



COLORADO REGULATIONS FOR EMOTIONAL SUPPORT ANIMALS

[THIS DOCUMENT MUST BE READ FIRST]

COLORADO HB 16-1426 ADDRESSING SERVICE AND ASSISTANCE ANIMALS EFFECTIVE JANUARY 1, 2017

Colorado House Bill 16-1426, effective January 1, 2017, makes it a crime (petty offense) for an individual to intentionally misrepresent entitlement to a service or assistance animal. The new law further requires health care providers faced with a patient requesting a prescription for a service or assistance animal to determine and state in writing whether the patient has a disability and, if so, whether the disability necessitates the use of a service or assistance animal. The healthcare professional must meet with the patient in person or, in certain circumstances, may meet with the patient via "telemedicine."

18-13-107.3. Intentional misrepresentation of entitlement to an assistance animal

(1) A person commits intentional misrepresentation of entitlement to an assistance animal if: (a) the person intentionally misrepresents entitlement to an animal in his or her possession as an assistance animal for the purpose of obtaining any of the rights or privileges set forth in state or federal law for an individual with a disability as a reasonable accommodation in housing; (b) the person was previously given a written or verbal warning regarding the fact that it is illegal to intentionally misrepresent entitlement to an assistance animal; and (c) The person knows that (I) the animal is not an assistance animal with regard to that person; or (II) the person does not have a disability.

(2) A person who violates subsection (1) of this section commits a Class 2 petty offense and, upon conviction, shall be punished as follows: (a) for a first offense, a fine of twenty-five dollars; (b) for a second offense, a fine of not less than fifty dollars but not more than two hundred dollars; and (c) for a third or subsequent offense, a fine of not less than one hundred dollars but not more than five hundred dollars.

18-13-107.7. Intentional misrepresentation of a service animal for a person with a disability

(1) A person commits intentional misrepresentation of a service animal if: (a) the person intentionally misrepresents an animal in his or her possession as his or her service animal or service-animal-in-training for the purpose of obtaining any of the rights and privileges set forth in Section 24-34-803, C.R.S.; (b) the person was previously given a written or verbal warning regarding the fact that it is illegal to intentionally misrepresent a service animal; and (c) the person knows that the animal in question is not a service animal or service-animal-in-training.

(2) A person who violates subsection (1) of this section commits a Class 2 petty offense and, upon conviction, shall be punished as follows: (a) for a first offense, a fine of twenty-five dollars; (b) for a second offense, a fine of not less than fifty dollars but not more than two hundred dollars; and (c) for a third or subsequent offense, a fine of not less than one hundred dollars but not more than five hundred dollars.

C.R.S. §§ 12-36-142; 12-38-132.5; 12-43-226.5. Licensee duties relating to assistance animals.

(1) A licensee who is approached by a patient seeking an assistance animal as a reasonable accommodation in housing shall either: (a) make a written finding regarding whether the patient has a disability and, if a disability is found, a separate written finding whether the need for the animal is related to that disability; or (b) make a written finding that there is insufficient information available to make a finding regarding disability or the disability-related need for the animal.

(3) A licensee shall not make a determination related to subsection (1) of this section unless the licensee: (a) has met with the patient in person**; (b) is sufficiently familiar with the patient and the disability; and (c) is legally and professionally qualified to make the determination.

**Note: Under C.R.S. § 12-36-142, a physician or physician's assistant may also meet with the patient via "telemedicine"

Definition of “Disability”

Pursuant to C.R.S. § 12-36-142(4)(b): “‘Disability’ has the same meaning as set forth in the federal ‘Americans with Disabilities Act of 1990’, 42 U.S.C. sec. 12101 et seq., and its related amendments and implementing regulations and includes a handicap as that term is defined in the federal ‘Fair Housing Act’, 42 U.S.C. sec. 3601 et seq., as amended, and 24 CFR 100.201.” Accordingly, “Disability” means:

42 U.S. Code § 12102

(1) Disability The term “disability” means, with respect to an individual—**(A)** a physical or mental impairment that substantially limits one or more major life activities of such individual; **(B)** a record of such an impairment; or **(C)** being regarded as having such an impairment (as described in paragraph (3)).

