

Today's Veterinary Business

BUSINESS PROTECT & DEFEND



By Ed Branam, DVM, CIC

ADA compliance: It's the law

Business owners can save money by pre-emptively obeying the requirements.

The Americans with Disabilities Act is a federal civil rights law prohibiting discrimination against people with disabilities related to participation in everyday activities. Since the law's 1990 inception, many state and local governments have passed additional civil rights statutes. Unfortunately, the average business owner who accesses a federal or state ADA website quickly has trouble understanding the often confusing and ambiguous requirements.

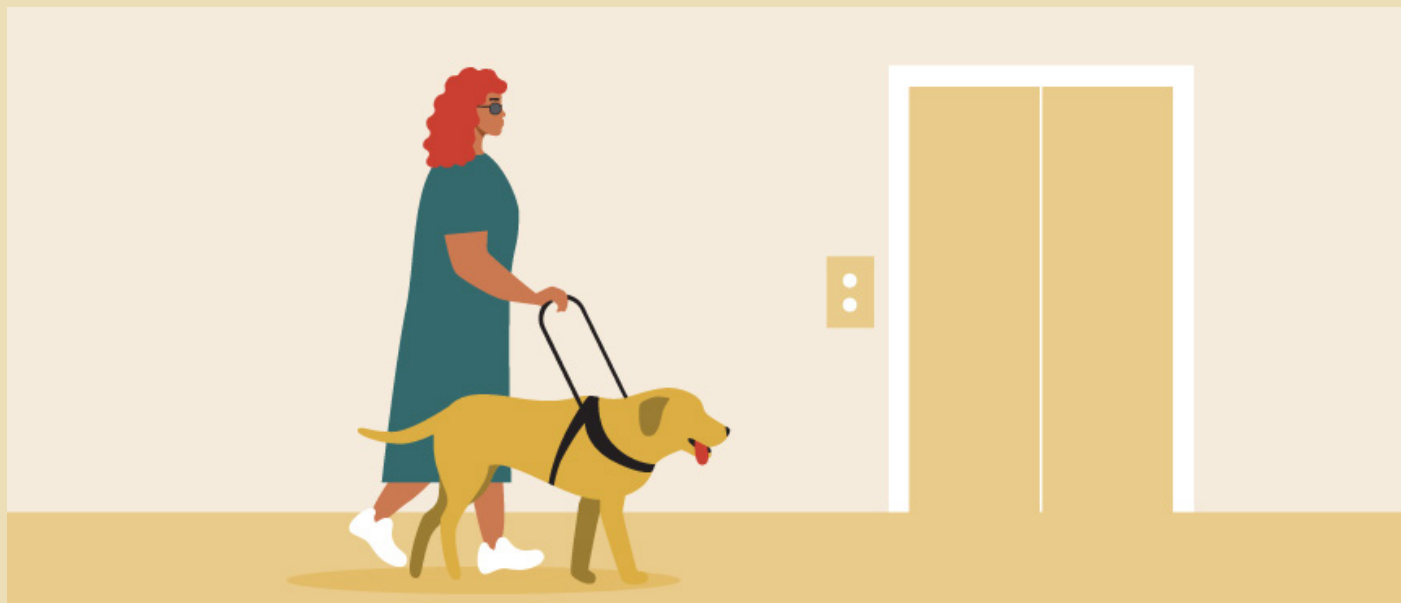
The ADA covers existing buildings as well as alterations and new construction. Commonly noted requirements include the use of ramps and automated doors to eliminate physical barriers, parking lot accommodations, enhanced bathroom accessibility, and auxiliary aids for

people with hearing, vision or speech impairments. In addition, federal courts have ruled that ADA statutes extend to publicly used business websites. Drawing on personal experience, I recently helped redesign parts of my organization's veterinary insurance website to ensure ADA compliance.

Veterinary Clinics Aren't Exempt

Nearly all types of private businesses serving the public are subject to ADA regulations. Examples include stores, restaurants, bars, office buildings, factories, exercise and recreation facilities, schools and various service industries, including veterinary hospitals.

Many small business owners view ADA regulations





as an onerous legal and financial burden. However, beyond being good corporate citizens, veterinary business owners should think of ADA compliance as a valuable marketing tool and risk-management strategy to enhance revenue and mitigate unnecessary financial exposure.

Besides complying legally, a practice owner who provides a user-friendly environment for clients can make it a point of competitive differentiation.

Additionally, about 71.5 million baby boomers will be over age 65 by 2030 and need access to business products and services that meet their physical requirements. Surveys document that once people with disabilities find a supportive and easily accessible business, they quickly become highly loyal, repeat customers.

You Lose, You Pay

Noncompliance with ADA requirements can result in litigation, legal fees, settlement costs and monetary penalties. In 2019, 4,700 ADA lawsuits were filed in federal court in California. In 2020, the number increased to 5,800.

In most instances, a single lawsuit makes a business owner realize that proactively complying with ADA laws is far less expensive and

DID YOU KNOW?

One in seven individuals lives with a disability. More than 50 million Americans, or about 15% of the population, have at least one ADA-recognized disability.



time-consuming than the alternative. Furthermore, legal settlements do not prevent subsequent lawsuits unless all violations are addressed in a timely and satisfactory manner. (Warning: You've probably read about opportunistic people and law firms visiting businesses with the intent to identify violations and sue in federal or state court.)

The bottom line is this: ADA is the law. Your property and business must comply with the regulations. Many courts treat a failure to adhere as a form of strict liability, meaning a business loses under almost all circumstances. Such verdicts are then subject to financial penalties in

addition to a requirement to correct deficiencies within a specified time frame. As an example, California ADA laws provide plaintiffs with up to \$4,000 for each discrimination incident, plus the recovery of legal fees. Businesses found guilty of ADA violations can incur costs well into the five figures.

Top 6 Tips

Here's how to protect your practice from an ADA lawsuit.

- Take control of compliance. Do not wait for legal action and court orders.
- Hire an experienced CASp (certified access specialist) or your state's equivalent expert to conduct an on-site evaluation. The written report will identify all compliance deficits.
- Develop a detailed, legally defensible corrective action plan with the ADA consultant, preferably one with a legal background.
- Establish a written timeline for each correction. Again, the consultant will assist.
- Complete simple corrections immediately.
- Keep your corrective action plan up to date. Performing each action within the documented time frame is critical.

A court might not require a business to complete all mandated corrections at once, especially if they would create an undue financial burden. However, a detailed corrective action plan gives you a strong defense in court and your best opportunity to control the compliance process and associated costs. **TMB**