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How should you
respond to a client
who asks for
a letter endorsing
an emotional
support animal?

PAGE 22

ALSO IN THIS ISSUE

Counseling Tips / 16
Why post-licensure
supervision makes
sense / 27 Working in
integrated care settings
/ 30 Clients in interracial
marriages / 34 Before
you offer distance
counseling / 38
Special focus: AMHCA
state chapters / 42

Regulations Related to Responding to Client Requests for Emotional Support Animal Letters—Four Facts



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Increasingly, CMHCs are being asked to write letters endorsing clients' need for emotional support animals (ESAs), but few of us have any formal training on the complex nuances of addressing such requests. To complicate matters, in many cases people seek ESA letters not because they have disabilities and require the ESA to function in society, but rather because they want to transport their pets with them on trips inexpensively, or they want to move into an apartment or condo that prohibits certain animals, or maybe they just enjoy bringing their pets with them to public places. None of those is a legitimate reason to request an ESA letter.

Earlier this year, I polled 50 licensed clinical mental health counselors (CMHCs) who attended a webinar with the National Board of Forensic Evaluators on the question of how many requests they have received from clients for emotional support animal letters. Seventy percent of attendees reported that they had received at least one such request, and 40 percent reported that they received three or more requests.

Since so many of us have been asked to write such letters, this article includes four facts that I think are vital for CMHCs to know about regulations regarding emotional support animals, as well as when endorsing ESAs may not be advisable. Having researched the professional literature and federal and state legislation pertinent to this issue, I also provide CMHCs with suggested practices and resources to aid them in addressing ESA letter requests (see box on page 26), and information about some of the questionable claims companies make online about the process of obtaining ESA letters (see the box on page 25).



ESA'S ARE NOT RECOGNIZED AS SERVICE ANIMALS UNDER THE AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) defines service animals as “dogs that are individually trained to do work or perform tasks for people with disabilities.” ESAs, on the other hand, are not service animals, because they are not trained to do work or a task that is “directly related to the person’s disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA,” according to the U.S. Department of Justice, “Service Animals,” at ada.gov/service_animals_2010.htm.

ESAs are not protected by the ADA, so employers are not required by the ADA to accommodate the use of ESAs by employees or by the general public. Additionally, in some states (e.g., Colorado, Florida, Maine, Michigan, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Utah, Texas, and Virginia), it is illegal to portray ESAs as service animals.



continued on page 23

continued from page 22



THE USE OF ESAS ARE PROTECTED BY FEDERAL LAW IN ONLY TWO CONTEXTS

Federal law extends unique protections to ESAs (compared to other animals) in only two contexts: air travel and housing.

Air Travel

The Air Carrier and Access Act (ACAA)(14 CFR, Part 382) extends protections to “any animal shown by documentation to be necessary for the emotional well-being of a passenger” (see page 1 of the U.S. Department of Transportation 2016 Service Animal Definition Matrix, at goo.gl/C8zAY7). In fact, the ACAA essentially treats ESAs about the same as it does service animals.

The ACAA requires airlines to permit ESAs to sit with clients, provide service animal relief areas at airports, and prohibits airlines from requiring clients to sign waivers of liability for harm to ESAs, but there are several stipulations and exceptions (see the full list at U.S. Department of Transportation, March 2018, goo.gl/XRUvxZ):

- The ESA cannot obstruct the aisle or emergency exit,
- The passenger must provide a current letter from a licensed mental health professional,
- The animal must be trained to behave appropriately in a public setting,
- The ESA may be prohibited if it is deemed “unusual” (e.g., snakes, other reptiles, ferrets, rodents, and spiders),
- The ESA may be prohibited if it is considered a direct threat to the health or safety of others, and
- The client may be required to provide up to 48 hours’ advanced notice to the airline and check in one hour before the usual check-in time.

The letter from a licensed mental health professional must:

- Be no older than a year,
- Be printed on the professional’s letterhead,
- Include the professional’s type and state of licensure, and
- Document that the client:
 - Has a mental or emotional disability as defined by the *DSM*,
 - Needs (i.e., not wants, prefers, or would benefit from) the ESA to travel, and

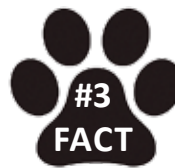
- Is under the care of the mental health professional.

