**Presentation Summary:**

**Clinical Accommodations Part 1: Determining Reasonable Clinical Accommodations**

*Jan Serrantino, Ed.D., University of California, Irvine*

*Elisa Laird-Metke, J.D., Samuel Merritt University*

**Today we’ll cover:**

* What are the primary considerations when evaluating a request for clinical accommodations?
* When is a patient safety concern a legitimate reason to deny a request?
* How can you determine whether an accommodation would be a fundamental alteration?
* What are some typical clinical accommodations?
* How can I prepare in advance to work with health science students?
* What else do I need to keep in mind when working with health science programs?

*Refer to second handout (flowchart) for the following discussion about the “4 questions.”*

**Is the student requesting “standard” accommodations that don’t fundamentally alter the academic program? If not, there are 4 questions to ask:**

1. Would the proposed accommodation result in a failure to meet any Technical Standard of the program?
2. Would the accommodation *legitimately* jeopardize patient safety?
   1. A disability accommodation is not required where it poses a direct threat to the health or safety of others. 42 U.S.C. § 12182(b)(3). BUT…
   2. A school “must ensure that its safety requirements are based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities.”28 C.F.R. 35.130(h).
   3. “In determining whether an individual poses a direct threat to the health or safety of others, a [school] must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.” 28 C.F.R. 36.208.
   4. Summary: Patient safety concerns must be:
      1. evaluated on an individual basis
      2. objective
      3. the risks must be very bad and very likely, and
      4. there must be no suitable accommodations.
   5. Patient Safety Evaluation Tips—Ask yourself:
      1. How would we assess safety risk for a student without a disability?
      2. How would OCR/court view this?
      3. Schools may only evaluate whether a student is meeting the school’s own requirements—not what a future workplace may require.
      4. Base concerns on actual student performance, not assumptions about students’ disabilities.
      5. Alternate methods of providing care can be just as safe, even if different from the traditional ways.
      6. Alternate ways of providing care are regularly practiced in the “real world.”
      7. Disability accommodations will be required in the workplace, as well as in school.
3. Would the accommodation fundamentally alter the educational program?
   1. Look at the syllabus—what is being taught/measured?
   2. Work with faculty to determine:
      1. Essential functions
      2. Core competencies
      3. Alternative approaches (e.g., sim lab, intermediary, etc.)
4. Would the proposed accommodation cause an undue burden on the school?
   1. *Argenyi v. Creighton* (2013) (CART and interpreters): $200K not “burdensome”
   2. *Featherstone v. Pacific Northwest University* (2014) (CART and interpreters):
      1. Med school was just one year old—court said not an undue burden to provide interpreters
      2. Claim of no available interpreters in Yakima was deemed “incredulous”
   3. *Searls v. Johns Hopkins* (2016)(interpreter for newly hired nurse):
      1. Salary of interpreter would be more than the nurse was paid—court said not an undue burden to provide interpreter
      2. Looked at entire operating budget for JHH ($1.7 Billion)
   4. Ability to pay for accommodations typically factors in:
      1. Endowments
      2. Entire university budget
      3. Sports revenue

**Interactive Process**

Gather information from student:

* Previous accommodations
* Anticipated barriers
* Treatment location, frequency
* History and prognosis

Help students plan in advance (Ex: plan for episodic flares)

Be Creative

Support Students

**Potential Accommodations**

* **Scheduling**
  + Location of clerkships
  + Order of clerkships
  + Overnight call
* **Leave**
  + Long-term (1 year) vs. short-term (1 clerkship)
  + Release from clinic to attend appointments
  + Modification to attendance policy
* **Modified approach**
  + SIM lab practice
* **Assistive Technology**
  + Screen readers
  + Smart pens
* **Communication**
  + Cell phones, text pagers
  + CART, interpreters
  + Amplification devices
  + Early notification of patient presentations

**How can I prepare in advance? (We will cover the following four points in the next few minutes)**

* Toolkit
* Familiarity with clinical sites
* Proactive planning with students
* Developing a list of Collaborative Partners

**Build a health sciences toolkit**

* Program Orientation Schedules
* Technical Standards & student handbook for each program
* HS Program schedules and timelines
* Campus/Program calendars
* Faculty/Clinical & Program Director contact information
* Learning Specialist contact information, schedules, offerings
* National Licensing boards accommodation request processes, timelines
* Clinical site locations and visitation notes
* Education/Clerkship committee meetings
* *The Guide to Assisting Students with Disabilities*… book
* HS caselaw
* Spreadsheet of functional limitation and previously approved accommodation

**Know the clinical sites**

* Labs
* Assistive Technology
* Patient Caseload
* Order of rotations
* Location of rotations
* Equipment
* Identify barriers within site
* Do clinical observations in advance
* Ask fieldwork coordinators, faculty, clinicians

**Develop your team**

* Administrators, faculty, program support staff
* Enlist help of your IT/ETS team
* Bring in experts when needed
* Document the decision process:
  + make notes
  + save emails
* Ask Listserv
* Use resources like Job Accommodation Network (JAN)
* Go to specialized organizations

**National Organizations**

Association of Medical Professionals with Hearing Loss: [www.amphl.org](http://www.amphl.org)

Canadian Association of Physicians with Disabilities: [www.capd.ca](http://www.capd.ca)

Coalition for Disability Access in Health Science and Medical Education: sds.ucsf.edu/coalition

Council on Access, Prevention and Interprofessional Relations (American Dental Association): [altdentalcareers@ada.org](mailto:altdentalcareers@ada.org)

Exceptional Nurse: [www.exceptionalnurse.com](http://www.exceptionalnurse.com)

National Organization of Nurses with Disabilities: [www.nond.org](http://www.nond.org)

Society of Healthcare Professionals with Disabilities: [www.disabilitysociety.org](http://www.disabilitysociety.org)

Society of Pharmacists with Disabilities: [www.pharmacistswithdisabilities.org](http://www.pharmacistswithdisabilities.org)

Society of Physicians with Disabilities: [www.physicianswithdisabilities.org](http://www.physicianswithdisabilities.org)

**Other considerations: Privacy**

Keep it on a need-to-know basis:

* Clerkship director
* Attending
* Preceptor
* Exam Proctor
* Others (IT, Floor/Ward Supervisor)

**Conclusion:**

* Do not make assumptions
* Students don’t know what they don’t know
* Take a pragmatic approach
  + Address the barriers
  + Anticipate coming issues
* Communicate early and often