

**DEPARTMENT OF JUSTICE**

**28 CFR Parts 35 and 36**

**CRT Docket No. 113**

**RIN 1190-AA64**

**Non-discrimination on the Basis of Disability by State and Local Governments and Places of Public Accommodation; Equipment and Furniture**

**COMMENTS OF CELLULAR PHONE TASK FORCE**

The Cellular Phone Task Force is a nonprofit corporation founded in 1996 and headquartered in Santa Fe, New Mexico. Its purpose is to provide support for individuals disabled by electromagnetic radiation from wireless technology and other sources; education to the public concerning electromagnetic radiation; and advocacy for an electromagnetically cleaner environment.

**I. ELECTROMAGNETIC SENSITIVITY IS A DISABILITY THAT IS COMMON AND REQUIRES ACCOMMODATION**

In support of these comments we submit the following attachments:

(1) A letter, dated October 26, 2000, from James J.Raggio, General Counsel for the United States Access Board, stating:

“We have heard from thousand[s] of people across the country who are sensitized to chemicals and electromagnetic, radio and cell phone emissions and who cannot safely use facilities because of chemicals released from building materials and furnishings, exposure to certain types of electrical equipment and systems, and cleaning products and pesticides commonly used in operating and maintaining buildings...

“Based on our experience, I can state that there definitely is a need for specially planned and designed housing for people with multiple chemical sensitivities and electrical sensitivities. There are many people with these and related disabilities whose condition is so severe that they cannot live in conventional housing.”

(2) *Federal Register*, Vol. 69, No. 141, July 23, 2004, page 44087, in which the Access Board addressed electromagnetic sensitivities and said that it would be developing technical assistance materials on best practices for accommodating individuals with these disabilities:

“The Board recognizes that multiple chemical sensitivities and electromagnetic sensitivities may be considered disabilities under the ADA if they so severely impair the neurological, respiratory, or other functions of an individual that it substantially limits one or more of the individual’s major life activities. The Board plans to closely examine needs of this population, and undertake activities that address accessibility issues for these individuals.”

(3) The introduction to a 97-page technical assistance manual commissioned by the Access Board on best practices for accommodating individuals with these disabilities, published in 2005 and available on the Access Board’s website at [www.access-board.gov/research/ieq/ieq-project.pdf](http://www.access-board.gov/research/ieq/ieq-project.pdf). The introduction cites a survey, done by the California Department of Health Services, which found a prevalence rate of 3 percent of the population for electromagnetic sensitivities. This would translate to over 9 million Americans with this type of disability, for whom wireless medical telemetry, wireless communication equipment, compact fluorescent lamps, and other sources of radio frequency radiation can make entire hospitals, libraries, courthouses, and other places of public accommodation completely inaccessible. This does not include another 25 million Americans with implanted medical devices who require similar accommodation, as outlined in the comments of Gary R. Olhoeft, Ph.D., submitted into this docket January 7, 2011.

## II. ANSWERS TO QUESTIONS IN THE ANPRM

*Question 1.... What other types of medical equipment and furniture should the Department include in its proposed regulation? What modifications to other types of medical equipment and furniture, including equipment and furniture used for treatment or other non-diagnostic purposes, such as hospital beds, should be included in the Department's proposed regulation?*

### A. Wireless Medical Telemetry

Wireless medical telemetry equipment should be included in the proposed regulation, because the ubiquity of such equipment has now made most, if not all hospitals entirely inaccessible to persons with severe electromagnetic disabilities. Wireless telemetry equipment should be replaced by wired telemetry equipment and old-fashioned bedside monitoring in at least one wing of every hospital. Medical telemetry is the remote monitoring of vital signs of ambulatory patients—cardiac signals, pulse and respiration rates, temperature, etc. These devices perform several functions. They allow patients to be continuously monitored yet have freedom of movement without being tethered to a hard-wired connection. In part they are for the convenience of nursing staff who don't have to keep a continuous eye on patients, and who no longer have to take frequent measurements of vital signs at the patient's bedside. But for persons with electromagnetic disabilities, this equipment fills hospitals with radio frequency (RF) signals that are a barrier to access to the hospitals themselves. The frequencies used are generally between 600 and 2500 MHz.