(The U.S. Department of Transportation’s requirements for ESA letters are also at goo.gl/XRUvxZ, updated March 2018.)

Housing

The Fair Housing Act defines an ESA as an animal that “provides emotional support that alleviates one or more identified symptoms or effects of a person’s disability” (U.S. Department of Housing and Urban Development, 2013, p. 2, goo.gl/PDMjt5) and is not conceptualized as a pet.

If the rationale for an ESA is well-documented and the accommodation request is reasonable, then landlords and property owners may be required to permit tenants to have an ESA in properties that otherwise prohibit animals. If the evidence is insufficient to support the assertion that a client *needs*—versus *wants* or *would benefit from*—the ESA, the request may be denied.



BEFORE WRITING AN ESA LETTER FOR A CLIENT, CMHCS MUST CONDUCT A DISABILITY EVALUATION/FUNCTIONAL LIMITATIONS ASSESSMENT

Both the Air Carrier Access Act and Fair Housing Act require clients not only to have a mental disorder, but to have a disability, and it is the CMHC’s responsibility to determine whether a client has a disability prior to writing an ESA letter, according to articles that appeared in 2016 and 2017 issues of *Professional Psychology: Research and Practice*. There are many definitions of disability, some legal and some clinical. I favor a definition offered by Samuel T. Gladding, PhD, in the 2018 version (fourth edition) of “The Counseling Dictionary”:

Disability: A physical, behavioral, or mental condition that limits a person’s activities or functioning. A disability may be either temporary or permanent. It prevents a person from performing some or all of the tasks of daily life, such as taking care of bodily functions, walking, talking, or being independent of a caregiver.

In the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders (DSM–5)*, disability refers to the functional

continued on page 24

continued from page 23

impairments in social, occupational, and other important life activities. Federal legislation typically refers to an individual with a disability as someone who “has a physical or mental impairment that substantially limits one or more major life activities” (U.S. Department of Labor, para. 3, at dol.gov/odep/faqs/general.htm#3).

Prior to writing an ESA letter, the counselor should specifically determine how the client’s symptoms interfere with his or her ability to perform important life activities, and specifically how the ESA enables the client to perform these activities. For example, suppose a client with Panic Disorder has a history of severe panic attacks and responds by avoiding public places, eventually developing Agoraphobia, but she finds that her emotional support animal makes her panic attacks bearable enough that she is able to remain in public until the symptoms have abated.

Is an ESA letter warranted in this case? That depends. If the counselor does not have a thorough and specific understanding of the client’s disability and the ESA’s role in ameliorating it, then the counselor should not write a letter attesting to such needs.

What might happen if a CMHC doesn’t assess disability thoroughly before writing an ESA letter? Several court cases shed some light on this issue. One such case in Florida is *Hawn v. Shoreline Towers Phase I Condominium Association, Inc.* (ND Fla. 2009). According to a 2013 article in the *Journal of Forensic Psychology Practice* (Volume 13, Issue 2), in this case a psychologist wrote a letter opining that “the plaintiff suffered from severe panic attacks; was unable to properly cope with anxiety and stress; and was particularly vulnerable ‘while residing at his home/condo due to past occurrences on that property.’” The psychologist then prescribed an ESA to “provide support and help plaintiff cope with his ‘emotionally crippling disability.’”

The psychologist wrote this letter based on a template his client gave him after just two one-hour counseling sessions and no in-depth or formal evaluation process. The court determined that this assessment process was insufficient to meet the legal standards outlined in the Fair Housing Act. This case is important to reflect on when a client you’ve hardly worked with and have not formally evaluated for disability requests an ESA letter.

A tool recommended in the *DSM-5* for assessing disability, the World Health Organization Disability Assessment Schedule, Version 2.0 (WHODAS 2.0), is free at goo.gl/VDfDhP, under “Disability Measures,” and is relatively easy to learn to administer and interpret. The WHODAS 2.0 enables CMHCs to identify functional impairments that may constitute disability. However, the WHODAS 2.0 entirely depends on accurate and insightful feedback from clients and/or their family members. Because some clients

are prone to falsify or exaggerate information in order to obtain an ESA letter, I strongly recommend that CMHCs use tools and measures designed to detect signs of malingering, feigning, and exaggerating symptoms. Examples of such tests and structured interviews include the Personality Assessment Inventory, Structured Interview of Reported Symptoms-2, and the Structured Inventory of Malingered Symptomatology. Additionally, securing records from other treatment providers and corroborating information from family members may be appropriate measures.



