ASA / NCCAOM Town Hall
ADA Web Compliance and Disability Awareness in Practice
April 21, 2021, 5pm PDT/8pm EDT
Video Recording
PowerPoint Slides

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FACILITIES

Question: I currently offer home visits for those who cannot get into my clinic. I have a home clinic, so it is not ADA approved. In time, when I can afford to remodel the bathroom and switch all the doorknobs etc, I am moving my clinic to the home next door. It is contingent on me getting a porch lift. I have already moved the walkway with the cities approval and extending a few inches into their property. Big question...do you know any organizations who help locate things like a porch lift at a discount or even an unneeded one for free?

    Answered by I. Jaquiss April 23, 2021: Thank you for doing what you are doing/have done. That is brilliant. I am sorry that I do not know the answer to your question.

Question: What if my office is on the 2nd floor and there is no elevator?

    Answered by I. Jaquiss April 23, 2021: That is difficult. My answer is based on my experience, though, rather than any sort of legal advice. As I am a person who uses a wheelchair, when I am seeking a new provider, I always ask if the clinic/studio is ADA accessible. If the answer is no, then I generally call someone else. In a way, that is the beauty of the market. However, as I shared in the presentation, when I asked the massage therapist who I see, she said no, but that she would do anything she could to help me get in her clinic (house-based). That day I was desperate as I had separated my left shoulder the day before, so I went to the clinic and she helped me in. She has helped me every two weeks since. Please understand that the ADA lacks an enforcement mechanism. That is, no enforcing arm of the law goes looking for places that are non-compliant.

Question: Follow up to the ADA inaccessible building - what if we practice in a clinic in an older building that has treatment rooms on multiple floors that require taking stairs to access?

    Answered by I. Jaquiss April 23, 2021: The ADA lacks a true enforcement arm so there is no governmental authority to go looking for non-compliance. In a way, it is a market driven law. That is, people with disabilities, generally, go where they can go or do not go at all. If the building has accessible examination/treatment rooms on the first floor (my assumption), then people who need accessible rooms should be given schedule/reservation preference for those rooms.

Question: By "Lifts" does this mean pneumonic or electric tables that rise and drop? or a mechanical Lift to transfer people in all rooms?

    Answered by I. Jaquiss on April 23, 2021: When I mentioned lifts in my presentation, I meant generally lifts to transfer people from mobility devices to tables and vice versa.

Question: What about home offices?

    Answered by I. Jaquiss on April 23, 2021: The ADA lacks a true enforcement arm so there is no governmental authority to go looking for non-compliance. In a way, it is a market driven law. That is, people with disabilities, generally, go where they can go or do not go at all. The law

encourages compliance more than enforces it. That is, the ADA lacks a proactive enforcement authority.

Question: Is it possible to do house calls if necessary?
   Answered by I. Jaquiss on April 23, 2021: Generally, yes. Home visits are likely considered a form of accommodation. That is, if a person cannot access a clinic, then bringing the clinic (treatment) to the person is a form of accommodation.

Question: What to do if you are on second floor w/o an elevator, too much $ to relocate, zoning does not allow medical on first floor w/o variance, in CA?
   Answered by I. Jaquiss on April 23, 2021: The ADA lacks a true enforcement arm so there is no governmental authority to go looking for non-compliance. In a way, it is a market driven law. That is, people with disabilities, generally, go where they can go or do not go at all. The law encourages compliance more than enforces it. That is, the ADA lacks a proactive enforcement authority.

Question: What is the penalty for ADA non-compliance?
   Answered by I. Jaquiss on April 23, 2021: This is a bit of a tricky question. In my opinion the obvious penalty is the lack of business from people with disabilities. That is, if they cannot access a clinic, they generally will not go to that clinic. That may be considered a lost opportunity. However, generally, the ADA lacks a proactive enforcement arm. Generally, there is no government authority that goes looking for non-compliant places.

   Answered by S. Hirschkorn on April 24, 2021: It depends on who approaches you, but generally settlements range from $25-50,000

Question: So, I am a provider as well as an individual with a visual impairment and I use and interface software to navigate from a Word doc to anywhere on the web. I guess my concern is why is this falling on the provider when the disabled individual should have technology to navigate the 21st century world. Grant if, I have been involved with adaptive technology since college but curious as to where things are moving on federal legality level.
   Answered by I. Jaquiss on April 23, 2021: Great question. First, not everyone has access to technology/software to navigate the web or the world. There are lots of studies that show accessibility from a business perspective is good for that business. Ideally, the consumer would have the ability to access all business, but if a business is not accessible, the consumer who needs access will take their money to businesses that provide access.

