

# Laws and Ethics Related to Emotional Support Animals

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The use of animals for therapeutic benefit is well-established. For example, for individuals with a disability such as blindness, trained service dogs can enhance the ability to live independently and participate fully in society. An emotional support animal (ESA) is an untrained animal that is used to support a person disabled by an emotional or mental disorder. For an animal to qualify as an ESA, a mental health or medical professional needs to write a letter saying that the animal is needed for the mental health of the person with the disability. This article describes the legal framework for service animals and ESAs, as well as the differences between them. We summarize information about the Americans with Disabilities Act, the Fair Housing Act, the Air Carrier Access Act, and other laws governing an individual's right to be accompanied by a support animal. We also summarize the clinical research on ESAs and argue that, although there are few studies on the clinical effectiveness of ESAs, a broader body of research indicates that animals may have positive clinical effects on medical and mental illness. Finally, we suggest there is a need for further research and provider education on ESAs.

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While cultures vary in their attitudes toward animals, there is a commonly held belief that pets can improve the overall quality of human life. Utilizing animals for therapeutic benefit is well-established in medicine.<sup>1</sup> Trained animals can assist people who have a disability, enhancing the ability to live independently and to participate more fully in society. Animals are commonly seen in medical settings where sick and dying patients may experience temporary amelioration of their suffering by interacting with an animal.

Dogs are familiar visitors to hospices, pediatric wards, and inpatient psychiatric hospitals.

In more recent years, changes like the creation of animal relief areas in airports and the growing number of retailers that offer treats to their human customers' dogs seem to suggest increasing acceptance of animals in public spaces. Market research has shown higher percentages of pet ownership by young people and a three-fold increase in pet industry revenue over the last 20 years.<sup>2</sup> This has led to postulation that, in light of demographic changes in marriage and childbearing rates, Americans are not only placing greater value on the relationship with their pets, but, in some cases, they may even be replacing human relationships with them.<sup>2</sup> In one of the few scholarly examinations of human-animal relationships and psychiatric illness, Cooke analyzed the significance of these relationships through the phenomenon of extended suicide with pets.<sup>3</sup>

Amid these changes, one area of controversy has involved the increased prevalence of the emotional support animal (ESA). Major media reports have described a variety of animals that have been brought

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aboard airplanes as ESAs.<sup>4</sup> This menagerie has included dogs, cats, hamsters, squirrels, pigs, turkeys, kangaroos, and peacocks, leading to assertions by airlines that some owners fraudulently claimed their animals were ESAs to secure their entry into the airplane cabin (instead of the cargo compartment) and avoid fees.<sup>5,6</sup> One airline announced that the number of animal-related incidents, such as animal waste or animal bites, rose 84 percent between 2016 and 2018.<sup>7</sup> Since flight attendants must respond to problems related to animals on board, the rise in ESAs ostensibly means more flight staff attention is diverted away from service and safety responsibilities.

In response to these liability concerns, airlines have enacted more stringent ESA policies, including changes in documentation requirements from medical providers.<sup>8–11</sup> The U.S. Department of Transportation has recently proposed new legislation with added restrictions on traveling with animals.<sup>12</sup> These changes have implications for all disability-related assistance animals on airplanes, not just those solely for emotional support.<sup>12</sup> Another area of controversy is housing, as seen in increased civil litigation between landlords and tenants over ESAs.<sup>13–19</sup> Medical providers' ESA evaluations and certification letters may be referenced and quoted in these court documents, and these providers may be asked to give statements about the evaluations in depositions or in open court.

Psychiatrists and psychotherapists may be asked by patients for evaluation and certification of ESAs. Boness *et al.*<sup>20</sup> examined mental health provider practices regarding ESAs and noted that 50 percent of clinicians participating in the study reported having made recommendations for ESAs. Yet there are scant opportunities for formal education and training providers on how to conduct ESA certification. Online resources may be incomplete or inaccurate, and information is often produced by lay animal enthusiasts and organizations, which can lead to a biased characterization of the benefits of ESAs. Officially appearing merchandise, like animal vests and identification cards for “service” and “support” animals, are readily available for purchase through online retailers. For a fee, multiple internet sites offer ESA certification letters without requiring the animal owner to meet or speak with a mental health provider. This industry has been criticized on ethics and legal grounds because it provides these materials with little to no formal psychiatric evaluation and

misinforms both providers and patients about ESAs.<sup>21,22</sup> In the study by Boness *et al.*,<sup>20</sup> 35.7 percent of participating mental health providers reported they did not feel qualified to make an ESA recommendation.

