

# Role Conflicts and Emotional Support Animal Certifications

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A Fellow of the American Psychological Association (APA) and a Distinguished Member of the National Academies of Practice (NAP), Dr. Younggren is a clinical and forensic psychologist who practices in Albuquerque, New Mexico and Rolling Hills Estates, California. He was a clinical professor at the University of California, Los Angeles, School of Medicine and currently is a clinical professor in the Department of Psychiatry and Behavioral Sciences at the University of New Mexico. Dr. Younggren has served on numerous boards and committees, including the Ethics Committees of the California Psychological Association (CPA) and the APA, the APA Committee on Accreditation, and the APA/APLS Committee that drafted the Specialty Guidelines for Forensic Psychology. Dr. Younggren consults to various licensing boards on ethics and standards of care, and qualifies as an expert in criminal, civil and administrative proceedings. For many years before deciding to travel less, he was a favored ethics presenter for The Trust Professional Liability Insurance Program for Psychologists and continues to provide consultation services for The Trust.

# Disclosures/Conflicts of Interest

The presenter does not have any conflicts of interest to disclose.

NOTE: The information presented in this webinar is not intended to provide legal advice or to substitute for the advice of an attorney, but rather to provide information about considerations when dealing with requests for ESA certifications.

Disclaimer:  
This has nothing to do with liking or  
not liking animals

# Learning Objectives

1. Describe the role conflicts that are created when a treating psychologist writes an ESA certification letter for a current patient/client.
2. Discuss what the law says about what ESAs can do and what they cannot do.
3. Identify ethically what should be considered when making an ESA determination.
4. Identify what should be evaluated as part of an adequate ESA needs assessment.
5. Analyze how the current disability laws impact ESA certification and the potential long-term impact of this type of certification.

# Examining Emotional Support Animals and Role Conflicts in Professional Psychology

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This article examines the role conflicts that psychologists may face in their practices related to the evaluation and certification of emotional support animals (ESAs). It reviews the legal differences between ESAs and service animals (SAs), outlines ethical guidelines and legal policies/regulations regarding the use of ESAs, and examines the potential role conflicts that exist when a treating psychologist is certifying the need for an ESA. Finally, it makes recommendations to assist psychologists in staying within the standards of practice in order to avoid the ethical and legal risks associated with certifying an ESA.

*Keywords:* emotional service animals, role conflicts, service animals, ethics

# What is a Service Animal (SA)?

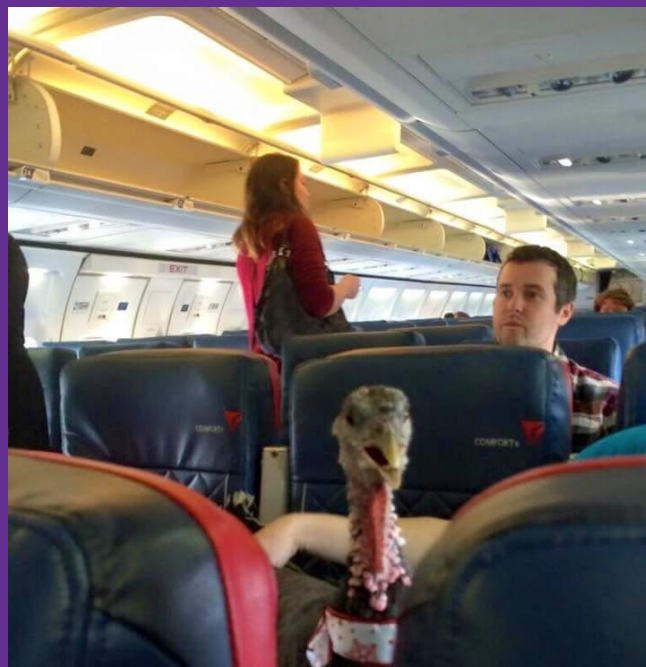
- The Americans with Disabilities Act (ADA) definition of a Service Animal (SA):
  - Limited to dogs or miniature horses.
    - A dog or miniature horse that is *individually trained to perform tasks for the benefit of an individual with a disability.*
    - Tasks a dog or miniature horse has been trained to provide must be *directly related* to the person's disability (ADA, 2011).