   Answered by David Bibbey on April 25, 2021: Great point, I think the challenge is evolving, in that, as more web content is image and video based, and access is more point and click it creates both experiential and practical issues for users with disabilities, hence the movement toward creating more detailed ADA accessible programming. The role of government is only

going to increase when it comes to identifying and eliminating physical and virtual barriers that limit accessibility, equal access, opportunity, and experience for those with disabilities. The success criteria for web-accessibility expands every couple of years…WCAG 2.1 is being updated in Aug to 2.2 and include another 17 success criteria to address mobile technology access. For now, providing accessible website content (accessibility) is the business owner (site owner's) responsibility. In the future, I feel like accessibility will be solved with a new generation on website platforms and plugins…for new we have to use 2021 solutions. I think in ten years this will be solved another way…we will still be paying for it one-way or the other…GoDaddy will be $1500 a year for HIPAA encryption and ADA conformance on a secure server. For now, it is only available a-la-carte from other vendors.

Question: What about older buildings? I thought that buildings and thus offices did not need to be compliant unless they were being renovated. Not that everything SHOULDN'T be accessible, of course.

> **Answered by I. Jaquiss on April 23, 2021:** Older buildings are generally grand parented out of complying. And lots of businesses are not compliant because updating buildings is both difficult and expensive. But there are also costs of not doing business with as much as 25% of the population (and possibly their friends and relatives).

Question: Is there a form that is available to use for intakes so the patient can be asked if they have any special needs - on the spectrum of special needs? Are there funds from the federal government to pay for the upgrades that are required to fulfill the compliance requirements to be compliant?

> **Answered by I. Jaquiss on April 21, 2021:** I am not aware a universal form or a "best" form, but you could Google some combination of phrases and likely find some good examples. Regarding the funding question, sadly the ADA did not provide guidance on underwriting upgrades. There may be tax incentives to help defray costs, though.

WEB COMPLIANCE

Intro/Comments from David Bibbey

Thank you for attending ASA/NCCAOM ADA Compliance event last Wednesday evening. It was a pleasure to present and share ADA website accessibility information with you all. From the nature and number of questions generated on the subject, it is clear that more time should be dedicated to the subject that provides additional details about how to select software, programming and processes needed to achieve ADA website conformance. I apologize if my presentation was lacking in any way given the meeting's format and time constraint. There is a

lot of information to unpack for providers and business owners to be well informed on the ADA issue and options.

Any additional or follow-up questions can be directed to me at david@alternative-primary-care.com. I would also like providers, if interested, to attend a FREE one-hour (1-PDA offered) deeper-dive on ADA Website Accessibility that addresses all of the specifics raised in the Q&A below. This class is available for State Associations interested in hosting an online member event. Ask your Association director to contact me for details – I am available to present more detailed info at no cost to anyone interested.

These are great, insightful questions below and I tried to provide detailed helpful responses. Contact me directly if other questions percolate.   I avoided mentioning PatientDataProtection during the live-presentation and the work we do to help providers meet ADA and HIPAA compliance. I wanted to be respectful to the organizers and attendees: nobody expected or wanted to hear an infomercial. But in providing direct and complete answers to the questions below, it is near impossible for me to address the questions without making comparisons to how industry competitors and I handle certain ADA compliance issues differently and what those differences mean to providers and business owners. Thx

Question: Is all we need to have a widget that adds on the website from WordPress? Or do we need to use a company like accessibe.com that is an annual fee? It is unclear?

Answered by S. Hirschkorn on April 24, 2021: You need WCAG 2.1 AA compliance, which accessiBe (https://accessibe.com/a/allacuservices) provides. Most widgets do not, and no free widget provides full compliance.

Answered by David Bibbey on April 25, 2021: The WordPress widgets do not make websites accessible or ADA conformant: neither does subscription based AccessiBe….that will freak out most people b/c of all the marketing statements and claims made by companies, like AccessiBe, that use Artificial Intelligence (AI) alone to remediate website content. I have evaluated ALL of the AI overlay subscription products and none of them provide ADA conformance, no matter what they say.

The issue is this…when compliance software is run to evaluate website content for ADA accessibility, a report is generated that shows everything (big and small) that is not accessible and depending on the type of content that does not conform to the ADA artificial intelligence (AI) software is deployed to identify and fix some or most of those issues based on the capability of the AI software used and the types of problems it can fix.

