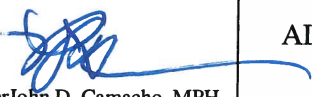


**GUAM MEMORIAL HOSPITAL AUTHORITY  
ADMINISTRATIVE MANUAL**

<b>APPROVED BY:</b>  Peter John D. Camacho, MPH Hospital Administrator/CEO	<b>RESPONSIBILITY:</b>  ADA Coordinator	<b>EFFECTIVE DATE:</b>  January 22, 2018	<b>POLICY NO.:</b>  A-R1700	<b>PAGE:</b>  1 of 11
<b>TITLE: THE AMERICANS WITH DISABILITIES ACT OF 1990 AND THE AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT OF 2008</b>				
<b>LAST REVIEWED/REVISED: 10/2017</b>				
<b>ENDORSED: EMC 10/2017</b>				

**PURPOSE:**

To define the Hospital's provisions for complying with The Americans with Disabilities Act of 1990 and The Americans with Disabilities Act Amendments Act of 2008.

**POLICY:**

The Guam Memorial Hospital Authority in compliance with the Americans with Disabilities Act (ADA) of 1990 and the Americans with Disabilities Act Amendments Act of 2008 will protect the rights of and prohibit discrimination against persons with disabilities who seek employment with the Authority or access to the Authority's programs and services.

**I. ADA – TITLE I – EMPLOYMENT**

**A. Definitions:**

1. A **person with a disability** is an individual who:
  - a. has a **physical or intellectual impairment that substantially limits** one or more of his/her major life activities;
  - b. has a **record** of such an impairment; or
  - c. is **regarded** as having such an impairment.
  
2. A **physical or intellectual impairment** is defined by the ADA as:
  - a. Physical: "Any physiological disorder, or condition, cosmetic disfigurement, anatomical loss, or operation of a major bodily function affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine".
  - b. Intellectual: "Any intellectual or psychological disorder, such as intellect retardation, organic brain syndrome, emotional or intellect illness, and specific learning disabilities".
  
3. **Episodic or In Remission**

Impairments can be a disability even if it is episodic or in remission (i.e., cancer, lupus, tuberculosis, etc.).

4. **Mitigating Measures:**

Mitigating Measures other than ordinary eyeglasses or corrective lenses can not be considered when determining a disability. Examples are:

- Mitigating measures such as medications, medical supplies and equipment, low vision and hearing devices, prosthetics, mobility devices, etc.
- Use of assistive technology.
- Learned behavioral or adaptive neurological modifications.

5. **Major life activities** are:

Walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself, sitting, standing, lifting, eating, sleeping, bending, reading, concentrating, thinking, communicating and working.

6. **Substantially limits**

Means that an individual must be unable to perform, or be significantly limited in the ability to perform an activity compared to an average person in the general population. The regulations provide three (3) factors to consider in determining whether a person's impairment substantially limits a major life activity:

- a. its nature and severity;
- b. how long it will last or is expected to last;
- c. its permanent or long term impact or expected impact.

7. Individuals specifically **not protected** by the ADA:

- a. Persons who currently use drugs illegally.

Individuals who currently use drugs illegally are not individuals with disabilities protected under the Act when an employer takes action because of their continued use of drugs. This includes people who use prescription drugs illegally as well as those who use illegal drugs. However, people who have been rehabilitated and do not currently use drugs illegally or who are in the process of completing a rehabilitation program may be protected by the ADA.

- b. Other specific exclusions.

The Act states that homosexuality and bisexuality are not impairments and therefore are not disabilities under the ADA. The Act also specifically excludes a number of behavior disorders from the definition of "individual with a disability".

8. **Reasonable Accommodation**

Reasonable accommodation is any change in the work environment or in the way things are usually done that would result in equal employment opportunity for an individual with a disability.

9. **Undue Hardship**

An employer is not required to provide an accommodation if it will impose an undue hardship on the operation of its business. Undue hardship is defined by the ADA as an action that is: “excessively costly, extensive, or substantial, or disruptive, or that would fundamentally alter the nature or operation of the business”.