To practice evidence-based medicine, providers must look at studies that evaluate treatment recommendations, but data specific to ESAs are scarce. Although a broader body of literature on therapeutic uses of animals exists, most studies are of low quality and are biased, underpowered, or poorly designed. Imprecise and confusing terminology used in this field makes identifying relevant high-quality studies particularly challenging. It is thus difficult for providers to obtain the knowledge necessary for competent ESA certifications.

Younggren *et al.*<sup>21</sup> describe the role conflict that arises when treating clinicians step out of their therapeutic role to conduct ESA certifications for their own patients. When writing a letter recommending an ESA for a patient, the mental health provider explicitly declares that the individual has a disabling condition. Boness *et al.*<sup>20</sup> describe the need for ESA certification to be conducted with the same amount of rigor and consideration afforded to other disability evaluations, including formal evaluation for malingering. We suggest that training forensic practitioners to do these evaluations would reduce the number of fraudulent ESA certifications, but the limited number of trained forensic psychiatrists and the expense for forensic services means non-forensic treating clinicians are likely to continue performing a large portion of ESA certifications. Younggren *et al.*<sup>23</sup> have proposed a standardized ESA assessment model designed to guide clinicians and reduce illegitimate certifications. In the absence of a standardized evidence-based protocol for conducting ESA certification, it is incumbent upon mental health providers to synthesize current legal frameworks, clinical research, and ethics considerations when ascribing disability and recommending an ESA as an accommodation.

This article describes clinical, legal, and ethics concerns related to ESAs. It also addresses the skills that are necessary for the clinical psychiatrist's competency in ESA certification and discusses potential roles for forensic psychiatrists as ESA topic experts in legal proceedings. Because ESAs are just one type of animal used for therapeutic outcomes in human illness, terminology must first be determined and

**Table 1** Definition of Terms for Categories of Therapeutically Used Animals

Term	Definition
Disability-related assistance animal	A broad term that encompasses all animals that are utilized with therapeutic intent for persons with a legally recognized disability.
Service animal	As defined by the ADA, a dog or miniature horse that has been individually trained to perform specific tasks that mitigate a person's disability.
Psychiatric service animal	As defined by the ADA, a subset of service animal that has been individually trained to perform specific tasks, which do not include the provision of "emotional support," that mitigate a person's disability from psychiatric illness.
Emotional support animal	An animal of any species, which does not qualify as a service animal under the ADA, that a medical provider has certified can mitigate a person's psychiatric disability through companionship rather than by any specifically trained task(s).
Therapy animal	Any species of animal utilized by a trained handler, either through the animal's presence or a guided interaction as a part of a structured animal-assisted therapy, to provide therapeutic benefit for persons with illness and suffering.
Pet	An animal kept for companionship or pleasure that is not clinically certified for therapeutic use in any illness or disability and that is not afforded any special accommodations under the law.

ADA: Americans with Disabilities Act.

defined. Next, we discuss relevant case law and describe the major statutes and regulations pertaining to ESAs. Three major pieces of federal legislation are emphasized: the Americans with Disabilities Act, the Fair Housing Act, and the Air Carrier Access Act. Finally, we review the current medical literature on ESAs and mental illness. The lack of peer-reviewed studies specific to ESAs prompts this discussion to conclude with a broader look at clinical outcomes in medical and psychiatric illness in response to animals.

## Methods

A review of federal and state case law was conducted using the legal database LexisNexis with variations of the following terms: emotional support, service, and therapy dog(s) or animal(s); psychiatrist; psychologist; counselor; physician; doctor; liable or liability; injury or injuries; and negligence. The results yielded by this search were then used to identify relevant statutes, regulations, and law review articles. The medical literature was searched using PubMed and Google Scholar databases with variations of the following terms: support, emotional support, assistance, assistive, therapy, service, and psychiatric service dog(s) or animal(s); clinical outcomes; medical benefit; psychiatry; evaluation; certification; letter; and liability. An assay of media coverage was conducted with Google and DuckDuckGo search engines using variations of the following terms: emotional support or service dog(s) or animal(s); evaluation; certification; letter; airline/s; housing; restrictions; and fraud.