Using a subscription-based product makes sense, especially in the short run b/c they are an affordable, although incomplete option for editing websites for ADA conformance. No matter what AI product is used there is a ceiling/threshold for what it can fix, and the problem is that it CANNOT fix everything. For example, your web-scan notes 45 problems that need to be fixed,

the AI fixes 38 – your website is now 84% conformant (failed). The remaining 7 issues cannot be fixed with the AI, so you need to hire a software programmer/developer to make the remaining changes to achieve conformance. Use of the subscription is helpful b/c the tools provide constant website monitoring and remediate many of the issues in real-time at a fraction of what it costs to pay a developer to make the programming changes. So, using the subscription reduces, but does not eliminate the need for manual-remediation (hand-coding) on a website. So, to the extent it reduces the need for some hand-coding, the AI software is helpful. It also, assures fixable content is always updated in real-time, because the site is being constantly monitored.

Notice I use words like conformant and accessible and NOT compliant. "Compliant" infers that a compliance standard exists in the ADA law somewhere, and it DOES NOT; and that's why Federal Courts and judges have stepped in to settle lawsuits and create technical-based accessibility standards (current WCAG 2.1 AA). The overlay/widgets are designed to remediate websites based the WCAG 2.1 AA technical standard, but these are not fully ADA conformant. I know that sounds like double-speak, but what businesses need to know is that federal law requires ADA conformance and NOT WGAC 2.1 AA compliance. Nobody is being sued for WCAG 2.1 AA non-compliance. They are being sued for not conforming to the ADA. Meaning the WCAG 2.1 AA technical standard may or may not provide an equal and accessible online experience for people with disabilities, which is what the ADA requires. It always depends on a website's specific and unique content and that is why the burden of ADA conformance falls to the site's owner, they decide what content is on their site – and they have to assure that it is accessible for all users.

I got burned the first time I tried to do my own ADA compliance, when I realized the company (UserWay) just used AI and my website failed an ADA self-audit…$600 down the drain, so I started from scratch and now understand what is required. Moreover, more than 50% of the 2500 businesses sued for ADA non-conformance last year HAD a widget, subscription, emoji, tools already installed on their website, but did not meet website ADA conformance requirements of equal experience and access.

This is why I started PatientDataProtection b/c our company does all of the work needed. We install monitoring software that uses AI to scan, monitor and remediate non-ADA accessible content on websites, then we provide regular reporting that details which content or website features have and have not been fixed by the AI and still require hand-programming, and we provide a budget, schedule and documentation that supports your full ADA conformance progress. The top-rated subscriptions, like the one PatientDataProtection installs ALL cost about $490 yr - $49 month but use reduced pricing for our HIPAA secure server clients that saves $100 yr and providers who support their state association as members and NCCAOM Diplomates all get additional discounts. Why pay more to get less?

Question: What percentage does our website need to be compliant?

Answered by S. Hirschkorn on April 24, 2021: This is unclear, as there is not a set standard, but it should be at least 95% adherent to the WCAG 2.1 AA. From what I have researched, accessibility plugins do not provide the same experience across the board, thus being ineffective for protection. accessiBe (https://accessibe.com/a/allacuservices) provides 96% minimum adherence to WCAG 2.1 AA.

Answered by David Bibbey on April 25, 2021: There is no current law that specifies a PERCENTAGE, but legal records point to WCAG 2.1 AA being a good minimal standard. So, 100% of WCAG 2.1 AA. Section 508 of the Rehabilitation Act incorporates WCAG 2.1 AA. The Department of Justice (DOJ) has required WCAG 2.1 AA conformance as a part of consent decrees. Numerous U.S. District Court decisions reference WCAG 2.1 AA. If a business is sued and can demonstrate/document that its website is greater than 95% WCAG 2.1 AA the judge would likely give you a chance to remediate that site without being found guilty of non-conformance, but this entirely depends on the facts and the judge.

Note that WCAG 2.2 is expected to be officially released in the summer of 2021. These technical standards will include 17 additional Success Criteria.

Answered by David Bibbey on April 25, 2021: As a starting point, 100% of website content needs to meet WCAG 2.1 AA, then you need to identify and remediate any ADA non-conformant content or plugins.

Question: What is the link to get the free website audit?

Answered by S. Hirschkorn on April 24, 2021: Ace.accessibe.com

Question: What is the average cost of putting the ADA software on your site and hiring a webmaster for a small business website? $490 per year is the cost of accessiBe.