ESA LETTERS ARE NOT ALWAYS CLINICALLY APPROPRIATE OR ETHICAL, AND CAN SOMETIMES BE DETRIMENTAL TO A CLIENT

A few real-case scenarios I have faced with clients illustrate situations in which ESA letters are not advisable (some details have been revised to honor client confidentiality).

Case #1

Ralph was recently kicked out of his home by his wife, who is considering divorce because of Ralph’s chronic alcoholism and lack of follow-through with recovery. Ralph took the family dog with him and moved into an apartment. He shows up for his next therapy session with his dog, who is not very well-behaved. Ralph discloses that he has continued drinking and has not attended AA meetings because he cannot leave his dog alone. He also requests an ESA letter so that he can bring the dog with him into public places that don’t permit dogs.

Case #2

Juanita shows up for her initial appointment with a three-tiered baby stroller containing two Chihuahuas and a cat (one animal in each compartment). During the appointment, she appears anxious, disheveled, disorganized, stressed, and distracted, tending to the needs of her restless animals so intently that she often has to interrupt herself or the therapist. She reports that she is not certain she will have much time for therapy because she is very busy with her “fur babies.” She wants an ESA letter, stating that she doesn’t need therapy or medication, just her “kids” (referring to her animals).

continued on page 25

continued from page 24

Case #3

Emmett contacts a therapist and asks if he can get an ESA letter. He explains that he and his girlfriend are going to take a flight that will last several hours to visit family. His girlfriend has a Chihuahua that she does not want to leave behind, as it makes

her anxious. “Plus,” he explains, “dog kennels are expensive, and so are fees for bringing them on a plane.”

The therapist explains that if Emmett’s girlfriend would like treatment for her anxiety, she can come in and the therapist can conduct an assessment and develop a treatment plan, which may or may not include an emotional support animal.

continued on page 26

Clients May Find Misleading, Ethically Murky Information About ESA Letters Online

Clients who have looked online for information about emotional support animals may be surprised if you turn down their request for an ESA letter, since some companies claim they make the process of getting the required letter from a mental health professional quick, easy, and convenient.

Here are examples of just three of the many interesting claims that a Google search for “emotional support animal letter” can yield.

Example #1: “Our network of independent mental health professionals will get you your required documentation today”

(US Support Animals, at usserviceanimals.org/esa-letter)

After reading about the court case *Hawn v. Shoreline Towers Phase I Condominium Association, Inc.* (ND Fla. 2009) on page 24, do you think that a brief phone call with a provider who has no prior professional relationship with your client is likely to yield a thorough evaluation that meets the legal requirements for an ESA letter?

Example #2: “The purpose of an emotional support animal letter is to make the special bond between people and their therapy pets even stronger.”

(TherapyPet, at goo.gl/oGEWSx)

As far as federal law is concerned, the purpose of an ESA letter is to document a client’s need for the presence of an animal to ameliorate disability-related impairments so that the client can function in a specific context, not grow a bond between a client and a therapy pet.

Example #3: “You’re entitled to a life free of emotional and psychological stress. ... Get an official prescription letter from a certified therapist, and be on your way to living stress and worry free with your Emotional Support Animal.”

(ESA Registration of America, at esaregistration.org/esa-evaluation/)

This site claims to be “the official ESA Registration of America,” which may lead clients to infer—erroneously—that there is such a thing as a government-led registry. Many other companies online make similarly worded claims. Even more concerning, in my opinion, is that claiming people are entitled to a life without stress is both inaccurate and potentially harmful. Though it is true that we sometimes have too much stress in our lives or that we sometimes struggle to manage it effectively, stress is a natural and often healthy human experience that evolved to protect us and aid in our survival. Should we teach our clients that we are entitled, or can even attain, a life without stress? How does that message align with the ethical value of veracity (i.e., being truthful with our clients)?