## Definition of Terms

The definitions used in this article are listed in Table 1. The terminology used to describe various therapeutic animals is ill-defined and inconsistently used in scientific research, statutory language, and colloquial speech. Therefore, establishing clear definitions is necessary for a precise and accurate discussion of ESAs. Because much of defining ESAs requires describing what ESAs are not, service animals (in addition to ESAs) feature prominently in this article. The reader should note the distinction made between animals used for disability-related purposes and animals unrelated to any legally recognized disability. ESAs and service animals, as described in various statutes and regulations, are two distinct categories of disability-related animals, but a term denoting all categories of disability-related animals is necessary at times. For this purpose, we have coined the term disability-related assistance animal (DRAA). We draw from statutory language, the scientific literature, and consensus in colloquial use to define the other terms used.

## Legal Framework for DRAAs

As will be described in the following sections, the use of service and emotional support animals is governed by a patchwork of federal and state anti-discrimination laws, applying to different settings with slightly different rules. Thus, while a person with a disability might be entitled to be accompanied by a dog in one place (e.g., an airplane), the same animal may be barred in a different location (e.g., a restaurant).

Despite such differences, these laws do share a few common features. None of these statutes specifically addresses ESAs or service animals. Instead, they simply prohibit discrimination against disabled individuals, including the refusal to make a reasonable accommodation that would give a disabled individual equal access to a place or setting. One possible accommodation is permission to bring an animal to a location where pets are otherwise prohibited. Congress has given the responsibility for administering each of these statutes to federal agencies. These agencies have promulgated regulations that flesh out the sparse language of the statute; a number of them have issued rules that explain when the use of a DRAA would presumably constitute a reasonable accommodation.

As suggested by the phrase “reasonable accommodation,” the entities covered by these laws do not need to agree to every accommodation sought by a person with a disability. In particular, an entity can decline accommodations that are unduly burdensome or that fundamentally alter its purpose.<sup>24</sup> If an animal is disruptive or not housebroken, for instance, it can be barred from entry. If permitting the animal would be reasonable, though, the entity must allow it and cannot charge its owner any additional fees.

The laws also share a definition of disability that includes any physical or mental impairment that substantially limits one or more of the major life activities of such individual (the Fair Housing Act (FHA) uses the term “handicap” rather than “disability,” but it uses this same definition).<sup>25–27</sup> These statutes also expand the notion of disability to include individuals with a prior, but not current, disability or who are regarded as having a disability. The people in these two categories are protected against discrimination but presumably cannot demand the use of a DRAA. Thus, not every mental illness counts as a disability; only mental illnesses that substantially limit a person’s major life activities are covered by the laws. The Americans with Disabilities Act (ADA) provides examples of such activities, which include physical actions (e.g., lifting), mental actions (e.g., concentrating), more complex tasks (e.g., working, caring for oneself), and major bodily functions (e.g., circulatory or digestive function).<sup>28</sup> Psychiatrists must do more than simply note a patient’s diagnosis to invoke these statutes’ protections; they should describe how the condition limits the patient’s life activities.<sup>29</sup>

All of these laws require a nexus between the animal and the disability. A disabled person does not have carte blanche to keep any animal for companionship; the animal in question must in some way ameliorate the person’s disability. What constitutes a sufficient relationship between the animal and the individual’s disability depends on the language of the relevant statute and implementing regulations.

### **The Americans with Disabilities Act**

Although passed as a single act, the ADA contains three distinct parts, each prohibiting discrimination in a particular setting. Perhaps the most well-known provisions of the ADA are those governing private entities that serve the general public, such as restaurants, theaters, and museums. These rules are contained in Title III of the ADA.<sup>30</sup> Title II covers state and local governments.<sup>31</sup>

The Department of Justice has promulgated regulations elaborating the duties imposed under Titles II and III of the ADA. These regulations require that disabled individuals be permitted to bring service animals with them to local government buildings and public venues.<sup>32,33</sup> The regulations that define a service animal are very specific.<sup>34,35</sup> First, only dogs and miniature horses can qualify as service animals.<sup>36</sup> Second, the animal in question must have been individually trained to perform a task related to the owner’s disability. This training need not be particularly extensive or even professional; in theory, owners could train the animal themselves at home.<sup>37</sup>

