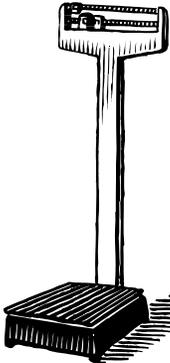


► What Are My Rights to Accessible Health Care in New York City?

If you are a person with a disability, **you have the right to equal access to health care.** Federal, state, and local disability rights laws protect people with various disabilities, including physical, psychiatric, developmental, and intellectual disabilities, as well as people who are blind or have low vision and people who are deaf or hard of hearing.



Virtually all health care providers must make their services accessible to people with disabilities. This includes large hospitals, small clinics, and the private offices of doctors, dentists, and specialists such as mental health providers, optometrists, and gynecologists.

What is discrimination? Doctors’ offices, hospitals, and clinics are not allowed to discriminate against you because of your disability. This means your health care provider cannot refuse to serve you because you have a disability, and must provide you with services that are equal to services provided to nondisabled people.

For example, a doctor might say she cannot help someone who uses a wheelchair because her office doesn’t have the right equipment. Or, she might examine a person while the person is still sitting in their wheelchair, even though the doctor can’t actually do a proper exam that way. Both of these examples could be discrimination.

Sometimes doctors make inappropriate assumptions or have bad attitudes about people with disabilities. For example, a doctor might assume a woman with a disability is not sexually active and fail to discuss family planning services. Or a doctor might talk to a patient’s aide instead of talking directly to the patient. These types of assumptions may cause doctors to treat people with disabilities differently from other nondisabled patients, and, if significant enough, might be considered discrimination.



Health care providers must make “reasonable accommodations” (or changes) to their services, buildings, and policies so that people with disabilities have equal access. You can ask a medical provider to make such changes.

► What is a Reasonable Accommodation?

What is *reasonable* under the law may depend on a few different factors. When you request a change, medical providers can consider the cost of the change, whether the change would make the building or service unsafe, and whether the change would “fundamentally alter” (meaning, change the core nature of) the service being offered. When deciding whether a proposed change is unsafe, medical providers must consider actual risks, not stereotypes or generalizations.

The medical provider must pay for the cost of reasonable changes and cannot charge you for it.



Providers usually can’t use cost as a reason to deny your request.

Health care providers must treat the cost of your request as part of the overall cost of operating their business.

For example, a doctor can’t refuse to provide a sign language interpreter just because the interpreter costs more than the doctor gets paid for the appointment.

Medical providers might be required to make many different types of reasonable accommodations in order to make health care accessible. For example, medical providers might be required to:

- **Provide accessible medical equipment** such as exam tables that raise and lower, Hoyer lifts, and platform weight scales for people who use wheelchairs or scooters. A doctor might need to have trained staff available or use positioning aids to comfortably and safely position you for a test or examination. You should not be required to bring a friend, family member, or aide to help you.



- **Remove architectural barriers** such as by widening doorways that are too narrow for a wheelchair or scooter to pass through, installing ramps, and removing unnecessary furniture in exam rooms and waiting rooms.



- **Change policies** such as making an exception to a “no dogs allowed” policy to allow a service animal to accompany someone with a visual impairment into an exam room.

- **Provide communication aids** such as a qualified sign language interpreter, video remote interpretation (VRI), or materials in alternative formats such as Braille or large print, in order to ensure **effective communication**. The type of communication aid you are entitled to will depend in part on the complexity of the information you are discussing and the length of the conversation.



Note: Doctors must provide effective communication to patients as well as to **companions**, such as friends and family members, or anyone else the doctor would normally communicate with about the patient’s health.

- **Take extra time** to simplify or repeat explanations for a person with a cognitive or intellectual disability or listen to someone with a speech impairment. Providers may also need to allow extra time to make the changes described above, such as enough time to communicate using an interpreter or to safely position someone for a test or exam.



Reminder: Tell your health care provider about your need for reasonable accommodations, ideally **before** your appointment, so they can properly prepare for your visit.

► How Do I Enforce My Rights?

If you feel a medical provider is discriminating against you, you can take action to enforce your rights. You could first try to resolve the problem by speaking directly with your doctor, or administrators at the hospital or clinic. If that does not work, you can make a formal complaint, as described below.

Note that the law protects you from **retaliation**, too; in other words, the place you are complaining about cannot do anything to “get back” at you just because you complained.

1. **ADMINISTRATIVE COMPLAINT:** The following local, state, and federal administrative agencies accept complaints related to disability discrimination in health care (and other contexts): the New York City Commission on Human Rights, the New York State Division of Human Rights, the federal Office of Civil Rights within the Department of Health and Human Services, and the United States Department of Justice. Below is a brief overview of each agency’s process. Please contact the agencies directly for more information. In most cases, you cannot file a complaint with more than one agency about the same matter. You do not need a lawyer to file a complaint.