Answered by S. Hirschkorn on April 24, 2021: You get 10% off by using this link https://accessibe.com/a/allacuservices

Answered by David Bibbey on April 25, 2021: $490 annually (or $49 month) for ADA overlay with real-time monitoring and updates…budget $250 year for hand-coding ADA updates to your site. Webmaster services vary based on hosting, content edits, updates, and plug-in configuration and usage. Not asked about here, but certainly important is migrating your site to a secure-server…$800-$1200 year. Healthcare providers (covered entities), who use Contact Us forms, scheduler software, patient email, EMR and reminders must have their websites hosted on a secure server for HIPAA compliance. GoDaddy does not count…it is not HIPAA compliant…PatientDataProtection started as a HIPAA Compliant secure-server and consulting company…doing ADA website conformance developed naturally b/c it is another digital compliance requirement for HC providers who we were already supporting with HIPAA website

security and hosting. I will be teaching an updated HIPAA Privacy & Security Rules class in July that covers the HITECT Act and Omnibus Rule for HIPPA compliance including HC practice's requirements for completing an annual Security Risk Analysis.

Question: How does one do a complete redo of the website instead of reverse engineering what we have? What documentation is available to provide guidance for ADA software design principles and widgets?

> **Answered by S. Hirschkorn on April 24, 2021:** We do not provide guidance for manual remediation, this is a highly involved process that on the low end costs $20-50k per year per site.

> **Answered by David Bibbey on April 25, 2021:** A redo would require advanced ADA website programming experience. Hire a Web-designer with ADA experience. For most businesses, especially small and solo practitioners the cost would be unreasonable. Although an option, rebuilding is not required or necessary. ADA WCAG 2.1 AA specs: https://www.w3.org/TR/WCAG21/.

Question: Can I have two websites? One for ADA compliance and then my regular website I already made? One idea I have is to link to the ADA compliant website to my current website. Is that a legally compliant option?

> **Answered by S. Hirschkorn on April 24, 2021:** No, this is not an effective solution in general, as you can still be approached in a legal sense for the noncompliant website.

> **Answered by David Bibbey on April 25, 2021:** All public website content has to be ADA accessible. If you maintain 2 sites that will double   your expense if they have separate IP Addresses.

Question: Do people with disabilities have any responsibility for having software that enables them to navigate "plain vanilla" websites? My website is fairly simply. It presents text on webpages. It has buttons that enables navigation among webpages. It has a contact form with easy-to-manage fields for entering data (name, phone, email) so I can contact them. What further compliance would I need? Are people with disabilities also responsible for enabling themselves for navigating simple websites that present few obstacles?

> **Answered by S. Hirschkorn on April 24, 2021**: The responsibility lies with the business owner, not the person with the disability. For example, people with disabilities are not required to bring accessible restrooms or parking spaces with them when they visit a restaurant.

> **Answered by David Bibbey on April 25, 2021:** Great question. The ADA addresses reducing and removing physical and other barriers that limit access and inclusion for people living with disabilities for the purpose of protecting disabled persons' human rights to equal access and experience to places and services generally available to the public. The ADA does not

contemplate or describe disabled persons' personal responsibilities in overcoming physical and other barriers to access public places.

ADA website accessibility can, most basically, be divided into servicing two user groups – those who are disabled due to impaired vision and blindness and those with qualifying disabilities who are not vision impaired. Historically, the issue of web-accessibility centered on using at-home and mobile technology to support web-access and use for those vison-impaired. Because blind and persons with impaired vision cannot webpage copy and content, they rely-on and use **screen-readers** that convert text to voice and help users navigate the web.

