



February 12, 2024

Chief Rebecca B. Bond
Disability Rights Section
Civil Rights Division
U.S. Department of Justice

Dear Chief Bond:

The American Association of People with Disabilities (AAPD) and the over 40 undersigned organizations are thankful for the opportunity to comment on the Notice of Proposed Rulemaking (NPRM), *Nondiscrimination on the Basis of Disability: Accessibility of Medical Diagnostic Equipment of State and Local Government Entities*. AAPD works to increase the political and economic power of people with disabilities. As a national disability-led and cross-disability rights organization, AAPD advocates for full civil rights for more than 61 million Americans with disabilities. We do this by promoting equal opportunity, economic power, independent living, and political participation.

Many in the disability community have long advocated for improved accessibility in healthcare facilities and programs and enforceable accessibility standards for equipment used to evaluate, diagnose, and treat patients. Adults with disabilities are nearly twice as likely as nondisabled adults to report unmet healthcare needs because of problems with the accessibility of a doctor's office or clinic (16.8% versus 9.2%).¹

In 2017, the U.S. Access Board issued accessibility standards for medical diagnostic equipment (MDE) under Title II of the Americans with Disabilities Act.² However, these standards are only enforceable once the Department adopts them. Thus, we strongly support and encourage the Department's adoption of the Access Board's MDE accessibility standards and the DOJ's efforts to apply specific requirements to accessible medical equipment. Disabled people should not have to refrain from receiving quality healthcare and medical exams because providers do not have services that are up to ADA standards.

¹<https://apps.urban.org/features/hrms/quicktakes/Many-Adults-Have-Problems-Getting-Health-Care.html#:~:text=Adults%20with%20disabilities%20were%20also,to%20get%20to%20a%20doctor's>

² <https://www.regulations.gov/document/ATBCB-2012-0003-0077>

We support the Department's adoption of the Access Board's MDE accessibility standards, which contain "minimum technical criteria" for transfer surfaces and supports, wheelchair spaces, mammography machines, weight scales, exam tables and chairs, and more. However, the Access Board standards do not incorporate specific scoping requirements, contain too many exceptions and sunset provisions, and do not include staff training. We strongly urge the Department to adopt the standards the Access Board recommended and to go beyond and integrate more specific requirements that will leave little to no room for exceptions for providers and make medical care more inclusive for disabled patients.

Specifically, the Department must include the updated low transfer height standard. The transfer height in the Access Board Standards is temporary due to insufficient data. Though the Access Board did publish a proposed rule in May 2023 to establish the low height of adjustable height transfer surface to be 17 inches, the Board is still reviewing comments related to the NPRM and has yet to adopt the standard officially. Lowering the transfer height will increase accessibility for wheelchair users in medical settings, and researchers and the disability community have supported the 17-inch height, so we urge the Board and the Department to adopt and enforce this standard. The Department has more authority to implement these standards, so we recommend that the DOJ incorporate a 17-inch low transfer height requirement in its final rule to incentivize providers and manufacturers to provide ADA-compliant medical equipment and access to quality medical care for people with mobility disabilities.

We do not support the Department's scoping requirement within the proposed rule. We recognize that it reflects the 2010 ADA Standards' scoping requirements by requiring "at least 20 percent (but no fewer than one unit) of each type of equipment in use in facilities that specialize in treating conditions that affect mobility to meet the MDE Standards, and requiring at least 10 percent (but no fewer than one unit) of each type of equipment in use in other facilities to meet the MDE Standards." However, that requirement applies to parking spaces, which cannot be compared to medical diagnostic equipment. Limiting the number of accessible medical equipment means restricting access to quality healthcare for disabled individuals and essentially determining that only certain machines are available for their use, and they have to wait until those specific machines are ready for them. The disability community is vast and constantly growing, and making such a requirement will not improve the disparities in health care that disabled people face. The Department must include the requirement to make 100% of all new MDE accessible to provide disabled patients the medical care they need and deserve.

The [Consortium of Constituents with Disabilities \(CCD\)](#) has submitted comments that respond to the questions laid out by the Department in the NPRM, make detailed recommendations, and encourage the final adoption of MDE accessibility standards. AAPD wholeheartedly supports CCD's comments and urges the Department to listen to

the needs of the disability community. We thank you for this opportunity to comment on this crucial and necessary proposed rule. We hope you finalize it as soon as possible so that disabled people can have equitable access to quality medical care.

Sincerely,

American Association of People with Disabilities
Ainey Volion Consulting
ALS Association
Autistic People of Color Fund
Autistic Self Advocacy Network
Autistic Women & Nonbinary Network
Axis Advocacy
Barth Syndrome Foundation
Black Phoenix Organizing Collective
California Access Coalition
Center for Autism and Related Disorders
Council of State Administrators of Vocational Rehabilitation (CSAVR)
Davis Phinney Foundation for Parkinson's
Disability Community Resource Center
Disability & Philanthropy Forum
Disability Policy Consortium
Disability Rights Oregon
Dup15q Alliance
Epilepsy Alliance America
Global Liver Institute
Health Hats
Japanese American Citizens League (JACL)
Johns Hopkins Disability Health Research Center
Justice in Aging
Little Lobbyists
Lupus and Allied Diseases Association, Inc.
National Association of Councils on Developmental Disabilities
National Council on Independent Living
National Health Law Program
National Partnership for Women & Families
New Disabled South
Not Dead Yet
Parent Project Muscular Dystrophy
Partnership to Improve Patient Care
RASopathies Network
RetireSafe
Sins Invalid

The Coelho Center for Disability Law, Policy and Innovation
The Southern Maine Chronic Pain Support Group. US Pain Foundation Facilitator
The Split Second Foundation Inc
TSC Alliance
U.S. Gender and Disability Justice Alliance