

## **Emotional Support Animals: Important Considerations for Mental Health Providers**

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*Keywords:* emotional support animals, human animal bond, animal assisted interactions, best practices in AAI

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Personal and professional interest in Emotional Support Animals (ESAs) has increased significantly within the last several years, creating new opportunities and challenges for mental health providers. While technically any animal can be designated as an ESA through a letter written by a mental health provider, the specialized training and experience necessary to determine an animal's fitness for service frequently falls outside the scope of a mental health provider's competence. Animals designated as ESAs without appropriate evaluation create potential risks to clients, the public, mental health providers, and the animal, as well as possible dual-role conflicts.

Before deciding as a mental health provider whether it is appropriate to write a letter for a client requesting an ESA, it is helpful to be familiar with the definitions, and differences between, a service animal, therapy animal and emotional support animal (American Veterinary Medical Association, n.d).

### **Service Animal**

A service animal is a dog (or in rare instances a miniature horse) trained to perform at least one specific assistive task for individuals with a physical or psychological disability as defined by the Americans with Disabilities Act (ADA). Recognized under the Fair Housing Act, Air Carrier Act and Americans with Disabilities Act, these animals do not need to be licensed or certified or wear any kind of identification and can accompany their owner at all times (when they can be reasonably accommodated).

The ADA has determined that service animals are classified as working dogs (as opposed to companion animals or pets). Examples of service animals (often referred to as assistance animals) are dogs who provide assistance for individuals with visual or hearing impairments and medical alert dogs such as those who detect seizures (Stewart et al., 2021).

### **Therapy Animal**

A therapy animal can be any species and participates in a range of animal assisted education, activities, and therapy. The animals are typically registered with or certified by an organization after successfully completing behavioral training and a medical evaluation. Therapy animals are not recognized by federal law, have no federally protected rights to access, and are not required to wear identification.

Unlike service animals, therapy animals are companion animals who provide services to a variety of individuals. They are not required to perform specific tasks, but rather participate in hospital visitation programs, reading programs, or in clinical settings with human service professionals.

### **Emotional Support Animal**

An emotional support animal (ESA) may be an animal of any species whose need is supported in writing by a qualified physician, psychiatrist, or other mental health professional based upon a disability-related need. ESAs do not require specific training, licensing, registration, or certification, do not have to be trained to perform any particular task and do not qualify as a service animal under the Americans with Disabilities Act (ADA). They are, however, viewed as a reasonable accommodation for persons with disabilities under the Fair Housing Act. While ESAs were once allowed on commercial airlines, as of January 2021, the U.S. Department of Transportation implemented a revision of the Air Carrier Access Act of 1986 and no longer

includes ESAs as a reasonable accommodation (U.S. Department of Transportation, 2020). These animals are now subject to the same rules and regulations as other non-service animals.

If the animal provides a service or performs a task other than “to provide comfort” to the passenger, the animal could be determined to be a psychiatric service dog (or in some cases, miniature horses) in which they would fall under ADA protections. There are new forms (training and vaccination records) required to be submitted to the airlines if this is the case.

### **The ESA Disability Determination Process**

Currently, the only way for an animal to be legally designated as an ESA for the purpose of housing accommodations is through a valid letter provided by a qualified, licensed healthcare or human service provider stating that the animal is medically necessary to aid in an individual’s daily functioning. In contrast to service animals, ESAs are not intended, nor given special permission, to be brought into public spaces including public covered entities. As such, no additional training or suitability screening is required, although it may be optionally undertaken by an owner/handler. While this lack of formal training and evaluation may be reasonable and appropriate for ESAs in a single-family dwelling, it can be problematic when ESAs are brought into stressful and unpredictable environments such as apartment buildings, college dormitories, and hotels, and even into other shared, semi-public, or public covered entities (Kogan et al., 2016; Schoenfeld-Tacher, & Kogan, 2017).

Ethical principles and codes of conduct across mental health disciplines include content regarding clinician competence which state that mental health clinicians provide only services within the boundaries of their competence, based on education, training, and supervised experience. When providing services new to them, the onus is on the clinicians to undertake relevant education, training, supervised experience, consultation or study.

For example, APA Ethics Code 2.01b states that “psychologists have or obtain the training, experience, consultation, or supervision necessary to ensure the competence of their services, or they make appropriate referrals... (c) Psychologists planning to provide services, teach, or conduct research involving populations, areas, techniques, or technologies new to them undertake relevant education, training, supervised experience, consultation, or study” (American Psychological Association, 2017, paras. 2-3).

Another example is the American Counseling Association Code C.2.b. New Specialty Areas of Practice Counselors that states counselors “practice in specialty areas new to them only after appropriate education, training, and supervised experience. While developing skills in new specialty areas, counselors take steps to ensure the competence of their work and protect others from possible harm” (American Counseling Association, 2014, p. 8).

With regard to ESAs, consultation may involve collaborating with animal trainers, behaviorists, veterinarians, or clinical providers with AAI specialization. Given the absence of overarching licensing or accrediting bodies for this matter, as well as the absence of federal or state mandates, the onus is on the mental health provider to ensure ethical practices (Stewart et al., 2021). To ensure optimal ethical care is provided, it is therefore recommended that mental health care providers possess comprehensive knowledge and skills regarding therapeutic human-animal interactions, animal-related behavior, and a thorough knowledge of the policies surrounding ESAs at the local, state, and federal level. Without this knowledge, clinicians, regardless of discipline, risk practicing outside their scope of competence.