(2) Major life activities

(A) In general. For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(B) Major bodily functions. For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(3) Regarded as having such an impairment For purposes of paragraph (1)(C):

(A) An individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

C.F. R. § 100.201

Handicap means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance. For purposes of this part, an individual shall not be considered to have a handicap solely because that individual is a transvestite. As used in this definition:

(a) **Physical or mental impairment** includes:

- (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
- (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term **physical or mental impairment** includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

(b) **Major life activities** means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(c) **Has a record of such an impairment** means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(d) **Is regarded as having an impairment** means:

- (1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;
- (2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of other toward such impairment; or
- (3) Has none of the impairments defined in paragraph (a) of this definition but is treated by another person as having such an impairment.

REASONABLE ACCOMMODATION OR MODIFICATION REQUEST FORM FOR
EMOTIONAL SUPPORT ANIMAL

Health Care Provider's/Doctor's Name: _____

Date Of Request: _____

Company Name: _____

Company Address: _____

Company Phone: _____

Company/Provider Email: _____

Resident/Patient Name: _____

Resident/Patient's Address: _____
(Current or Prospective Address with Boulder Property Management)

Property Manager: Boulder Property Management Corp. _____

The Resident/Patient named above has applied to or is living in a residence managed by Boulder Property Management Corp. The Resident/Patient has requested permission to: *[describe here the specific accommodation or modification requested]*. _____

If an individual with a disability requests permission for an accommodation or modification to allow an Assistance Animal pursuant to the federal "Fair Housing Act", 42 U.S.C. sec. 3601 et seq., as amended, or section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended, Boulder Property management Corp. must consider that request. In certain situations, Boulder Property Management Corp. may also verify that the individual has a disability and a disability-related need for an Assistance Animal under federal law, and requires the accommodation or modification in order to have an equal opportunity to use and enjoy the apartment and community.

Please return this form to Boulder Property Management Corp. either via facsimile (303.473.9614), e-mail (information@bpmco.com), or by dropping it off at our office located at 1100 28th St., Suite 100, Boulder CO 80303.

Resident/Patient's Verification of Information and Consent to Release

By my signature below, I hereby authorize the release of the medical information requested herein to Boulder Property Management Corp. I further affirm that the request set forth above is the exact request that I have made of Boulder Property Management Corp., and that the information obtained under this consent is not more than 12 months old.

Resident/Patient Signature: _____ Date: _____

Print Name: _____

REQUESTED INFORMATION PURSUANT TO C.R.S. §§ 12-36-142, 12-38-132.5 or 12-43-226.5

Resident/Patient: _____

Name and Title of Health Care Provider or Doctor providing information:

Company Name, Address & Phone Number:

Pursuant to C.R.S. §§ 12-36-142, 12-38-132.5 and/or 12-43-226.5, please answer **either** #1 or #2 below:

1. (a) Following is my written finding regarding whether the above-named Resident/Patient has a Disability as defined above (*please attach additional pages if necessary*):

(b) If the above-named Resident/Patient has a Disability, following is my written finding regarding whether the need for an animal is related to that Disability (*please attach additional pages if necessary*):

-OR-

2. Following is my written finding that there is insufficient information available to make a finding regarding Disability or the Disability-related need for the animal with respect to the above-named Resident/Patient (*please attach additional pages if necessary*):

I AFFIRM BY MY SIGNATURE BELOW THAT IN ACCORDANCE WITH APPLICABLE COLORADO LAW:

- 1. I HAVE MET WITH THE RESIDENT/PATIENT IN PERSON,**
- 2. I AM SUFFICIENTLY FAMILIAR WITH THE PATIENT AND THE DISABILITY, AND**
- 3. I AM LEGALLY AND PROFESSIONALLY QUALIFIED TO MAKE THE FOREGIONG DETERMINATION.**

Signature: _____ Date: _____

Print Name: _____

Title: _____