<p>NYC Commission on Human Rights (NYCCHR) & NY State Division of Human Rights (NYSDHR)</p> <p>Investigate complaints of violations of the city and state human rights laws. Most healthcare providers are covered by these laws.</p>	<p> Time Limit: You have one (1) year from the date of the discrimination to file a complaint.</p> <p> Process/Outcome: The agency will investigate the claim. If there is evidence of discrimination, the agency may try to settle the matter. If it does not settle, the agency may hold an informal hearing with an administrative law judge. If the judge finds that you were discriminated against, the agency may tell the facility to remove barriers or provide other reasonable accommodations. You might also receive money if the judge finds that you suffered emotional or other harm.</p>
<p>Department of Health and Human Services: Office of Civil Rights (OCR)</p> <p>Handles discrimination complaints against healthcare facilities that receive federal funding such as Medicaid and Medicare.</p>	<p> Time Limit: Generally, you must file the complaint within 180 days from the date of discrimination. OCR may extend the 180-day period if you can show "good cause."</p> <p> Process/Outcome: OCR will investigate your claim. If it finds that discrimination did occur, then it may try to settle the matter. If it does not settle, OCR may make an official finding that the facility is breaking the law. OCR can only order the facility to remove barriers or provide other reasonable accommodations; OCR will <u>not</u> order the facility to pay you money to compensate you for the harm you have suffered as a result of discrimination.</p>
<p>The United States Department of Justice (DOJ)</p> <p>Takes complaints of disability discrimination under federal laws against city, state, or federally-run healthcare facilities or privately-run healthcare facilities such as a private doctor's office.</p> <p>The DOJ may forward your complaint to OCR (see above).</p>	<p> Time Limit: There is NO time limit for complaints against private facilities. Complaints against government-run facilities must be filed within 180 days from when the discrimination happened.</p> <p> Process/Outcome: The DOJ will investigate your claim. Generally, the DOJ focuses on claims that raise a pattern of discrimination or important public issue, for example, if the facility serves many people. If the DOJ takes action, it may negotiate a settlement or bring a lawsuit. DOJ may tell the facility to remove barriers or provide other reasonable accommodations. You might also receive money if the DOJ finds you suffered emotional or other harm.</p>

2. LAWSUIT: You may file a lawsuit against the hospital, clinic, or doctor's office in state or federal court. Lawsuits are generally more complex than administrative complaints so you will likely want to hire a lawyer to help you if you plan to file a lawsuit.

<p> Time Limit: Under most laws related to disability discrimination, you have up to three (3) years after being discriminated against to file your lawsuit.</p> <p> Process/Outcome: Each of these laws permits a court to issue an order telling a facility to remove barriers or provide other reasonable accommodations. Some, but not all, laws also allow you to ask for money to compensate you for the harm you have suffered as a result of discrimination.</p>
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► Questions?

**Call New York Lawyers for the Public Interest
(NYLPI)**

151 West 30th Street, 11th Floor
New York, NY 10001

Voice: 212-244-4664
TTY: 212-244-3692
E-mail: djintake@nylpi.org



Our **disability intake line** is open on the following dates and times:

Monday and Friday: 9:30 am –1:30 pm
Wednesday: 1:30 pm –5:30 pm

We will provide reasonable accommodations, including interpreters, as needed or requested. NYLPI does not consider immigration status when deciding whether to help you.

► Further Resources

NYC Commission on Human Rights

40 Rector Street
New York, NY 10006
Voice: (212) 306-7450
TTY: (212) 306-7686
www.nyc.gov/cchr

NY State Division of Human Rights

Administrative Offices
One Fordham Plaza, 4th Floor
Bronx, NY 10458
Voice: (718) 741-8400
TTY: (718) 741-8300
www.dhr.state.ny.us

U.S. Department of Justice

Civil Rights Division
950 Pennsylvania Avenue, NW
Disability Rights - NYAV
Washington, DC 20530
Voice: (800) 514-0301
TTY: (800) 514-0383
www.ada.gov

**Office of Civil Rights,
U.S. Department of Health and Human
Services, Regional Office**

Jacob Javits Federal Building
26 Federal Plaza, Suite 3312
New York, NY 10278
Voice: (212) 264-3313
TDD: (212) 264-2355
<http://www.hhs.gov/ocr/office/index.html>

United States Access Board

1331 F Street, NW, Suite 1000
Washington, DC 20004-1111
Voice: (202) 272-0080 / (800) 872-2253
TTY: (202) 272-0082 / (800) 993-2822
<http://www.access-board.gov/>