10. **Direct Threat**

An employer may require as a qualification standard that an individual not pose a “direct threat” to the health or safety of the individual or others, if this standard is applied to all applicants for a particular job. However, an employer must meet very specific and stringent requirements under the ADA to establish that such a “direct threat” exists. The employer must be prepared to show that there is:

- a. significant risk of substantial harm;
- b. the specific risk must be identified;
- c. it must be a current risk, not one that is speculative or remote;
- d. the assessment of risk must be based on objective medical or other factual evidence regarding a particular individual; and
- e. even if a genuine significant risk of substantial harm exists, the employer must consider whether the risk can be eliminated or reduced below the level of a “direct threat” by reasonable accommodation.

11. **Employee Responsibilities:**

- a. Any employee who has a disability that substantially limits a major life activity and in which prevents the employee from performing the essential functions of his/her job **is responsible** for requesting reasonable accommodation(s) from his/her immediate supervisor.
- b. An employee with a non-obvious disability, requesting for reasonable accommodation(s), must provide his/her Supervisor a written statement from his/her primary Physician, Psychologist, Rehabilitation Counselor, Occupational or Physical Therapist, Independent Living Specialist or other professionals, stating abilities and functional limitations.

12. **Supervisor Responsibilities:**

- a. The Supervisor/Manager should start an interactive process with the employee to find out his/her specific physical/intellectual abilities and limitations as they relate to the essential job functions.
- b. The Supervisor/Manager is not obligated to provide an employee’s preferred accommodation if there are several effective accommodations that would provide an equal employment opportunity. The Supervisor/Manager should, however, consider the preference of the employee with a disability and select the accommodation that best serves the needs of the individual and GMHA.
- c. Provide “reasonable accommodation(s)” for the requesting employee with a disability.
- d. May seek assistance from the Equal Employment Opportunity Officer/ADA Coordinator or Human Resources Office.

**B. GUIDELINES:**

1. GMHA shall not discriminate against people with disabilities in regards to any employment practices or terms, conditions, and privileges of employment. This prohibition covers all aspect of the employment process including: application, testing, hiring, assignments, evaluation, disciplinary actions, training, promotion, medical examinations, layoffs/recall, termination, compensation, leave and benefits.
2. GMHA shall not limit, segregate or classify a job applicant or employee in a way that adversely affects employment opportunities for the applicant or employee because of his/her disability.
3. GMHA shall not participate in a contractual or other arrangement or relationship that subjects an employer's qualified applicant or employee with a disability to discrimination.
4. GMHA shall not deny employment opportunities to a qualified individual because he/she has a relationship or association with a person with a disability.
5. GMHA shall not refuse to make reasonable accommodation to the known physical or intellect limitations of a qualified applicant or employee with a disability, unless the accommodation would pose an undue hardship on the Hospital.
6. GMHA shall not use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability unless they are job-related and necessary for the business.
7. GMHA shall not fail to use employment tests in the most effective manner to measure actual abilities. Tests must accurately reflect the skills, aptitude, or other factors being measured and not the impaired sensory, manual, or speaking skills of an employee or applicant with a disability (unless those are the skills the test is designed to measure).
8. GMHA shall not discriminate against an individual because he/she has opposed an employment practice of the Hospital or filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing to enforce provisions of the act.
9. GMHA will not ask a job applicant about the existence, nature or severity of a disability. Applicants may be asked about their ability to perform specific job functions.
10. GMHA will not make medical inquiries or conduct a medical examination until after a job offer has been made. A job offer may be conditioned on the results of a medical examination or inquiry, but only if this is required for all entering employees in similar jobs. Medical examinations of employees must be job-related and consistent with the employer's business.

## **II. ADA – TITLE II – PUBLIC SERVICES**

The Guam Memorial Hospital Authority will comply with the Americans with Disabilities Act, Title II, Public Services (Regulatory References: 28CFR 35.102-35.104) which prohibits discrimination against individuals with disabilities, access to public services, programs and activities.