People with electromagnetic disabilities must avoid significant exposure to radiation at these frequencies. Severely disabled people often suffer seizures, heart arrhythmias, laryngospasm, asthma attacks and other life-threatening reactions when accidentally exposed to cell phones, cordless phones, wireless computers, two-way radios, and other sources of such radiation. Tragically, they cannot go to the emergency room of a hospital to be treated for such emergencies because of the barriers to access posed by medical telemetry and other sources of

RF radiation in hospitals. Not only is hooking them up to such telemetry devices contraindicated in such patients, but the ambient radiation inside hospitals from hundreds of RF-emitting devices in use simultaneously is a barrier to access to the hospital building itself. Such persons cannot get emergency medical treatment even in case of a broken bone, a stroke or a heart attack. We have seen this barrier to access have crippling and fatal consequences—broken bones not set, broken hips not replaced, metastatic cancer not diagnosed, etc.

***Question 7. What are the greatest difficulties facing individuals with disabilities in accessing rehabilitative and exercise equipment and furniture in a therapeutic setting?***

The greatest difficulty is accessing the medical or rehabilitation facility itself. Many people with electromagnetic sensitivity cannot even get past the front door. This is due to radiation from wireless medical telemetry, discussed above, as well as wireless internet (WiFi), cordless phones, cell phones, bluetooth devices, and compact fluorescent lamps (CFLs), which have radio frequency ballasts. All of these are ubiquitous in today's hospitals and medical centers.

***Question 10. What are the key criteria for scoping in different types of medical settings? What are appropriate scoping requirements for each of the types of medical equipment and furniture discussed above?***

The major barriers to access in medical settings include cordless phones, cell phones, bluetooth, WiFi, CFLs, and wireless telemetry. A private doctor's office may not be able to be made accessible without eliminating those items from the entire office, which we do not at this time propose. As a first step in accommodating persons with electromagnetic disabilities and ensuring that they can get some kind of medical care, we propose that the Department's new regulations should require every hospital to have at least one wing without any type of wireless or RF-emitting equipment, and that wireless equipment located in other wings be situated so that their transmissions do not enter the accessible wing. This can be accomplished either by

sufficient distance between wings, shielding of walls, door and windows, and/or reducing the power levels of the wireless equipment in the other wings. By “wireless equipment” we mean wireless telemetry, cordless telephones, WiFi, bluetooth and other similar equipment. Lighting in such accessible wings should exclusively by incandescent lamps. Signs should be posted on doors to that wing prohibiting cell phones.

***Question 11. How could medical providers time replacement or modification of equipment and furniture to ensure that individuals with disabilities receive equal access to healthcare without undue delay?... Should the Department require the purchase rather than the replacement of some accessible equipment and furniture at a certain point? Should the replacement of inaccessible medical equipment or furniture be triggered only by the end of the useful life of the equipment or furniture?***

Replacing CFLs with incandescent lamps, cordless telephones and bluetooth devices with wired telephones, wireless computers with wired computers, and wireless telemetry with bedside monitoring, is so easy and cheap that it could be done throughout the country in a matter of weeks, not months. People with electromagnetic disabilities are the only people in this country that we are aware of that presently have no access to medical care at all, so the need is urgent. This involves no new technologies, rather a return to older, cheaper technologies still on the shelf. We propose that hospitals have two months from the date of the publication of the rule to make at least one wing accessible to persons with electromagnetic disabilities.

