

The ADA—Some Lesser-Known Wrinkles

Are your office and website ADA-compliant?

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The Americans with Disabilities Act of 1990 has some wrinkles you might not be aware of. Did you know that your website should be something called WCAG-compliant?

In various areas of the country, there are unscrupulous people finding ways to make money by harassing healthcare providers. This occurs in private offices. Many states and localities have their own versions of the “ADA”. It allows an individual to file a complaint against someone providing a service to the public. Physicians of all kinds are targets. The following is the story of one such person.

A private podiatry office in the Northeast was the target. The man’s wife was a patient of this prominent podiatrist. She was satisfied with her treatment. One day, the husband ac-

companied her to the office. At the end of the visit, the man made an appointment for himself. He wore very thick glasses and used a walking

written in, and he seemed satisfied. He asked to use the bathroom and was escorted to the bathroom without any incident. The front desk gave his wife an

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stick. In fact, he was legally blind. What does that mean? If something is 200 feet from you, you must stand 20 feet from it to see it clearly. If glasses can correct this, that does not fit the definition of legally blind.

The office staff inquired if the man needed any help, and he stated he did not. He was given an appointment card, with the date and time clearly

invoice for the co-insurance that was due, from prior visits, approximately \$200. The gentleman stated he would take care of it in the next few days.

His way of “taking care of it” would bestow a lot of aggravation to the podiatrist in the coming few weeks. Later that week, he called the podiatrist’s office stating he was not

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going to pay the co-insurance due for the services rendered for his wife. He further stated that if the office insisted, he was going to report them to various state and federal agencies for discrimination against the handicapped. When the office asked what he was talking about, the answer was simply, “you will soon see!”

Two weeks later, he showed up for his own appointment, accompanied by his wife. The doctor treated him. He again informed the front desk that he was not going to pay any co-insurance for either himself or his wife. During his visit, seeing his walking stick and very thick glasses, he was asked if he needed any help. He declined any assistance. After again refusing to pay for the co-insurance, he was informed that as neither he nor his wife were under any treatment for an active condition, they would be refused further treatment until the co-insurance was paid. It was explained that to waive the co-insur-

this topic, recently. She called him.

After carefully reviewing the “complaint”, the attorney spoke with the podiatrist. To the attorney’s delight, the podiatrist had cameras in the public areas of the office. They had the shakedown artist on video, navigating the terrain just fine. There

make it harder for those that have legitimate complaints. Having someone challenge him, the complainant got very loud and threatening. He told the attorney that he had several other complaints that could and would be filed if the doctor persisted in going after the co-insurance still owed her.

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were no stairs in the office. They had him accepting the appointment card and looking at it with his glasses on. They had him on tape refusing any assistance, other than being led to the bathroom. The video showed that the bathroom was a mere 10 feet away from the front desk, where he was making his appointment. The bathroom door not only had a large sign identifying it as a bathroom, but it had the letters in braille! Inside the

Frankly, the attorney thought it was over at this stage. It was not. Three weeks later, another “complaint” from the same man arrived. This one accused the podiatrist of having a non-ADA compliant website. The number of small businesses sued federally for website accessibility by 2018 was 2,200 annually. The number has increased since then. That does not include state lawsuits, EEOC complaints, as well as state administrative body charges against small business owners.

While the ADA does not have any official standards for websites, as part of the law, the Department of Justice recommends the Web Content Accessibility Guidelines or WCAG. The current versions of WCAG are WCAG 2.1 and 2.2. Some examples of compliance with this standard include volume controls for people with limited hearing, clear buttons to activate captions, screen reader compatibility, text alternative that can vocalize the written content (for those that are sight-impaired), and compatibility with refreshable braille displays, to allow reading in braille, through a special terminal at the person’s location. These are but a few of a much longer list. They are designed to make one’s business website accessible to those with limited hearing or vision.

Armed with this knowledge, the attorney asked the podiatrist if her website was ADA-compatible. She smiled, as two years prior, she had hired an IT person that made her website ADA-compatible. The attorney obtained an affidavit from the IT company, going into detail, as to how the doctor’s website met the current WCAG standards, and according to the Depart-

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Getting involved with various organizations that cater to disabilities providing reading material about podiatry in braille, video screens in the waiting room with the hearing-impaired captions enabled, all help in making all your patients feel wanted and valued.

ance for no valid reason was illegal. The man was unimpressed.

A week after that, the doctor received a copy of a complaint from the gentleman that he claimed would be sent to various governmental agencies concerning alleged discrimination against blind people. Within the complaint, it listed such issues as an inaccessible bathroom, inadequate signage for the blind, inadequate railings next to steps. He also claimed that the staff refused to help him navigate the office, knowing he was disabled.

The podiatrist was very upset. She was quite aware of the ADA and the needs of the disabled. She had more than one close relative with various types of disabilities. She remembered a health law attorney who had spoken on

bathroom, there were guardrails next to the toilet area. There was also a wide enough space for easy wheelchair access. The sink was suitable height for a wheelchair user.

It should be noted that the purported complaint read as if it were a template, as if it were not specially prepared against this podiatrist. In other words, the allegations were general in nature.

After ascertaining the above, the attorney called the prospective complainant at the phone number listed on the complaint. He was warned that the physician had him on video, in a public area, doing just fine. He was told that the toilet was easily accessible, including the braille. He was further told that people like him just

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ment of Justice, was ADA compatible.

The attorney called the prospective complainant, who was still looking to “make a score” with the good doctor. He was told that her website was in fact ADA-compliant. He was emailed a copy of the affidavit. He was also told if he did not stop harassing the podiatrist, without a good reason, she would pursue her legal remedies. Also, the money owed to the doctor for the co-insurance, if not paid, would be sent to a collection attorney. Up until now, this “gentleman” was his own attorney. With the thought that he was going to be the recipient of legal action that entails hiring and paying for his own attorney, his attitude abruptly changed.

Within 10 days, the podiatrist was paid the money owed to her and mutual releases were signed. This was a case when the doctor followed the rules and had the evidence to prove the patient was a fraud. Attorneys love such matters. It does not occur often enough.

Yes, there were some legal costs involved, but not that much. It also opened the eyes of the podiatrist; her compliance making her office more accessible for disabled patients was very good for business. In a professional way, she marketed to the public that she catered to the disabled. She was happy to have them as patients. In the next couple of years, she gained many new patients. Some were disabled, and others were relatives of disabled people. Many were impressed that the doctor cared so much for her disabled patients that she desired to see more of them. They were not people she had to “deal with”. They were people to be treated and valued.

Part of this involved having her staff trained in various ways so they could help people with various deficits while in the office. Getting involved with various organizations that cater to disabilities providing reading material about podiatry in braille, video screens in the waiting room with the hearing-impaired captions enabled, all help in making all your patients feel wanted and valued.

In the end, this matter was an excellent example of making lemonade out of lemons. Often, out of aggravation comes opportunity. **PM**



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