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September 11, 2018

Hon. David C. Onley  
1265 Military Trail  
Toronto, Ontario M1C 1A4

RE: Third Review of Accessibility for Ontarians with Disabilities Act (AODA)

Hon. David C. Onley:

In 2014, we shared our praise and misgivings about the AODA proposals regarding service animals with Reviewer Mayo Moran. While the current AODA regulations differ slightly from the 2014 proposals, their substance remains the same. Therefore, the substance and force of our analysis and recommendations remain the same.

The regulations suffer from basic conceptual faults that beg for easy correction. We explain the faults and suggest updated language for this in our 2014 comment, which follows this page in our present submission.

Please give the area of service animals its due and proper attention; our Ontarian constituents would be pleased to have service animal regulations that are well-considered and that respect human rights.

With sincere hope of being heard,

Bradley W. Morris, MA, CPhil  
Director of Government Relations  
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June 27, 2014

Mayo Moran  
Reviewer, Accessibility for Ontarians with Disabilities Act  
27 King's College Circle  
Toronto, Ontario  
Canada M5S 1A1

RE: 2013–14 Legislative Review of the Accessibility for Ontarians with Disabilities Act (AODA)

Dear Dean Moran and the Legislative Review Committee,

The Board of Directors at Psychiatric Service Dog Partners (PSDP) is pleased to provide comments for the present legislative review of the AODA. We have a particular interest in the development of laws pertaining to service dogs in Canada; while PSDP serves an international population, the majority of our constituency is from Canada and the United States.

In this letter, we laud some aspects of the proposed revision to Ontario Regulation 429/07, and we detail suggested provisions that our experience demonstrates have best balanced the needs of those with disabilities and the concerns of the entities they may patronize. PSDP has seen the effects of a variety of regulations in diverse municipalities, and while no set of regulations has perfect effects, there are certain basic aspects that must be present—and those that must be absent—in order to best honor the intent of the AODA, as well as the values found in such places as Ontario's "Open for Business" initiative and the United Nations' Convention on the Rights of Persons with Disabilities.

*Appropriate lack of distinction among types of service animal trainers*

We credit the proposed revision to the customer service standard for not distinguishing between service animals that are trained by certain organizations and those that are trained by other parties. Many service dog users choose to responsibly train their own service dogs with the help of professional trainers, due to the often prohibitive cost, lack of local availability, and surprisingly lengthy wait times for program-trained dogs, as well as the relative ease of establishing a "baseline" and bond with common methods of owner-training for the mitigation of some disabilities.

There have been efforts in recent years by an international business to use scare-tactics to lobby governments to require that service animals be trained by trainers who have bought into their business, and it is a relief not to see evidence of that lobbying among the AODA proposed revisions. We mention it here only to help stave off any such lobbying that may be present in other comments, noting that we are more than willing to provide more details to the committee on this topic to address any concerns that may arise in the course of this review.

*Powers of providers of goods or services to exclude service animals*

In this section, PSDP has two proposals to help optimize O. Reg. 429/07, s. 4 (2). Each proposal aims to clarify under what conditions a provider of goods or services may require a (service) animal be excluded or removed from its premises.

O. Reg. 429/07, s. 4 (2):

*If a person with a disability is accompanied by a guide dog or other service animal, the provider of goods or services shall ensure that the person is permitted to enter the premises with the animal and to keep the animal with him or her unless the animal is otherwise excluded by law from the premises.*

We propose that the following phrase be removed from the regulation above: “unless the animal is otherwise excluded by law from the premises.” This phrase does not make it clear to business managers, such as operators of restaurants, that local ordinances pertaining to the exclusion of pets from certain types of businesses do not allow the exclusion of service animals from those businesses.

Instead, we suggest that the following phrase be substituted: “unless only partial or zero access for the animal is practicable or reasonable due to the fundamental nature of the business.” This phrase allows for a tailored response to service animal access, rather than creating a perception of a blanket restriction.

For instance, it may not be reasonable to allow a service dog to accompany its handler into a large cat exhibit at a zoo, because the presence of the dog may easily agitate the large cats. However, this does not mean that the zoo cannot provide a docent to direct service dog users to other exhibits where there is no significant risk to the health or welfare of the animals involved, so that people with disabilities can access and enjoy the zoo as much as is reasonable.

Further, the proposed revisions do not clarify negative behavioral conditions under which a service animal may be excluded from a business. It may be pleasant to imagine that all service animals are always perfectly well-behaved, but the truth is that some may have an “off” day or forget little-reinforced training performed by an organization years ago. It is useful to providers of goods or services to have clear conditions under which an animal may be excluded from the establishment, regardless of whether that animal is a legitimate service animal on a good day (or happens to be wearing a vest).

We suggest that such conditions be added to the proposed revisions to save business managers from feeling like they have no recourse in these rare events, and to clarify to potential service animal handlers what the expectations are. A simple addition to the end of O. Reg. 429/07, s. 4 (2) might cover this: “, or if the animal displays aggressive or disruptive behavior or eliminates inappropriately on the premises.”

#### *Regarding the definition of “service animal” and the verification issue*

The proposed changes to O. Reg. 429/07, s. 4 (9) are that the following three points replace the previous two in defining “service animal”:

- *It has been trained to provide assistance to a person with a disability that relates to that person's disability; and*
- *It is “readily identifiable” that the animal is used by the person for reasons relating to his or her disability; or*
- *If the person provides a letter from a regulated health professional confirming that that person requires the animal for reasons relating to the disability.*

PSDP appreciates the committee's insight in expanding the previous “physician or nurse” to “regulated health professional” in the third point above. This term allows a more accommodating range of possibilities, especially for those with psychiatric disabilities who may have a more appropriate relationship with a therapist than a doctor or nurse, for the purpose of obtaining a letter regarding service animal use.