So, yes – most if not all people with blindness and low vision use a screen reader device or app while surfing online, but screen-readers do not read website copy that appears on the landing-page. Instead, it reads the copy embedded/coded on the back-end of your website. The navigation tools are also programmed on the website back-end, as are the tab heading, image descriptions and other features. Screen-readers are the primary at-home tool used by a low vision user, so the accessibility programming that we are talking about needs to take place on the back-end of your website to help properly translate, describe, and identify your website content. The screen-reader can only read what it sees on the back-end. If your landing page has an image/object of a woman receiving acupuncture sitting on a blue table with a provider standing next to the table – and on the back-end the image is named "Image 6", then the screen-reader will covert "Image 6" to voice instead of describing the image. That is an overly-simple example of failed ADA conformance, b/c the user is being provided an unequal experience. The remedy requires an edit to the object to provide a detailed description i.e., "Landing page image of woman sitting on a blue table receiving acupuncture treatment with provider at table's side." It is complicated and requires someone with experience to make edits and changes without tanking your site.   For non-vision impaired users with disabilities the settings' adjustments provided with ADA overlays and widgets provide settings modifications that control how content is displayed to accommodate/reduce flashing (seizure disorders), making content less crowded/dense (cognitive disorders), color reduction or enhancement (color blindness) and more. Some of these settings can be adjusted on the user's end without activating a web-based ADA subscription tool, but ADA requires websites to be accessible, so the tools are supposed to be available on the website. As the definition of "disability" continues to evolve and additional qualifying conditions are recognized the tools will be expanded. I used the example of naming images/objects, but there are currently 50 Success Criteria needed to meet WCAG 2.1 AA compliance, so lots of examples exist even with simple websites. The good news is the simpler the site easier and less expensive to make ADA conformant.

Question: Can you email the link to get the free website audit?
Answered by David Bibbey on April 25, 2021: https://patientdataprotection.com/hipaa-compliance-digital-security-clinic-questionnaire/.

Question: From what I have researched, accessibility plugins do not provide the same experience across the board, thus being ineffective for protection. Where did you find information that they are OK?

> **Answered by David Bibbey on April 25, 2021**: Please see my response above…Plugins are NOT okay when used alone…when used in combination with hand-coding and ADA design planning the plugin can be helpful. They should be installed by an experienced IT person and additional scanning, auditing, and reporting needs to be done to identify non-ADA conformant website content that needs to be manually remediated by a web-developer/programmer.

Question: Much of the issues mentioned for websites can be controlled in settings/accessibility of browser and the settings in the operating system. Why the emphasis on creators of websites?

> **Answered by David Bibbey on April 25, 2021:** Most website accessibility depends on how content is coded on a website. So, for example if a person with impaired vision adjusts their screen settings to display to 150%, what is visualized is 150% magnification of the existing font…if the font is 4 – it is viewed as 6 or 10 viewed as 15, as opposed to all content being enhanced to a uniform font for readability. The real challenges apply to perceiving and accessing other content like, page and tab headings, image and object descriptions, video closed captioning, PDF conversion, templates and forms, ARIA landmarks, navigation, and plug-ins…none of these can be addressed by user settings and all require manual coding b/c none are fixed with AI widgets…that's why ADA conformance remains the goal and not just WCAG 2.1 AA compliance.

Question: What approximately shall I expect to budget for bringing my website up to full ADA compliance?

> **Answered by David Bibbey on April 25, 2021:** The real-time monitoring and AI subscription is typically $390 to $490 year, my company uses discounts depending on your contract and any applicable membership discounts if you belong to your state association or are a NCCAOM Dipl. Additional costs for hand-coding needed to conform to the ADA are billed hourly…we use a $25 rate other companies tend to be higher $30-$50/hr and up. Most of the time additional programming can be prioritized and spread-out over time, so depending on the site and the scope of work, business can budget $250 - $400 year (10-16 hrs) for website programming or reprogramming until the site is ADA conformant.

Question: Can we download the blue Handicap image and put on our website?

> **Answered by David Bibbey on April 25, 2021:** The blue icon is only installed on websites when subscription-based ADA software tools (program) are purchased.
>
> So, I am building my own website and it is up, but it is not completed. I am not back on my feet and am only doing Telehealth since COVID-19. But due to the website requirements, it sounds like I should take my website down, to avoid risk of being sued and paying tens of thousands in fees.

The likelihood of any one business being sued is very small but cannot be ruled out, so if you choose not to begin the ADA Web Accessibility process using online tools and hand-coding updates, then you might consider taking your website down. Having your site evaluated and updated for WCAG 2.1 AA compliance with minimal hand-coding edits would probably start at under $150 and can be completed in 1-3 days with us. ($47 month + approx. $100 for hand-coding edits). We would provide a SOW that detailed the work and costs in advance.

Question: Should all websites need to have the ADA compliance emoji?
Answered by David Bibbey on April 25, 2021: Not necessarily, if a business owner elects to have their website completely rebuilt and hand-coded for ADA accessibility $2500 to $15,000, then has the site audited and updated regularly costing hundreds or thousands more $$, then they might be able to document and maintain WCAG 2.1 AA compliance and ADA conformance without using artificial intelligence tools (indicated on the website with the emoji). Most businesses are not in position to do this, and the courts do not require this, so most businesses that are trying to update websites to meet ADA conformance use a hybrid approach that combines AI (emoji) overlay with hand-coding to achieve ADA conformance.