The most famous example of a service animal is a seeing-eye dog, which has been trained to guide blind persons. Service animals can also perform tasks for individuals who are disabled by a mental illness. For instance, a dog might be trained to interrupt self-destructive behavior by its owner or to provide calming physical pressure in response to signs of a panic attack. The ADA explicitly states that animals which merely provide “emotional support, well-being, comfort, or companionship” (i.e., ESAs) cannot qualify as service animals.<sup>34</sup>

The ADA limits the ability of proprietors of government buildings and public venues to press individuals for information about their service animals.<sup>38</sup> If the animal’s purpose is not self-evident, the staff may ask whether the animal is required because of a disability and what task it has been trained to perform. Beyond these two questions, no further

inquiries are allowed; for example, the staff cannot ask about the person's disability itself nor can they demand documentation proving the dog or miniature horse is in fact a service animal.

Title I of the ADA prohibits discrimination against disabled individuals in the workplace.<sup>39</sup> Unlike Titles II and III, it is implemented by the Equal Employment Opportunity Commission rather than the Department of Justice. The Equal Employment Opportunity Commission has not supplemented Title I with regulations dictating which types of animals a disabled person can bring to a place of employment. Instead, it has provided "interpretive guidance" for employers and employees on resolving requests for reasonable accommodations in general.<sup>40</sup> In the eyes of many jurists, these guidelines endorse a broader approach to disability-related assistance animals that would require employers to consider ESAs as reasonable.<sup>41</sup>

### **Fair Housing Act**

The Fair Housing Act (FHA)<sup>42</sup> prohibits discrimination in housing and is administered by the Department of Housing and Urban Development (HUD).<sup>43</sup> HUD has adopted an expansive view of what animals might act as a reasonable accommodation. Its guidance uses the term "assistance animal" to distinguish the concept from a "service animal" under Titles II and III of the ADA.<sup>44</sup> Any species of animal can potentially act as an accommodation under the FHA. Although the guidelines distinguish a disability-related assistance animal from a pet, they also clarify that an animal can qualify merely by "provid[ing] emotional support that alleviates one or more identified symptoms or effects of a person's disability."<sup>35</sup>

Courts are split over whether a DRAA must be trained. One line of cases holds that an animal must have some training to distinguish it from a common pet.<sup>15-17</sup> Another line of cases has ruled that no special instruction is required because HUD's regulations do not explicitly mandate such training.<sup>14,18,19</sup> These latter judicial opinions criticize the former for importing the ADA's requirements vis-à-vis training for a service animal to the FHA.

Unlike the ADA, the FHA permits landlords to be more inquisitive regarding a tenant's disability if it is not obvious. The housing provider can ask for information to confirm that the person has a legally recognized disability and how

the requested accommodation will address that disability.<sup>45</sup> Some courts have permitted a landlord to request additional information beyond a simple doctor's note when skeptical of the tenant's entitlement to an accommodation under the FHA.<sup>13</sup>

### **The Air Carrier Access Act**

The Air Carrier Access Act (ACAA) prohibits discrimination aboard airplanes and is administered by the Department of Transportation. Although its regulations use the term service animal, the phrase has a much broader meaning in the context of the ACAA and specifically includes ESAs.<sup>46</sup>

Although the ACAA regulations recognize ESAs, they also permit airlines to be more stringent in dealing with them. Airlines can demand more information from passengers traveling with ESAs. Specifically, airlines can require that the passenger furnish a note from a treating mental health professional (including a non-psychiatrist physician, if that doctor is treating the mental or emotional disability) dated within the last year. The note must state that the passenger has a "mental or emotional disability recognized in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition" and needs the animal to travel or to function at the destination.<sup>46,47</sup> The ACAA regulations group psychiatric service animals with ESAs for the purposes of this rule. An airline could therefore insist upon documentation for a trained psychiatric service dog, even though it cannot do the same for, say, a guide dog for a blind person. Like the other anti-discrimination laws, the ACAA regulations do not require airlines to permit an animal aboard if doing so would be unduly burdensome. The regulations go one step further and allow airlines to deny entry of "certain unusual service animals (e.g., snakes, other reptiles, ferrets, rodents, and spiders)."<sup>48</sup>

