminate barriers, combat discrimination, and ensure equitable access and quality care for individuals with disabilities. Through litigation, advocacy, and proactive measures to protect their rights, individuals with disabilities can work towards creating a healthcare system that upholds the principles of equality, dignity, and inclusion for all.



For more information about Civil Mediation please visit
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Any reliance on the content herein is solely at the discretion of the reader.

[i] Home - Disability Rights Education & Defense Fund (dredf.org).

[ii] Department of Health & Human Services | HHS.gov

[iii] Complaints & Appeals | HHS.gov

[iv] <https://www.jdsupra.com/legalnews/9-landmark-cases-in-u-s-history-that-85850/>

[v] <https://www.jdsupra.com/legalnews/9-landmark-cases-in-u-s-history-that-85850/>

[vi] <https://undark.org/2022/11/07/for-many-disabled-patients-the-doctor-is-often-not-in/>