### **A. GENERAL REQUIREMENTS**

1. GMHA will not refuse participation in a service program or activity by a person with a physical or intellect disability because of the disability.
2. Programs and services must be provided in an integrated setting, unless separate or different measures are necessary to ensure equal access.
3. GMHA will eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy Hospital services, programs or activities unless the standards or rules are “necessary” for the provision of the service, program or activity.
4. GMHA will prohibit requirements that tend to screen out individuals with disabilities, such as requiring a driver’s license as the only means of identification.
5. Requirements that are necessary for the safe operation of the program in question, such as requirements for eligibility for driver’s licenses, may be imposed if they are based on actual risks and not on mere speculation, stereotypes or generalizations about individuals with disabilities.
6. GMHA will make modifications to policies, practices and procedures that deny equal access to individuals with disabilities as long as the modifications do not alter the fundamentals or intent of the program.
7. GMHA will furnish, when necessary, auxiliary aids and services to ensure effective communication, unless the aids and services provision of such is an undue burden to the organization.
8. GMHA will not charge or place special charges on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as making modifications required providing program accessibility or providing qualified interpreters.
9. GMHA will operate its programs so that they are accessible to individuals with disabilities.

### **B. PROGRAM ACCESS**

1. GMHA will ensure that individuals with disabilities are not excluded from Hospital services, programs and activities because of inaccessible facilities.

2. GMHA will not remove physical barriers in the facility if there are alternate means of access to Hospital programs for individuals with disabilities.
3. If physical barriers are not removed, GMHA will offer services, programs and activities to individuals with disabilities through alternative methods (i.e., relocating a service to an accessible facility, providing an aide or personal assistant to enable an individual with a disability to obtain the service, providing benefits or services at an individual's home, or at an alternative accessible site).
4. Carrying an individual with a disability as a method of providing program access is not permissible, except in "manifestly exceptional" circumstances.
5. GMHA is not required to take any action that would result in a fundamental alteration in the nature of the service, program or activity or that would place undue financial and administrative burdens on the organization. However, GMHA must take action, if it would not result in a fundamental alteration or undue burden, but would ensure that individuals with disabilities receive the benefits or services.

**C. INTEGRATED PROGRAMS**

1. GMHA will not provide services or benefits to individuals with disabilities through programs that are separate or different, unless the separate programs are necessary to ensure that the benefits and services are equally effective.
2. GMHA will not require an individual with a disability to accept a special accommodation or benefit if the individual chooses not to accept it. Even when separate programs are permitted, an individual with a disability has the right to choose to participate in the regular program.

**D. NEW CONSTRUCTION AND ALTERATIONS**

1. GMHA will ensure that newly constructed buildings and facilities are free of physical and communication barriers that restrict access or use by individuals with disabilities.
2. GMHA will ensure that when it undertakes alterations to an existing building, that altered portions are accessible to individuals with disabilities unless alternative means of access exist.

**III. SERVICES FOR PERSONS WITH DISABILITIES (STAFF, PATIENTS & VISITORS)**

To assure quality care and services are provided and maintained to all individuals identified as having problems with communication (i.e. hearing, speaking, visual impairment or blind) by providing interpreter services and/or other means of accommodating their special needs.

To help facilitate the accommodation of individuals with disabilities, the following services are provided.

**A. Interpreting Services:**



American Sign Language (ASL) and other spoken language interpreters are available 24 hours per day. For advance request of 24-hour notice or more, call the EEO Officer/ADA Coordinator at 3-2218 or Human Resources Office 3-2219/2502 from 8:00am to 5:00 p.m. Monday through Friday or the Nursing Supervisor at 3-2555/2556 during other hours and holidays. Sign Language Interpreters from Guam Community College (GCC) and the Department of Education (DOE) need 24 hr. advance notice so please make every effort to request an interpreter in advance. Every effort will be made to fill ASAP requests whenever possible.