As of January 2019, the Department of Transportation is considering changing its regulations on disability-related assistance animals, in particular ESAs. Airlines are pushing the Department of Transportation to bring its definition of service animal in line with the narrower one used in ADA regulations. Disability rights groups are advocating for eliminating the documentation requirement for ESAs and psychiatric service animals.<sup>12</sup>

## Laws and Ethics Related to Emotional Support Animals

**Table 2** Summary of the Mandates or Laws Applicable to Therapeutically Used Animals and the Rights Under Each Law

	Disability-Related Assistance Animals			
	Service Animals <sup>a</sup>	Emotional Support Animals	Therapy Animals	Pets
Animal species	Dogs and miniature horses only	Any	Any	Any
Main applicable mandates and laws	ADA <sup>b</sup>	FHA, ACAA, state and local laws	State and local laws, institutional regulations	State and local laws and codes
Owner has a right to:				
Bring animal into all public establishments	Yes <sup>c</sup>	No	No	No
Live with animal, even if "no pet" policy in place	Yes	Yes	No	No
Bring animal on airline flights	Yes	Yes <sup>c</sup>	No	No
Permitted in medical settings	Yes <sup>c</sup>	No	Yes <sup>c</sup>	No
Requires training for specific disability-related tasks	Yes	No	Maybe <sup>d</sup>	No
Used by single individual for support	Yes	Yes	No	Maybe <sup>d</sup>
Primary function is emotional support	No	Yes	Maybe <sup>d</sup>	No
Owner may be asked to disclose related disability	No	Yes	Yes	No
Requires gentle temperament, behavior	Yes	Yes	Yes	No

<sup>a</sup> Includes psychiatric service animals.

<sup>b</sup> According to the ADA definition; the FHA and ACAA imply broader definitions.

<sup>c</sup> Statutes and regulations impose some restrictions on access.

<sup>d</sup> May apply but is not required.

ADA: Americans with Disabilities Act.

FHA: Fair Housing Act.

ACAA: Air Carrier Access Act.

## Additional Laws Governing DRAAs

The ADA, FHA, and ACAA are the most influential statutes that allow people with disabilities to be accompanied by an animal, but they are not the only ones. The Rehabilitation Act prohibits discrimination by federal agencies as well as any entity that receives federal funding.<sup>49</sup> It was one of the first federal laws to protect the rights of individuals with disabilities. The language of the Rehabilitation Act served as a template for the ADA, and courts strive to interpret the two laws in a consistent manner (Ref. 50, p 1195, n.3). Specifically, courts have applied the ADA regulations regarding service animals (including its narrow definition vis-à-vis specifically trained tasks and emotional support) to the Rehabilitation Act (Ref. 51, p 120).

The Individuals with Disabilities Education Act (IDEA) entitles children with disabilities to a free appropriate public education.<sup>52</sup> Such children already have a right to bring a trained service animal to a public school under Title II of the ADA; the IDEA can expand that right to include an animal that does not meet the ADA definition of a service animal (such as an ESA).<sup>41</sup> Unlike other anti-discrimination laws, a person cannot unilaterally invoke the IDEA to bring an animal to school as a reasonable accommodation. Instead, there must be

an agreement among school officials and the child's parents that the animal is necessary for the student to benefit from instruction.<sup>53</sup> This agreement is part of the child's individualized education program (IEP). If parents disagree with school officials over whether an animal is an appropriate component of an IEP, the IDEA provides parents recourse through mediation, an administrative hearing, or a civil lawsuit.<sup>54</sup>

Finally, in addition to the federal statutes previously discussed, states have passed their own anti-discrimination laws. Because federal law supersedes conflicting state law, these state acts cannot reduce the rights provided to disabled individuals by Congress. State law can expand the protections accorded to people with disabilities, however, including granting greater access for DRAAs. Therefore, one must consult the laws of the local jurisdiction to appreciate fully a disabled person's right to be accompanied by an animal. States have also passed laws that attempt to reduce the number of fraudulent ESA and service animals claims. At least 19 states have passed laws making it a misdemeanor to claim falsely that a pet is an accommodation for a legally recognized disability.<sup>55</sup> Table 2 provides a summary of the mandates or laws applicable to therapeutically used animals and the rights under each law.

