

Tips for Handling Mask Non-Compliance

What should I do if someone, such as a patient, their companion or a vendor, entering the practice refuses to wear a face mask for a reason other than disability?

While the law in this area may be unclear and in flux, these suggestions may help you and your staff mitigate the potential safety and legal risks that can present when an individual refuses to wear a suitable face covering in non-treatment areas of the dental office:

1. Make certain that the practice has a policy regarding the wearing of face coverings and that all patients and potential visitors have been notified of the policy requiring face coverings in advance of their visit.
2. When appropriate, let patients and other visitors know that the policy is based on current scientific information and recommendations from such agencies as the U.S. Centers for Disease Control and Prevention (CDC), the American Dental Association (ADA) and other credible sources.
3. Remind patients of the policy when they make their appointments and when the practice confirms appointments.
 - At the same time, ask each patient if there is any reason why the patient and/or any accompanying individuals, such as family members, would not be wearing some type of face covering.
 - If someone indicates that they will not wear a face covering because of a disability, do not request any information regarding the disability. Offer reasonable accommodations if possible, and if accommodations are refused or not possible, consider whether the individual poses a “direct threat” as defined by the Americans with Disabilities Act and applicable state or local law.
 - A few reasonable accommodations to consider may include:
 - ✓ having the individual enter and exit the dental practice and treatment area via a particular route that limits the opportunity for contact with others;
 - ✓ providing a face shield; or
 - ✓ offering to see the patient as the final appointment of the day, when other patients and some staff may already be gone.
 - The [Electronic Code of Federal Regulations](#) offers guidance on how to assess whether an individual poses a “direct threat” in a specific situation.
 - If someone responds that a face covering will not be worn, but for a reason other than a disability, it may be helpful to explain that the practice’s policy on wearing face coverings in common areas is:
 - for everyone’s safety and intended to protect patients, the staff and any visitors.
 - in line with any applicable state and/or local laws regarding the use of face coverings in public places, and that the practice is seeking to comply with the law and public health recommendations.
4. Even in non-disability situations (and document if the individual has confirmed that their refusal is unrelated to disability), you may wish to offer reasonable accommodations, such as those outlined above, to anyone who refuses to wear a face covering for any reason.

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- Any accommodations must be offered uniformly and consistently across similar situations to help avoid potential discrimination claims.
- 5. Document all instances of individuals refusing to wear some type of face covering and indicate whether or not disability was the reason for each refusal.
- 6. If you have concerns about continuing to treat the patient in your practice, be sure to adhere to all federal, state and local laws, rules and regulations (including with respect to patient abandonment, should it come to that), as well as to the [ADA Principles of Ethics and Code of Professional Conduct](#), to ensure that you're in compliance with the appropriate legal and ethical standards for refusal to treat.

The ADA has developed these resources that offer guidance relating to the wearing of face covering by individuals covered under the Americans with Disabilities Act:

- [When A Patient Claims They Can't Wear a Mask Due to a Disability](#)
- [Tips for Complying with the Americans with Disabilities Act](#)
- [Checklist: Offering Reasonable Accommodations to Individuals with Disabilities](#)

It may also be helpful to review the CDC's information on [Limiting Workplace Violence Associated with COVID-19 Prevention Policies in Retail and Services Businesses](#).

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