1. If the treating physician or the immediate care giver decides an interpreter versed in sign language or the native language of the patient or relative is needed ASAP, the staff must call the Nursing Supervisor at 3-2555/2556.
2. A Video Remote Interpretation (VRI) services via Cyracom may be available for patients needing ASL (American Sign Language) Interpreters or foreign language interpreters.
3. A Volunteers Translator Listing is also available by calling the Guest Relations Department at 3-2503.

**B. Service Animals:**

1. In Accordance with the US Department of Justice, only dogs are recognized as service animals under Titles II and III of the Americans with Disabilities Act.
2. The Guam Memorial Hospital Authority will allow staff members, patients or visitors to use a guide dog or signal dog individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with intellectual impairment to take prescribe medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties.

Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

3. Staff members, patients, or visitors with a service animal will check in with Security for instructions prior to entering the Facility.
4. Security personnel will inform the individual of his/her responsibility in the care and supervision of the service animal. Guam Memorial Hospital Authority will not be held liable for any injuries incurred on the premises by and/or on such service animal.
5. Security personnel must ensure that the person with a disability has his/her service animal harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. If this is the case, the individual with a disability must maintain control of the service animal through voice, signal, or other effective controls.

6. Security personnel may ask only two (2) questions regarding the service animal:
  - a. Is the service animal required because of a disability; and
  - b. What work or tasks has the service animal been trained to perform.
7. Staff are not allowed to request any documentation for the service animal, require that the service animal demonstrate its task, or inquire about the nature of the person's disability.
8. Service animals are not required to wear a vest, ID tag, or specific harness identifying them as service animals.
9. A person with a disability cannot be asked to remove his/her service animal from the premises unless:
  - a. The service animal is out of control and the handler does not take effective action to control it; or
  - b. The service animal is not housebroken.
10. When there is legitimate reason to ask that the service animal be removed, the person with a disability must be offered the opportunity to obtain goods and services without the animal's presence.
11. The individual with a service animal will be allowed on any unit or department within the hospital that the public and patients are allowed to go, with the exception of the Critical Care Units (CCU/ICU, NICU, PICU), Operating Room, Labor and Delivery, OB Nursery, Hemodialysis and any Isolation Room.
12. The service animal must be allowed in patient rooms, examination rooms, or the cafeteria and through self-service food lines or the salad bar.
13. If a patient is admitted and is not able to care for the service animal, the patient can make arrangements for a family member or friend to come to the hospital to provide these services, as it is always preferable that the service animal and its handler not be separated, or to keep the service animal during the hospitalization.
14. If the patient is unable to care for the service animal and is unable to arrange for someone else to care for the service animal, the hospital may place the service animal in a boarding facility until the patient is released, or make other appropriate arrangements. However, the hospital must give the patient the opportunity to make arrangements for the service animal's care before taking such steps.
15. GMHA is not obligated to supervise or otherwise care for the service animal, and the GMHA will not be held liable for any fees incurred by the service animal in any boarding facility.
16. In the event an individual with a visual impairment or who is blind arrives at GMHA without an escort, he/she shall be escorted to the Security booth for assistance.



17. All Hospital employees are to comply with and facilitate execution of this policy so as to ensure reasonable accommodations for individuals with disabilities.

C. Documents:

The following documents are available in Braille for visually impaired or blind persons:

- Patient Rights and Responsibilities
- Authorization for Medical Treatment: Terms and Conditions
- Your Right as a Patient to Make Decisions Regarding Your Medical Treatment
- Declaration Regarding Life Sustaining Treatment (Living Will)
- Surgery/Procedures/Sedation/Anesthesia/Transfusion consent form

The documents can be requested from Patient Registration at 3-2238/2343.

**IV. OTHER DISABILITIES/SPECIAL NEEDS**

Staff, patients or visitors with any other impairments or special needs should call the ADA Coordinator at 3-2218/2367 Monday through Friday from 8:00 a.m. to 5:00 p.m. or the Nursing Supervisor at 3-2555/2556.

**V. ADA COORDINATOR**

The Guam Memorial Hospital Authority will designate at least one (1) employee to coordinate GMHA's efforts to comply with or carry out the Authority's responsibility under the ADA, including the investigation of any complaint communicated to the Authority alleging non-compliance with or alleging any actions that would be prohibited by the ADA.