# What is an Emotional Support Animal (ESA)?

- ESAs can be pets.
- Special accommodations must be afforded to individuals who need ESAs to assist them psychologically.
- ESAs do not require the training that is necessary to certify an animal as an ADA-compliant SA.
  - For example, with proper documentation ESAs can be kept in housing that prohibits pets. While this documentation does not allow the ESA access everywhere, it does require waiving a no-pet rule and also any related damage deposit.



# ESAs in Action



# Emotional Support Animals and Housing

- Housing that prohibits pets must allow ESAs, resulting in the waiving of a no-pet rule and any related damage deposit.
- Under the Fair Housing Act (FHA, 1968), an ESA is viewed as a *reasonable accommodation* in a housing unit that has a no pets rule.
- The imposition of a fee or deposit is considered contrary to the purpose of the law.

# Emotional Support Animals and Air Travel

- The Air Carrier Access Act (ACAA, 2003) requires airlines to allow SAs and ESAs to accompany their handlers in the main cabin.
- Air carriers “shall not impose charges for providing facilities, equipment, or services that are required by this part [of the Act] to be provided to qualified individuals with a disability” (Federal Register, 2003).
- According to the Department of Transportation (DOT), passengers with a mental health disability can travel with their animal in the main cabin of an airplane if that animal is an emotional support animal (ESA).

# Emotional Support Animals and Air Travel

- Passengers who have a disability may have to provide the airline with current documentation on the letterhead of a licensed mental health professional stating:
  - (a) the passenger **has a mental health-related disability** listed in the *DSM-IV*;
  - (b) having the animal accompany the passenger is necessary to the passenger's mental health, treatment, or to assist the passenger;
  - (c) the individual providing the assessment of the passenger is a licensed mental health professional and the passenger is under their professional care;
  - (d) the date, type of the professional license, and the state or jurisdiction in which it was issued.

(Federal Register, 2003)



# Problems with Providing ESA Letters to Patients

- Therapists have potential professional conflicts with dual roles.
- Letters are formal determinations/statements of a mental health disability.
- The presence of the animal must ameliorate the defined disability:
  - Little empirical support in literature.
  - Liking the animal around is not the amelioration of anything.
- Definitions of disability are quite varied.
- Presence of animal usually has nothing to do with therapy.

# What is a Disability, Anyway?

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National Psychologist  
January 2017

- Disability is a legal concept.
- It is based upon six federal laws that have differing definitions.
- Consequently, for a mental health professional working with a patient, *disability is not just a matter of discomfort*, but a psychological disorder or problem that *interferes with the patient's ability to perform major life activities*.
- Disability means “a physical or mental impairment that substantially limits one of major life activities.”
  - (Note the word *substantially* in the definition.)

# Richard Hunt, Esq.

- “...even with emotional support animals there must be a “disability related need” for the animal... a patient with mild depression may feel better when a pet cat is around... this does not mean there is a disability related need for the animal.”
- Mental health professionals need to be aware that certifying a patient is disabled requires a proper medical diagnosis and the application of the correct legal definition of disability. Otherwise the certification may simply be wrong and may lead to legal action.

# The ESA Industry





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## Federal Laws and Emotional Support Animals: Benefits of Obtaining an ESA Letter



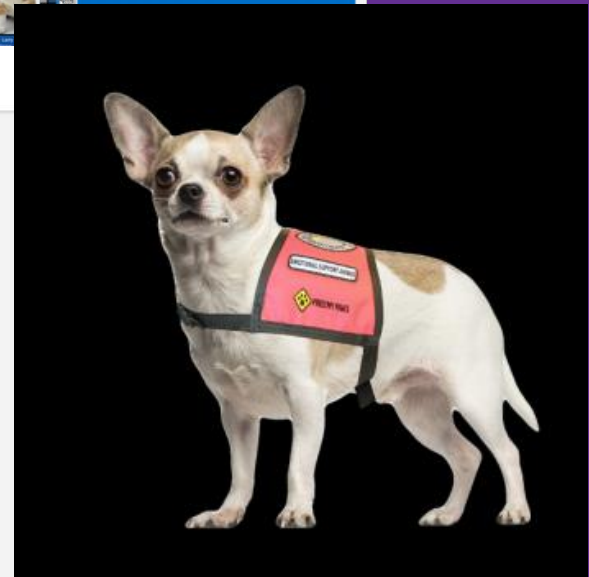
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Animal Laws You Must Know

