



Emotional Support Animal Clinical Documentation Policy

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DocuSigned by:
Dr. Georgina Yoshioka Interim Director
Georgina Yoshioka, DSW, MBA, LCSW, Interim Director

Policy It is the policy of the Department of Behavioral Health (DBH) to meet client treatment needs regarding documentation for Emotional Support Dogs while maintaining compliance with Health and Safety Code §122318 (a).

Purpose To ensure clinical staff adhere to Health and Safety Code, § 122318 requirements for completing client documentation related to the need for an emotional support dog and reduce the potential or actual misrepresentation of service dogs.

Definition(s)

Emotional Support Animal (ESA)*: An animal that provides emotional, cognitive, or other similar support to an individual with a disability, and does not need to be trained or certified for that purpose.

Emotional Support Dog: A dog that provides emotional, cognitive, or other similar support to an individual with a disability, and does not need to be trained or certified for that purpose.

Emotional Support Letter: A letter from a licensed health care practitioner that states the client’s emotional support animal is part of their treatment for a qualifying mental condition.

Guide, Signal, or Service Dog: Any dog individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items [California Penal Code, Sections 365.5 (f)].

Licensed Health Care Practitioner: An individual who is authorized to practice by the State and performing within the scope of their practice as defined by State law.

**Note:* For the purpose of this policy, Health and Safety Code, § 122318 only refers to dogs.

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Required Criteria

A Licensed Health Care Practitioner shall not provide documentation relating to a client's need for an emotional support dog unless the Licensed Health Care Practitioner meets all of the following criteria:

- Possesses a valid, active license and includes the effective date, license number, jurisdiction, and type of professional license in the Emotional Support Letter
- Is licensed to provide professional services within the scope of the license in the jurisdiction in which the Emotional Support Letter is provided.
- Establishes a client-provider relationship with the individual for at least thirty (30) days prior to providing the Emotional Support Letter.
- Completes a clinical evaluation of the client regarding the need for an emotional support dog.
- Clinical evaluation should be maintained in the client medical record.

Emotional Support Animal Documentation Requirements

When preparing and providing ESA documentation, the Licensed Health Care Practitioner at minimum, will follow the criteria listed below:

- ESA letters must be on DBH current letterhead and include the Licensed Health Care Practitioner's license number and discipline;
- Adhere to the scope of practice and applicable regulations by the appropriate licensing board;
- Conduct a clinical evaluation and assessment in accordance with professional standards;
- Issue the ESA letter only after completing an assessment and determination of how the dog provides emotional and therapeutic support;
- Include the use of the ESA in the appropriate section in the client's treatment plan;
- Observe the animal and client together, as appropriate;
- Write the letter to the specific agency, organization, or institution requesting it;
- Review the laws for that specific agency, organization, or institution requesting the letter (e.g., Fair Housing Act);
- Provide the client with alternative ways to obtain support and to cope when the dog is unavailable or unwilling, and consult with supervisors, other mental health professionals, ethics boards, and respective leadership as appropriate.

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Legal Considerations

Licensed Health Care Practitioner must consider and understand the legal differences between a service dog and an emotional support dog:

- Providing a verbal or written notice to an individual that knowingly and fraudulently represents themselves to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or **service dog** is a misdemeanor violation of California Penal Code § 365.7.
- The definition of a service animal is written into law and identified by the Americans with Disabilities Act (ADA) under Title II and III as *“any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.”*
- Title II and III of the ADA identify ESAs as animals that provide *“emotional support, well-being, comfort, or companionship”* and while these behaviors can be very helpful to someone with a mental health condition, they are not tasks recognized to qualify for the same protections under ADA law.
- A health care practitioner may be subject to disciplinary action by the health care practitioner’s licensing board for misrepresenting an ESA as a “service animal”.

Protecting Client Confidentiality

An ESA letter should not disclose an exact diagnosis of a client. The ESA needs to identify the following:

- Client has a mental health disorder, and
- The mental health disorder results in a mental disability.

Depending on the comprehensiveness of the letter, additional information may be sought by the organization providing the accommodation to the client to better understand how to modify the requested services. A signed Authorization to Release Protected Health Information (PHI) form shall be obtained prior to disclosure of any client PHI. Clients should be fully informed that sharing the ESA letter and providing authorization to release information will disclose their mental health information.

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Related Policies and Procedures

DBH Standard Practice Manual:

- Legal Opinion from County Counsel (BOP3010)
- Authorization to Release Protected Health Information (PHI) Policy (COM0912)
- Authorization to Release Protected Health Information (PHI) Procedure (COM0912-1)

Reference(s)

- Health and Safety Code, Division 105, Part 6, Chapter 5, § 1 Article 4 122318
 - Rights to Service and Emotional Support Animals in Housing and Public Places - FAQs
 - Emotional Support and Service Animals in Public Housing
 - Fair Housing Act
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[DATE]

[Address to specific agency, organization, or institution requesting the documentation]

[Client's Name] has been in my care since [date]. I am familiar with the client's history and have completed an assessment and determination of how an emotional support dog can provide needed support to this client.

[Client's First Name] has certain coping limitations. In order to help alleviate these challenges, I have determined an emotional support dog is necessary for enabling [Client's Name] to carry out and participate in [List specific activity here]. The dog covered by this letter is named [Dog's name] and is [color and breed of dog].

I did not examine the dog's behavior, temperament, or potential risks to others, as it is not within my scope of practice.

I have informed [Client's Name] that knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor violation of Section 365.7 of the Penal Code.

Sincerely,

[Licensed Health Care Practitioner's Name, license number and discipline]

The bearer and the recipient of this letter hereby agrees, for themselves, their heirs, administrators, executors and assigns, that they will indemnify and hold harmless the County of San Bernardino, its officers, employees, agents and volunteers from any and all claims; including claims for Workers' Compensation benefits, damages, demands, actions or suits arising out of or in connection with the Emotional Support Animal named in this document brought by any third party.