- A. The ADA Coordinator will plan and coordinate overall compliance efforts.
- B. The ADA Coordinator will develop policies and procedures reference to the Americans with Disabilities Act.
- C. The ADA Coordinator will receive and investigate grievances on programs, services, practices and employment.
- D. The ADA Coordinator's name, office address and telephone number will be made available to the general public.
- E. GMHA's designated ADA Coordinator is: The Equal Employment Opportunity Officer

**VI. NOTICE OF ADA REQUIREMENTS**

- A. The ADA Coordinator will recommend to the Hospital Administrator and Public Information Officer the most effective method for making individuals in the community aware of their rights and protection.
- B. The information provided will be presented in English, using clear and simple terms rather than legal and bureaucratic idioms

- C. The notice will serve to advise the public of the appointment of the ADA Coordinator and include the coordinator's name, office address and telephone
- D. Information provided to applicants, participants and the general public will be on a regular recurring basis.
- E. Information will be available in alternative formats to ensure that it is accessible to people with disabilities (i.e. radio reading services, large print notices on bulletin boards audio tape, etc.

## **VII. COMPLAINTS**

The Authority has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Congress relative to Title II of the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008. Any employee, patient or visitor wishing to file a grievance or an ADA complaint may do so with the Equal Employment Opportunity Officer/ADA Coordinator or designee, located at the Administration Office or by phone – 647-2218/2367.

## **VIII. GRIEVANCE PROCEDURE**

- 1. Complaints should be addressed to the Equal Employment Opportunity Officer/ADA Coordinator/designee, who has been designated to coordinate ADA compliance efforts.
- 2. Complaints may be filed in writing or verbally and must include:
  - a. Name
  - b. Mailing Address
  - c. Phone number
  - d. allegation(s) of the complaint to include name, date, location and description of problem
- 3. Complaints must be submitted by the grievant/representative as soon as possible, but no later than 60 calendar days after the alleged violation to:

Equal Employment Opportunity Officer/ADA Coordinator  
Guam Memorial Hospital Authority  
850 Gov. Carlos Camacho Road  
Tamuning, Guam 96913

- 4. Within 15 calendar days after receipt of complaint, the EEO Officer/ADA Coordinator/designee will meet with the complainant to discuss the complaint and the possible resolutions.
- 5. Within 15 calendar days of the meeting, the EEO Officer/ADA Coordinator/designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the Guam Memorial Hospital Authority and offer options for substantive resolution of the complaint.
- 6. If the response by the EEO Officer/ADA Coordinator/designee does not satisfactorily resolve the issue, the complainant and or his/her representative may appeal the decision

within 15 calendar days after receipt of the response to the Administrator of the Department of Integrated Services for Individuals with Disabilities (DISID) Evaluation, Enforcement and Compliance at 477-9183, Suite 702 DNA Building, Hagatna, Guam. The complainant may also file their grievance with the:

- a. US Equal Employment Opportunity Commission, Hawaii District Office – 300 Ala Moana Boulevard, Room 7-127, Honolulu, Hawaii 96850, or at the
  - b. US Department of Justice, Civil Rights Disability Division Rights, Section NYAV, 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530
7. All complaints received by the hospital's EEO Officer/ADA Coordinator/designee, appeals to DISID, EEOC, or US Dept. of Justice, and responses from these offices will be retained by the Guam Memorial Hospital Authority for a period of three (3) years.

**REFERENCES:**

- Department of Justice Nondiscrimination on the Basis of State and Local Government Services Regulations, 28 C.F.R., Chapter 2 ADA Coordinator, Notice & Grievance Procedure: Administrative Requirements Under Title II of the Americans with Disabilities Act.
- US Department of Justice, Civil Rights Division - Re: ADA Revised Requirements: Service Animals

**RESCISSION:**

Policy A-RI700, The Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008 of the Administrative Manual made effective February 14, 2017.