## Research

Interpretation of the research on therapeutic uses of animals is complicated by the prevalence of ill-defined terminology within this field of research, including several overlapping concepts. For example, the term “therapy animal” is generally used to denote animals that are used by trained handlers in therapeutic interventions applied to multiple people (e.g., a therapy dog used to comfort trauma-exposed students following a school shooting).<sup>56</sup> Such interventions do not necessarily include specifically trained tasks. The phrases “therapy animal,” “support animal,” and “assistive animal,” however, have all been used to describe ESAs. Given the difficulty in reconciling inconsistent definitions for ESAs, high-quality data pertaining to the potential risks and benefits of ESAs are limited.

A multi-site Veterans Affairs study, launched in response to a Congressional mandate, will be the first large-scale study of the effects of ESAs. The randomized, two-arm, longitudinal study was designed to compare the effects of ownership of either service or emotional support dogs on the daily functioning, health-related quality of life, and mental health of approximately 220 veterans with posttraumatic stress disorder. It has proved challenging to implement largely because of difficulty in standardizing the experimental interventions.<sup>57</sup> The study was expected to conclude in June 2019, but results have not yet been published.<sup>58</sup> To date, only a limited number of small studies have considered ESAs as they are defined above; data from actual tests of clinical risks and benefits of ESAs are practically nonexistent.

Despite the paucity of published data pertaining to ESAs, decisions about whether to write letters in support of ESAs must consider the broader body of published data that might be relevant in regard to potential risks and benefits. An ESA might be considered in broader terms as a domesticated and well-behaved cat or dog that does not necessarily perform any specific task for a person with a disability. In that light, published data suggest potential benefits with little risk. Multiple studies have found stress responses measured by blood pressure to be lower in the presence of dogs.<sup>59–61</sup> Dogs are also associated with changes in cognition such as a shifting of attention to relatively positive stimuli that might be conducive to increased resiliency to stress.<sup>62</sup> Many investigations into the health effects of dogs and cats

consider animals that are not owned by the subjects and thus do not examine the potential significance of the ESA–human relationship.

In practice, an ESA is mostly equivalent to a pet. Pet dog and cat owners explain that their animals reduce loneliness and provide a sense of well-being,<sup>63</sup> improve resiliency,<sup>64</sup> and improve life satisfaction and a sense of physical health.<sup>65</sup> Studies have also reported correlations between pet ownership and direct and indirect measures of health, such as survival after a coronary event,<sup>60</sup> less frequent doctor visits,<sup>66</sup> and reduced health expenditures.<sup>67</sup> Because owners of ESAs would be expected to have similarly close relationships with their animals, the benefits of pet ownership also likely to apply to ESAs.

Some of the risks associated with dogs and cats might be of particular concern for individuals with psychiatric disabilities because they are economically vulnerable and tend to have comorbid medical illnesses.<sup>68</sup> Patients hoping to obtain animals may underestimate the costs associated with their care.<sup>69</sup> Bites are a common concern among mental health providers asked to produce letters in support of ESAs. Dog bites are quite common in the United States, with many being serious enough to warrant professional medical care.<sup>70</sup> Household dogs and cats might contribute to morbidity less directly as well, such as by disrupting sleep.<sup>71</sup> Yet such risks vary widely based on many factors. Moreover, they are calculable and can be mitigated by the careful selection of an animal, initial and ongoing training, environmental management, patient education, and coordination with professional mental health treatment. For example, costs are lower for healthy adult dogs, and the effect of dogs on sleep could be lessened by planning to exclude them from the bed.<sup>71,72</sup> Bite risk of dogs can be greatly reduced with thorough dog training and socialization as well as familiarity on the part of owners with dog behavior and communication.<sup>73</sup> Dogs pose potential health risks for individuals other than their owners, too, but these generalized risks can be similarly addressed with training and education.<sup>74</sup>

## Discussion

The increase in ESAs over the preceding decade has produced controversy. ESA certifications obtained by animal owners from internet websites with little or no psychiatric evaluation facilitate fraudulent ESA claims by airline travelers and

tenants. The presence of animals in these spaces poses risks to passengers and neighbors, such as allergic reactions, animal bites, sanitation concerns or emotional distress in individuals with cultural or phobic aversion to animals. In response, federal legislation has been proposed to limit ESAs on airplanes. Accommodation of animals by business and real estate owners increases chances of property damage and monetary loss. Airlines and landlords have responded with more stringent policies and requirements that, while consistent with the current legal frameworks, nonetheless impose greater scrutiny upon individuals with legally recognized disability and require additional justification for their service animals. Negative public sentiment caused by fraudulent ESAs may also be shouldered by individuals who require trained service animals under the ADA.