Question: Would it be cheaper to not have a website than to keep up with ever changing definitions of what is required of Businesses for disabled people?
Answered by David Bibbey on April 25, 2021: Not having a website means having ZERO risk of being sued for non-ADA conformant website issues. The cost for installing and maintaining ADA Website Accessibility tools is about $600 year (overlay plus hand-coding). Depending on how a business uses its website the cost of eliminating the site is relative. If web-traffic and website visits generate interest and drive prospects and patients to a practice, then the website is the lifeblood of the business and invaluable. The cost to implement ADA conformance might provide a good return: an additional $600 to support a tool that brings $60,000 in revenue. On the other hand, If the website is just an online calling-card or placeholder that never generates new business, then it has little or no value, so the hosting and ADA costs might not be justified. Either way public websites need to be accessible.

Question: Does Patient Data Protection company have an option to update our website to be compliant with ADA regulations but does Not require a monthly plan? Thank you.
Answered by David Bibbey on April 25, 2021: Yes, we can rehab websites for ADA conformance. But without monitoring and updating tools/software installed the minute you relaunch the site you will have no assurances the site remains WCAG 2.1 AA compliant or ADA conformant. Meaning, as content or plugins are added/updated on the website that creates uncertainty about how these changes influence the sites ADA conformance. If no updates or changes are made and an audit is done 1-2x year ($100 +/-) then we can keep you informed about any non-conformance issues and fix them when found.

Question: I specifically wanted answers on WCAG compliance options and levels, how to find a reputable ADA website compliance firm?

Answered by David Bibbey on April 25, 2021: Website developer/design firms with experience in ADA conformance can handle this kind of work cost $2,500 to $15K+ depending on the site. PatientDataProtection performs all of these services. https://coalitiontechnologies.com/ada-accessible-websites is another resource.

A software overlay developer, like AssessiBe, UserWay, AudioEye, EqualWeb and others all use similar AI technology, and the pricing is similar $390-$490 year ($49 mon), but none are a good SOLO option for any business, especially healthcare practices. Their business model is to sell subscription software (AI) that "fixes" ADA website conformance issues by meeting WCAG 2.1 AA compliance. The problem is that ADA conformance EXCEEDS the capability of the AI widgets – so yes, the AI widgets makes some changes to the website, but not enough to conform to the ADA, meaning, unless that company is willing to do the additional hand-coding needed to make the website conformant, then the website will NEVER be ADA conformant – so, what are you paying for??? Plus: one or some of the companies listed above:

Typically, don't install ANY software for you, so you have to pay someone to install the tools on your website and pay them MORE MONEY; Typically, do not provide in-house hand-coding services needed to make your site fully accessible, so you have to find and pay an experienced web-developer MORE MONEY; Is based oversees and has no US-based customer service or business offices; Are not HIPAA compliant and will not sign a Business Associates Agreement; and The most popular company of that group above (AccessiBe) is being sued in US Federal District Court (Western Texas) by AudioEye for patent infringement; and, if guilty, it will have a profound and negative effect on all AccessiBe clients.

My point is there is so much to be wary of when looking for an ADA vendor. Most HC providers, like anyone else, do not know what they do not know – so it is near impossible for them to determine if a company or a software product will actually work as promised. Companies are happy to take your $50 month but there is no committed to educating business owners about what more is actually required to be ADA conformant; and b/c of that, businesses remain vulnerable to lawsuits or complaints and fail to actually achieve the inclusive website experience required under ADA principles. Keep in mind that 50% of all businesses sued for ADA non-compliance had subscription ADA tools (emoji) installed on their website, from companies like those listed above. So, obviously using those tools alone does not support ADA compliance. Businesses need to get the whole story – that is why PatientDataProtection expanded its core HIPAA compliance business to include ADA website conformance….It's a murky, hard to navigate subject and most providers will get it wrong $$$, before they get it right – just like me.

At PatientDataProtection, I make sure that every business client gets the tools and information needed to comply with HIPAA and ADA laws. We install, monitor and update websites to

guarantee these are secure and compliant. Unlike these other companies, we do your software installation, test that it is working properly, provide in-house hand-coding to help businesses fully comply with the letter and spirit of the ADA, provide auditing and reporting documentation to support your ADA website upgrades or defend against a lawsuit or DOJ complaint. For more info about WCAG 2.1 AA standards: https://www.w3.org/TR/WCAG21/ and https://www.levelaccess.com/wcag-2-1-exploring-new-success-criteria/.

