

(Date)

VIA CONFIDENTIAL FAX TO (list fax number)

Name of Facility

ATTN: (name of contact person)

(Title of contact person)

**Re: Request for a Reasonable Modification of Visitor Policy During COVID-19
Pandemic – (Patient Name)**

Dear _____:

I am writing to request a reasonable modification to your current COVID-19 “no visitors” policy for a **(caregiver, family member, support person)** to accompany **(patient’s name)** for an upcoming **(appointment, treatment, hospital stay)** on **(date)** at **(scheduled time)**. This request is made under the Americans with Disabilities Act (ADA), the Rehabilitation Act, the Affordable Care Act, and the Arizonans with Disabilities Act. This request is consistent with recent guidance from the offices of the U.S. Department of Health Office for Civil Rights and the Arizona Department of Health Services. Please respond no later than **(date)**.

Reason for the Reasonable Modification Request

(Patient’s name) is a person living with a disability. **(He / She)** is diagnosed with **(identify diagnosis, e.g. intellectual disability, autism, cerebral palsy, anxiety, hearing loss)**, a **(physical or mental)** impairment that substantially limits one or more of the following **(major life activities or bodily functions: go to this link for a list of major life activities: <https://www.eeoc.gov/laws/guidance/questions-and-answers-final-rule-implementing-ada-amendments-act-2008>)**. **(Patient’s name)** requires a support person accompanying **(him or her)** to the **(hospital stay, appointment)** because **(describe the patient needs a disability-related exception to the policy, e.g. can’t communicate needs without assistance, can’t understand treatment, directions or discharge instructions, becomes too anxious without support, has behaviors that will result in unnecessary chemical or physical restraints, e.g. has balance and mobility problems that require 1:1 assistance)**.

Law Supporting Disability-Related Exceptions to No Visitor Policies

Several federal and state laws protect patients with disabilities and require public and private hospitals, outpatient surgery centers, outpatient therapy offices and other healthcare facilities to provide reasonable modifications for patients with disabilities to ensure equal access to medical treatment. Both Title II and Title III of the Americans with Disabilities Act (ADA) and the Arizonans with Disabilities Act (AzDA) prohibit discrimination on the basis of disability. Section 504 of the Rehabilitation Act of 1973

(Section 504) also prohibits discrimination in programs conducted by entities that receive federal financial assistance. The Affordable Care Act (ACA) provides that no health program or activity that receives federal funds may exclude from participation, deny the benefits of their programs, services or activities, or otherwise discriminate against a person protected under Section 504. As most health care facilities receives federal financial assistance, they are also subject to the nondiscrimination requirements of Section 504 and the ACA.

Discrimination includes the failure to make reasonable modifications in policies, practices, or procedures when necessary to provide equal opportunity to people with disabilities. If a patient with a disability requires an accommodation that involves the presence of a family member, personal care assistant or similar disability service provider, knowledgeable about the management of their care, to assist them or to ensure effective communication while receiving medical treatment, this is one examples of a necessary reasonable modification.

Recent Federal and State Guidance Support Exceptions to No Visitor Rules

In March 2020, the U.S. Department of Health and Human Services Office for Civil Rights (HHS OCR) issued a bulletin stating disability civil rights protections remain in effect even during times of crisis, and require that states and hospitals take measures to ensure people with disabilities have access to medical treatment, by providing, among other things, reasonable modifications to policies and procedures to address individualized needs. HHS-OCR's "Bulletin: Civil Rights, HIPAA, and the Coronavirus Disease (COVID-19)" is at this link: <https://www.hhs.gov/sites/default/files/ocr-bulletin-3-28-20.pdf>. On June 9, 2020, HHS OCR resolved complaints filed by several disability rights organizations against the State of Connecticut and Hartford Hospital that alleged their no-visitor policies discriminated against patients with disabilities by agreeing to requiring changes to allow support persons. A news release is available at this link: <https://www.hhs.gov/about/news/2020/06/09/ocr-resolves-complaints-after-state-connecticut-private-hospital-safeguard-rights-persons.html>.

In July 2020, the Arizona Department of Health Services (ADHS) sent a letter to hospitals reminding them of their obligations under the ADA and state regulations and licensing requirement to allow support persons when needed because of a disability. A copy of the ADHS letter is available here, <https://www.azdhs.gov/documents/licensing/ltr-ada-hospitals.pdf>.

I will agree to follow your facility's' other protective measures required during the appointment to help prevent the spread of infection (e.g., temperature checks, wearing a mask/other protective gear, etc).

If you require additional medical verification of **(patient name)** disability, **(he/she)** can provide you with the appropriate documentation upon your request. Additionally, we request that you or your designee engage in the interactive process with **(patient name)** if it will not agree to the requested modification. I can be reached by email at **(email**

address) and phone at **(phone number)**. Thank you for your prompt attention to this matter, and I look forward to working with you to obtain a reasonable modification.

Sincerely,

(Disclaimer: This is a template reasonable modification request prepared by the Arizona Center for Disability Law. It can be used as a guide to write a reasonable modification request for a support person to attend an appointment or visit during a hospital stay with a patient with a disability for disability-related reason(s). This template letter is not a substitute for legal advice.)