On the surface, ESAs may seem like a benign intervention with a reasonable chance of improving the quality of life for patients with mental illness, but recommending ESAs raises medical ethics concerns that providers should consider before deciding to certify them for patients. When mental health providers inappropriately certify ESAs for patients without disabling mental illness, the animals that are accommodated as ESAs are wrongly permitted in spaces like airplanes. This contributes to concerns about ESAs' potential impact on matters like public health, workplace safety, and the disabled community's rights regarding discrimination and access to public services.

ESA certifications consistent with the principles of medical ethics are guided by evidence-based medical practice and interpret the scientific literature to determine whether a patient will benefit. Potential harm to the patient also requires assessment, which should include harm to the patient from the animal, as well as harm to the therapeutic relationship with the provider as a result of the certification. Obligations to public health and equal access to medical care for all people must also be considered. Objective evaluations that consider other motivations for obtaining ESA certification and conform to ESA- and disability-related legal and regulatory standards uphold the principle of justice in medical ethics.

In addition to these reasons for the importance of competent and ethical ESA certifications, the legitimacy and parity of the mental health field is

upheld when ESA evaluators apply the same professional standards used in the practice of medicine. Forensic psychiatrists receive training in complex legal concepts, psychological assessment instruments, thorough psychiatric assessments, techniques to minimize evaluator bias, and the interpretation of ambiguous information. This background could help improve the quality of ESA certifications and is a role that forensically trained psychiatrists could assume, but the cost of and limited access to these services will be prohibitive for many patients. Consequently, most ESAs will likely continue to be certified by treating mental health providers.

Forensic psychiatrists are uniquely qualified within medicine to lead education and training on ESAs. Improving mental health providers' competency in ESA certification requires education on concerns that only arise after a treating clinician steps out of the patient-advocate role to conduct an objective forensic-style evaluation, e.g., disability evaluations made by a patient's treating physician. Forensic psychiatrists' expertise would benefit treating clinicians on topics such as ESA certification letters (i.e., minimum legal requirements and patient confidentiality), provider role conflict and bias, potential damage to the therapeutic relationship, and differences between conducting clinical and forensic evaluations. Forensic psychiatrists could also use their expertise by making policy recommendations to treatment providers. Such recommendations might include recommending that providers have a uniform policy on whether they provide ESA certifications for patients, and only do so if they feel competent. Forensic psychiatrists could support clinicians who do not feel comfortable or do not have the expertise to certify ESAs by advising them to not provide these certifications and to refer the patient to a forensic provider.

## **Conclusion**

Whether through personal or anecdotal experience with their patients, providers may have witnessed positive, sometimes profound, effects of animal companionship on human quality of life. When considering this experience and commonly held beliefs about the benefits of animal companionship, an important distinction must be made between pets and ESAs. With therapeutic intent, a provider may reasonably encourage certain patients to consider pet adoption,

but ESA certification is not a medical recommendation for a pet.<sup>75</sup> Rather, it is a certification that an individual who meets the criteria for a permanent disability should be accommodated by the presence of an ESA in certain public spaces where pets are otherwise prohibited. While the small number of studies on ESAs have not yielded sufficient results to support their clinical use, a larger number of studies have identified measurable medical and mental health benefits from pets. These comparable studies should be considered during ESA clinical decision-making, as done by physicians in other areas of medicine with imperfect or incomplete data. Further research is necessary to establish evidence-based standards for ESA evaluation and recommendation. Studies measuring the effects of ESAs on clinical outcomes in psychiatric illness could elucidate what diagnoses and individuals respond to ESAs. In the absence of these data, mental health provider competency on best practices would be promoted by investments in formal educational opportunities, such as the development of general medical education curricula, online training modules, or in-person workshops.

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