I would argue that most—if not all—counseling theories make room for the value of stressful experiences. For example:

- Cognitive-behavior therapists consider the belief that we cannot or should not tolerate stress to be self-defeating and irrational;
- Mindfulness-based practitioners accept and make room for stress while also refocusing on value-congruent behaviors;
- Gestalt therapists consider points of stress and tension—even in the therapy room—to be “safe emergencies” that stimulate personal growth; and
- Existentialist theorists such as Victor Frankl believed that humans can find meaning even in suffering.

Mental health professionals seem to be on the same page about this issue. I recently polled a national group of 55 mental health professionals with the question, “Do you believe that human beings are entitled to a life free of emotional and psychological stress?” Eighty percent answered “no,” and 16 percent answered “yes.” I also posed the question, “Do you believe that if a client gets an emotional support animal, he or she will be able to live ‘stress and worry free?’” An overwhelming 100 percent of clinicians selected “no” as their response.

continued from page 25

Emmett responds, “Oh, she doesn’t want treatment, she just wants to bring her dog on the plane.”

In the first and second scenarios, my conclusion was that the clients’ animals were actually interfering with—not aiding—the client’s progress and participation in therapy and/or recovery. In the third scenario, I questioned how likely it would be that Emmett’s girlfriend’s possible disorder(s) could simultaneously be so severe and limiting that she needed an ESA to function in society, yet she was not concerned enough about her mental health to need any form of treatment.

In none of the three cases described above did I write an ESA letter on behalf of my clients.

AS ALWAYS, CLIENT HEALTH SUPERSEDES CLIENT PREFERENCE

If I’ve done my job well in exploring the nuances of writing ESA letters, it’s now clear how complex this matter can be.

Generally speaking, I am concerned about treating mental disorders by fostering dependence on any single person or



animal rather than working with clients to help them develop inner coping strategies sufficient to access—and thrive in—the world around them. I am concerned that reinforcing clients’ beliefs that they can only cope with life with an animal by their side may maximize dependency while minimizing independence.

Dependence on an animal raises other questions, such as what happens if or when the animal dies or is no longer able to travel due to its age or physical condition. If we replaced the term “ESA” with a significant other, does it sound healthy to say, “I can only cope with the world if my boyfriend/girlfriend is by my side”?

Wouldn’t the optimal therapeutic outcome be for clients to participate in society without needing someone or something outside themselves?

Lastly, if too many people acquire ESA letters that aren’t truly necessary, and government, airlines, etc., start to crack down, how might this impact others in society—including individuals with legitimate disabilities who require trained service animals to perform essential activities of daily living?

I believe these are all important questions to ponder as a clinician expected to filter dilemmas through ethical values of autonomy, nonmaleficence, beneficence, justice, fidelity, and veracity. ♦

Recommended Strategies and Resources Related to Requests for ESA Letters

Strategies. The following strategies for addressing ESA letter requests appeared in the 2017 issue of *Professional Psychology: Research and Practice* (Volume 48, Number 3):

- Assess whether the ESA-related accommodation will lead to improvement in the client’s psychological condition (i.e., is it therapy-related). If so, make reduction of the need for the animal a long-term therapy goal.
- Conduct a comprehensive disability determination evaluation, including assessment measures designed to detect malingering and exaggeration of symptoms.
- Develop an evidence-based protocol for addressing ESA letter requests.
- Include any limitations in the letter (e.g., time restrictions).

Resources. Fortunately, resources exist to help you learn more and ensure that you are following legal requirements and recommended practices.

The National Board of Forensic Evaluators (NBFE), which partners with AMHCA, has graciously offered a link to all AMHCA members containing an ESA Assessment/Letter Checklist, sample ESA letter, and copies of a PowerPoint on a recent webinar, all downloadable for free at app.box.com/v/ESA.

In addition, AMHCA members can view a 1.5 hour recording of the ESA assessment webinar on YouTube at goo.gl/bEzXiB for free. If they would like two NBCC-approved continuing education hours for viewing the video, they may register for a small administrative fee at nbfe.net/event-2981282.

I sincerely hope that AMHCA members find these resources helpful.