### **Support letters for ESAs**

ESA disability determination letters are formal determinations of a physical or mental health disability. In this capacity, “disability” is a legal concept, based on federal law, and mental health providers who write letters recommending an ESA for existing clients may be entering into a forensic role. Mental health providers assuming a forensic role must be reasonably familiar with judicial or administrative rules governing their roles. In addition, providers who write letters for existing clients may be functioning in dual roles – clinical and forensic. While mental health disciplines differ, most agree that providers should refrain from entering multiple relationships where there is a reasonable risk of harm to the client.

In addition, mental health providers who consider writing a disability determination letter recommending an ESA should be aware of the current state, local, and federal laws and policies regarding vaccinations, licensing and registrations for service, assistance, emotional support, and therapy animals (Younggren et al., 2020). For example, the animal’s owner/handler is responsible for liability and other expenses associated with the ESA, regardless of financial status or other access barriers. Further, mental health providers should be knowledgeable about the potential risks of ESAs to the client, animal, public, and clinician (Stewart et al., 2021; Younggren et al., 2016). Specific potential risks to each of these entities are identified below (Stewart et al., 2021).

#### ***Potential Risks to Clients***

- Client misconception that an ESA can replace or is an evidence-based, indicated substitute for professional mental health care
- Over-reliance on the ESA contributing to worsening status/increased symptoms of a mental health disorder
- Animal allergies
- Potential for fraud/legal concerns if ESA is misrepresented by the client/handler and/or misconstrued by the public as a service animal
- Personal injury or property damage from an inadequately trained or insufficiently socialized animal
- Injury to other persons and animals or destruction/disruption to a setting or facility
- Zoonotic infection or disease
- Financial and emotional burdens due to behavior problems associated with inadequately trained, insufficiently socialized or dispositionally ill-fitting companion animals
- Possible rupture to the clinical or therapeutic relationship, as an ESA and its owner/handler could be found liable for any of the aforementioned. This may occur despite the fact that the mental health provider has endorsed the client’s need and presumed capacity to partner with and benefit from an ESA, as well as the animal’s suitability as an ESA

#### ***Potential Risks to Animal***

Prior to endorsing an ESA, the mental health provider should make reasonable efforts to ensure that the client can provide adequate food, water, housing, and veterinary care, not impinged by their disability.

Additional risks include:

- Illness, undue stress, or injury from interactions with the public or ill-behaved animals handled by others in public

- Undue stress from potential extended exposure to unfamiliar or stressful environments
- Neglect or other abuse; poor mental health in owner/handler may limit, impair, or prevent adequate animal care
- Undue stress from being handled by a person or persons without specialized training in animal welfare

#### ***Potential Risks to Public***

- Physical injury from inadequately trained and or dysregulated animal
- Emotional distress and or trauma from an encounter with an ill-behaved animal
- Unsocialized animals may be disruptive and interfere with normal activities
- Unsocialized animals may have maladaptive interactions with other animals (especially toward service animals)
- Fraudulent animals contribute to public skepticism, which hurts those with valid service animals and erodes public trust in the veracity of service animal training
- When handlers with fraudulent animals have greater public access, public risk increases
- The more unsuitable the animal, the greater the potential risk (i.e., exotic pet, undomesticated/wild animal)
- Zoonotic infection or disease transmission from exposure to animals.
- Animal allergies and phobias

#### ***Potential Risks to Mental Health Provider***

- Potential liability for injury/illness caused by animal to client or others
- Potential to be called to testify if the disability determination, ESA assessment, or ESA designation is challenged or if an incident occurs
- Potential need to defend the disability determination in court; mental health providers may be called upon to explain their decision and the ways they reached this opinion despite the lack of evidence-based best practices
- Ethical considerations for practicing outside the scope of competence secondary to the dearth of evidence from clinically-sound, rigorous, and relevant research of treatments incorporating the purposeful presence and utility of ESAs
- The erosion of public and collegial trust in the mental health provider's competency to practice within their scope of expertise
- Liability for adverse client outcomes due to the use of an unvalidated treatment such as an ESA
- Potential dual-relationship conflicts (clinical and forensic) when assessing one's own client

#### **Fraudulent ESA Documentation**

The lack of standards and competencies required for ESA designation or status determination has resulted in much confusion regarding certifications, identification cards, vests, and tags (Schoenfeld-Tacher et al., 2017; Stewart et al., 2021). Additionally, such confusion has fostered a robust market for means of falsely “certifying” pets as assistance animals. The following are current rules and regulations pertaining to ESAs: The American Disabilities Act and Department of Justice do not currently recognize any form of certificate, identification card, vest,

or tag as proof of an animal's designation as a service animal or an ESA (U.S. Department of Justice, 2015). Such items may be considered fraudulent, regardless of the claims asserted on these items. A "registration" or "certification" does not constitute appropriate documentation of any type of helper animal. Service dogs are not required to wear vests, identification tags, and identification cards. Some handlers choose to use a vest to discourage others from approaching or distracting the service dog. The only way to designate an ESA as such is through a letter provided by a healthcare or human service provider. Per the Fair Housing Act, ESAs are allowed to live in housing that might otherwise prohibit animals. The ESA designation does not grant public access in any other contexts.

### Conclusion

The decision to write a support letter for an ESA ultimately rests on the mental health provider and may vary based on each unique situation. Some mental health providers with experience and knowledge in the areas of animal behavior and human-animal interactions may feel that the benefits outweigh the risks. However, for the providers who do not have this knowledge level, and/or after reviewing the risks for the client, animal, public, and themselves, find they are uncomfortable writing a letter of support, the decision to decline is a prudent and ethical one.

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