The first point above requires that a service animal be trained to help mitigate a person's disability, which seems reasonable to us, and is worded clearly enough. This is a point of definition. However, the second and third points do not appear to contribute to a definition of “service animal”, but outline conditions under which an animal is to be granted access as a service animal. We have suggestions to improve this situation.

To be clear, changing whether an animal is “readily identifiable” as a service animal by placing a vest on it does not change whether the animal is a service animal. It would not make a pet a service animal, nor would removing a vest automatically change a service animal into a pet; many service dogs work without standard equipment. Likewise, whether a person either has or provides a letter does not change whether an animal is a service animal. These two points are extrinsic to the animal's service animal status.

This underlies why we are not confident that the approach reflected in the second and third points above is the optimal approach to the verification issue.

We agree that wearing a vest should be a presumptive indication that the animal is a service animal. However, we much prefer to rely on a behavior standard and verbal or informal written assurance of service animal status, rather than put the burden of proof on the disabled handler to obtain and never lose an identifying piece of service dog equipment. This can be accomplished by the combination of our suggestion above, at the end of the section “*Powers of providers of goods or services to exclude service animals*”, and a simple provision in the same area as O. Reg. 429/07, s. 4 (2), such as: “When it is not obvious that the animal is a service animal, providers of goods or services may ask whether the animal is a service animal that assists with the person's disability.”

This suggested provision would both encapsulate the spirit of the “readily identifiable” part of the second point in the committee's suggested revision above, and it would allow providers of goods or services to accept credible verbal assurance of an animal's service animal status, rather than put the burden on people with disabilities to carry formal paperwork to gain access. In addition, by relocating this aspect from the definition of “service animal” to the regulations above the definition, and by introducing a very basic behavior standard as in our suggested amendment to O. Reg. 429/07, s. 4 (2) above, the AODA can reduce the burden on service animal users while providing a clearer and more relevant standard for providers of goods or services. Certainly, providers are more concerned with whether the animal behaves appropriately than whether it is wearing certain attire, or whether a letter states that the individual requires some service animal, independent of whether the animal accompanying the individual is fit for the job.

Our experience also indicates that providers of goods or services focus on one aspect of the verification issue, and while many employees would be uncomfortable asking for a document about a stranger's medical information, some would (wrongly) learn that each service animal user should be required to produce documentation before proceeding among the premises. We are keen to avoid documentation requirements when possible, specifically because this presents ubiquitous opportunities for harassment of persons with disabilities, whether intended or not.

We ask you to try to imagine the disruptions to your extended shopping trip in a large shopping center if every employee stopped you to make sure your doctor wrote a letter stating that you were required to use a wheelchair. Enacting regulations that will give rise to such challenges to persons with disabilities when they try to conduct the daily business of life is a clear violation of the goal of equal access.

So it should be clear that PSDP feels similarly about the alternative requirement of a medical professional's note, as we do about the “readily identifiable” point in the proposed service animal definition. While we believe it is good practice for service dog users to document the support of their medical practitioner, we more strongly believe that it is bad form to require service dog users to obtain and carry everywhere such a document, merely to gain access to basic goods or services in case a provider determines the service dog is not “readily identifiable” as a service animal.

### *Service animals in training*

Since service animals do not spring, fully trained, from nowhere, PSDP highly recommends the addition of a provision regarding service animals in training. It takes one to two years to train a service dog to work in all sorts of environments, and this training is much more difficult to accomplish if service dogs in training are not allowed access to the same types of environments they are likely to encounter during their careers.

We have seen regulations providing for service animals in training from various municipalities, and it seems to us that the best of them have the same basic behavior standards as are required of service animals (no inappropriate elimination, aggressive behavior, or disruptive behavior), and they allow access to anyone specifically in the process of training the animal to be a service animal. This latter stipulation enables not only disabled owner-trainers, but also employees and volunteers of organizations to train service animals. This may be accomplished by adding a provision similar to the following (in or after O. Reg. 429/07, s. 4 (2)): “An animal that is specifically in the process of being trained to be a service animal may accompany its handler into the same places a service animal is allowed, subject to the same behavior restrictions a service animal is.”

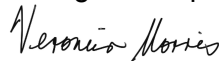
*No additional fees for service animals and service animals in training*

PSDP was unable to locate any provision in the current or proposed regulations that prohibited providers of goods or services from charging extra fees to reasonably accommodate patrons with disabilities. Some business managers may believe they are not obligated to provide, for example, a wheelchair ramp, unless wheelchair users pay a fee for it. Likewise, some businesses—especially hotels with pet fees—may have managers who believe service animal users should be required to pay pet fees, even if the service animal does not cause any damage or disruption to the business. We believe that such fees represent an undue burden on the person with a disability.

We heartily recommend a specific provision clarifying that no extra charge may be levied against a service animal user, nor against someone specifically engaged in the training of an animal to be a service animal. While it is beyond the usual scope of our mission, we suggest a general provision pertaining to all accommodations, such as: “No provider of goods or services may charge an extra fee to provide a reasonable and practicable accommodation to a person with a disability, including allowing assistive devices (wheelchairs, service animals, service animals in training, etc.) when such devices do not cause damage beyond reasonable wear and tear.”

Thank you so much for your work and for considering our suggestions, which are based on our collective decades of service dog experience. We look forward to hearing how all commenters' suggestions are considered; we are sure you will do your best to honor the values celebrated by Ontarians!

With great respect,



Veronica Morris, PhD  
President, Board of Directors  
on behalf of the PSDP Board of Directors



**Psychiatric Service Dogs Partners' purpose is to promote the mental health of people using service dogs for psychiatric disabilities by educating, advocating, providing expertise, facilitating peer support, and promoting responsible service dog training and handling.**

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