Question: I think many of us rely on third party vendors to provide online scheduling and contact management on our websites with our patients. What recommendations do you have for ensuring their products meet accessibility standards?

Answered by David Bibbey on April 25, 2021: Your best option is to ask the developer/reseller of your plugins are HIPAA and ADA compliant. The way plugin tools' code is written in the program background will determine how accessible it is to a screen-reader used by visually impaired users. If the code is designed to be read by a Screen-reader, then it simplifies its ADA accessibility and function. If not, then the reader will just spit-out a garbled mess like, "0111000001100000-bbbppp-00000111000000, instead of, "Our next available new patient appt is Friday, May 7th at 11:00am – would you like to schedule an appointment."

Question: What are the typical monthly costs for making a basic website complaint & continuing to monitor this?

Answered by David Bibbey on April 25, 2021: Typical cost for ADA Overlay $49 month ($490 year), plus $30-$50 hr for hand-coding updates and changes. We are a value-added reseller of two software overlays that we provide for $47 month or $460 year, but we install, monitor, and update your software in real-time at no additional charge…we also provide regular auditing and reporting on business sites and offer discounted rates on hand-coding $25 hr. Our goal is to give businesses peace of mind that ALL of their ADA website accessibility requirements are being met without playing games, telling half-truths, and leaving them vulnerable to complaints and suits.

Question: I thought we would learn more about exactly what we would need to do to comply. I was hoping to have concrete steps to take.

Answered by David Bibbey on April 25, 2021: I hope that you have a chance to review my presentation slides. There is additional discussion about finding a vendor to help you with making your website ADA accessible. What is involved? Businesses with a public website need to contact an ADA software accessibility developer or reseller, (like me, or do an online search) who will evaluate your website and make recommendations about your best options for ADA conformance. The solutions usually involve paying for a subscription-based software package to be installed on the site. The company should also provide you with a report that identifies any hand-coding needed to fix website issues that the downloaded tools cannot fix automatically. They should provide you with cost estimate and timeline to complete the work.

Please scan through this doc for related questions where I provide additional input and concerns.

Question: Do you know about Eleventh Circuit Says Winn Dixie™s Inaccessible Website Does Not Violate The ADA https://www.adatitleiii.com/

Answered by David Bibbey on April 25, 2021: Yes, April 7, 2021 the 11th Circuit overturned the 2016 lower court decision that kick-started all of these issues around ADA website accessibility. This development will only fast-track either a SCOTUS review of existing federal caselaw or congress will amend the ADA to specifically identify websites as "[virtual] places of public accommodation" or both. The courts around the country have been fairly consistent on the issue, based on the intent of the ADA to create equal access and experience for those able and disabled alike. Most importantly the Gil v. Winn Dixie appellate decision only addresses the merits of that particular case and has no bearing, other than providing precedent, in any future lawsuits. In other words, if someone is sued or has a complaint filed with the Office of Civil Rights for ADA non-compliance related to ADA website accessibility you can't say, the 11th Circuit said websites are not places of public accommodation, so I don't have to comply…because the court's decision relates only Winn Dixie, and you would have to prove that the law did not apply to you through a separate trial and set of facts $$$$.

Question: Great presentation. What does he recommend for reading more about the ADA et Al?

Answered by David Bibbey on April 25, 2021: There is so much conflicting and inaccurate info flying around online about using AI to support online accessibility, I am fearful about sending you into that mess. AI is an imperfect fix that in some peoples' opinion actually make accessibility worse for disabled users. It is an imperfect tool because it does an incomplete job of fixing the accessibility issue on a website. Businesses really want and are desperate for a simple, one stop, instant fix and that <u>does not</u> exist.

The overlay tools can be a starting point that help identify and remediate some but not all issues. The rest is done with hand-coding. The tech-programming-purists of the world believe all of the accessibility issues can only be addressed with better web-design and hand-coding from scratch, but that would cost EVERY business THOUSANDS of dollars and the website would be compliant for 1-day, because the minute something is auto-updated by Google or a plugin is changed or updated the whole thing is suddenly out of compliance again. So, for now strategies are combined to keep costs practical and accessibility attainable.
https://patientdataprotection.com/wp-content/uploads/2021/03/ADA-Website-Compliance-Presentation-03-13-2021.pdf

Question: I mean, will there be a penalty if we fail to put ADA icon on our website?