***Question 16. Are there existing standards that the Department should look to for developing standards for beds in accessible rooms?***

The Department has asked about accessible beds in accessible guest rooms and sleeping rooms, such as dormitories in educational institutions and social service establishments, and accessible hotel guest rooms. Again, for people with electromagnetic sensitivities, the problem is not the bed but other equipment that is a barrier to access to these establishments. There are almost no hotels, motels, bed and breakfasts, or other guest accommodations left in the United

States that are not equipped with WiFi and cordless telephones, which makes these accommodations inaccessible. People with electromagnetic disabilities therefore cannot travel. We propose that large hotels and other large guest facilities, that have more than 25 guest rooms, set aside at least one room that is accessible for every 25 rooms in the facility. This room would not have a television, would be lighted by incandescent lamps, and would be out of range of the facility's WiFi signal and any cordless telephones in the hotel's office. In hotels with more than 100 rooms, at least one continuous corridor of rooms should be accessible.

***Question 17.... Should the Department treat beds in nursing homes or hospitals in the same manner as it treats beds in places of lodging?***

Yes.

***Question 18. What are the challenges posed by the inaccessibility of EIT, including EIT kiosks, POS devices, and ITMS?***

Touch screen technology is a barrier to access because people with electromagnetic disabilities cannot touch computer screens. They join the visually impaired in needing keypads to input information. A second barrier to access is the transmission of information from increasingly many devices by wireless means. For example, the Farmer's Market in Santa Fe, New Mexico enables people on Food Stamps to purchase produce using their EBT cards. However, the interactive machine used to process the EBT cards is a mobile wireless device. The Farmer's Market is permanently in a fixed location, could easily purchase a wired EBT machine, and is unnecessarily inaccessible to persons with electromagnetic disabilities. We propose a rule requiring EIT equipment to be hard-wired in fixed places of public accommodation.

***Question 19. What types of EIT would permit individuals with communication disabilities to most effectively communicate from an accessible hospital room, nursing home facility, guest or sleeping room? Should the Department regulate effective communication from such facilities? What are the costs associated with various types of EIT in such settings?***

Generally, accessible communication must be wired, not wireless, and via a telephone, not a computer or video screen. The Department should regulate effective communication from otherwise accessible facilities. The costs are minimal since it only requires going back to older, cheaper equipment.

***Question 20. What are appropriate scoping criteria for the availability of accessible EIT and triggering events for the replacement or refurbishing of EIT devices, including kiosks, ITMs and ATMs, to ensure accessibility?***

Each facility should have at least one non-touch screen device of each kind that is not wireless.

***Question 21. Are there other types of equipment or furniture that impede accessibility that should be specifically addressed in the Department/s regulation?***

As mentioned above in the answers to some of the other questions, WiFi equipment, cordless phones, and CFLs are barriers to access in all buildings. The Department specifically mentions public libraries. People with electromagnetic disabilities presently have no access to any libraries at all, let alone to their computer terminals, because during the last several years almost all libraries in the United States have installed WiFi access throughout. People with this disability cannot enter the front door. Likewise, most City Halls, many State and Municipal Courthouses, and the majority of other government buildings have installed WiFi and are completely inaccessible to people with this disability, depriving them of their due process rights under the Fourth Amendment, and their right to petition the government under the First Amendment. Because these rights are so fundamental we propose that the Department adopt a rule prohibiting state and local government buildings from installing or operating WiFi access

points, as well as requiring them to light their buildings with incandescent lamps. We also propose a requirement that each city have at least one public library without WiFi, or, in towns with only one library, that one wing of the library be provided only with wired computer terminals and into which WiFi signals from elsewhere in the library do not penetrate.

***Question 22. What are the costs of accessible equipment?... What are the costs and benefits of different scoping requirements for different types of equipment and furniture?***

Generally, making facilities accessible to people with this disability involves removing equipment, not installing new equipment. E.g., banning cell phones, removing wireless telemetry equipment, removing computers and TV screens, etc. In some cases it involves replacing new equipment with old, e.g. replacing CFLs with incandescent lamps, wireless equipment with wired, touch screens with keypads, etc. Even where there are costs involved, the benefits are as fundamental to our democracy as restoring to a class of people, numbering in the millions, the ability to seek medical care and to enter the halls of their government.

Respectfully submitted,

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