### Related Questions

- Emotional Support Animal FAQ
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- What is an Emotional Support Animal?
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# Certification of ESAs

# Who is Evaluating the Need For and Certifying Emotional Support Animals?

- Sampled 87 mental health practitioners who worked in a forensic or combined forensic/clinical (57.5%); or clinical (42.5%) practice.
- Participants instructed to read the DOT description and indicate which tools/techniques they would use to arrive at a conclusion or recommendation for the need for an ESA.
- Participants were also asked a series of questions about:
  1. Whether they have made a recommendation,
  2. Whether they believe it is appropriate for treating mental health professionals to offer opinions on the need for an ESA, and
  3. Whether they feel competent to provide such determinations.

# Logistic Regression Comparisons for ESA Recommendation Instruments/Techniques Across Types of Practice

Instrument	Forensic (% endorsed; n = 50)	Clinical (% endorsed; n = 37)	Total (% endorsed; n = 87)	Odds Ratio for Forensic vs. Clinical
Symptom Checklist	30.6	82.9	52.4	11.0**
Brief Symptom Inventory	22.9	45.7	32.5	2.8*
Malingering Assessment	70.8	40.0	57.8	0.3**
PAI or MMPI	83.3	44.4	66.7	0.2**

Note. \* $p < .05$  \*\* $p < .01$ .

# Logistic Regression Comparisons for ESA Recommendations Across Types of Practice

	Forensic (% endorsed; n = 50)	Clinical (% endorsed; n = 37)	Total (% endorsed; n = 87)	Odds Ratio for Forensic vs. Clinical
Has made an ESA recommendation for one or more individuals	18.0	50.0	31.4	4.6*
Believes it is appropriate for a treating mental health professional to offer an opinion on the need for an ESA	77.1	80.6	78.6	1.2
Feels qualified to make an ESA determination	65.3	62.3	64.3	0.9
<i>Note. * <math>p &lt; .01</math>.</i>				

# Summary of Results

- Forensic practitioners chose more complex and forensically-valid instruments (e.g. MMPI, malingering).
- Clinical practitioners make more recommendations, BUT many forensic practitioners believe it is appropriate for treating professionals to make recommendations.
  - Clarify WHO should be making these evaluations and HOW
- 64% feel competent to conduct ESA assessments despite lack of guidelines.

# Ethical Issues and Concerns

- Role conflicts
- Competence
- Risk to the therapeutic alliance
- Objectivity
- Thoroughness
- Vicarious liability



# Alaska Airlines ESA Attack





# Recommended Evaluation Model

- Younggren, Boness, Bryant and Koocher (submitted)
  - A formal disability evaluation consistent with legal definitions of disability.
  - A thorough understanding of the laws that impact ESAs.
  - An evaluation of the animals ability to perform the function consistent with the animals abilities and temperament.
  - An evaluation of the interaction of the animal with the owner to support claim of amelioration.

# References

- Younggren, J. N., Boisvert, J. and Boness, C. (2016), Examining Emotional Support Animals and Role Conflicts in Professional Psychology, *Professional Psychology: Research and Practice*, Vol 47(4), Aug 2016, 255-260.
- Boness, C.L., Younggren, J.N. and Frumkin, B. (2017). The certification of emotional support animals: Differences between clinical and forensic mental health practitioners, *Professional Psychology: Research and Practice*, Vol 48(3), Jun 2017, 216-221, <http://dx.doi.org/10.1037/pro0000147>.



Questions?



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