Answered by David Bibbey on April 25, 2021: Hopefully, if you have read the Q&A from the top, you feel better informed about this question already, but let me add…having the ADA icon/emoji displayed on a website does not mean that the site is ADA conformant, no matter

what AccessiBe, UserWay, AudioEye, EqualWeb or ANY other widget developer or reseller says in their marketing material….Please, if readers don't learn anything else from me, please understand and KNOW this....Widget/overlays can be part of the solution – but using these software tools does not, WILL NOT "fix" a website that that needs to be ADA conformant. In order to "fix" the site requires additional, auditing, testing, and hand-coding the website to be ADA conformant.

So, for all those businesses hand over their CC number and spend $49 monthly – they are NOT ADA conformant and likely not even WCAG 2.1 AA compliant and they have the EXACT same chance or being sued for ADA non-conformance as they did before they spent $49 monthly for a widget. Please hear on this…if you have already spent money and subscribed for a widget/overlay, I will be happy to provide you with a FREE audit to identify any website content/features that are not ADA compliant….FREE. FREE. FREE – you need to know what is actually going on with your site, so you can take steps to remediate any issues.

To your question about fines if you fail to put an ADA icon on the site…Whether you have or do not have a "icon" on the site does not matter, if your website is not ADA conformant and you are sued or receive DOJ complaint you may be fined. Under the ADA up to $55k for first offense and $110,000 for second, under state law CA and NY fines range from $5,000 to $7,500 per incident. Most non-agency court cases are settled $5,000 to $7,000: no hard data on private settlements, but this is the likely ballpark numbers.   Review this PDF from the Department of Justice. It can be very helpful in understand the DOJ and Office of Civil Rights policies, regulations, fines, and mediation. https://www.ada.gov/doj_responsibilities.htm.

Question: Can you give a suggestion of an exemplary site that has the items you recommend?
Answered by David Bibbey on April 25, 2021: www.portorangeacupuncture.com = the site featured in the presentation.

RESOURCES ON EMF SENSITIVITY

Organizers were asked to share these resources with the profession on EMF sensitivity as a disability:

www.emfmedicalconference2021.org online through this year, self-paced**.**

U.S. Access Board, 2005
https://www.access-board.gov/research/building/indoor-environmental-quality/
Regarding EMS see pages: 4,5,6,11,18,19,47,51,68
Page 52 According to the Americans with Disabilities Act (ADA) and other disability laws, public and commercial buildings are required to provide reasonable accommodations for those

disabled by chemical and/or electromagnetic sensitivities. These accommodations are best achieved on a case-by-case basis. (examples of accommodations)
Future planning for EMS accommodation, see pages: 74,87,88,91,92,
Page 72 Recommendations: …Designate areas free from use of cell phones, two-way radios, and wireless equipment.

https://youtu.be/nvaosvm9GQo?t=79   La Plata County, Dr. Van Dover and Cece Doucette WIRELESS TECHNOLOGY RISKS & SAFER MUNICIPAL SOLUTIONS. Crash course in wireless risks, why FCC guidelines do not protect health, Precautionary Principle needs to be applied. Parent of EMS child, cancer clusters in schools, life with EMS, practical solutions for safer use of technology and prevention of injury.

https://drive.google.com/file/d/1xSbhLyf70WbjUyrmkAUcgt0nKd5-7iuL/view Active links from Cece's video with a library of information.

sheena@electrosensitivesociety.com EMS support groups, help with accommodations
https://drive.google.com/file/d/1Ig9eedZTPr1Ii6hqaSDd4QlMeleQYSAk/view Sheena's EMS slides, predisposing factors, research with plants

https://www.mdpi.com/1422-0067/21/6/1915 Dr. Belpomme ... EHS, medical biomarkers, etc

https://www.youtube.com/watch?v=TaG8j4PteTo&list=PLMAz9ZRXjYmoIy-0bZ7r3rE_EUpCWfSXq Biological effects of wireless, Dr. Karl Maret MD

https://vimeo.com/225284434 12 minute video w/ Dr. McCarter MD on EMS

https://ehtrust.org Extensive research and legal information, Environmental Health Trust, Dr. Devra Davis.

https://mdsafetech.org/ Physicians for Safe Technology

www.slt.co Safe Living Technologies…shielding, meters, Building Biologists. Reducing exposure.