



**Canadian Mental
Health Association**
Ontario
Mental health for all

**Association canadienne
pour la santé mentale**
Ontario
La santé mentale pour tous

**Response to the Proposed Revisions for the
Customer Service Standard of the
*Accessibility for Ontarians with Disabilities Act, 2005 (AODA)***

Submission to the Ontario Ministry of
Economic Development, Trade and Employment

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Background

In January 2008, the Customer Service Standard became the first accessibility standard to be made into a regulation under the *Accessibility for Ontarians with Disabilities Act, 2005 (AODA)*. The purpose of this standard is to require eligible organizations that provide goods to services to the public or to other organizations to achieve accessible customer service. Compliance began in January 2010 for public organizations, and January 2012 for private and not-for-profit organizations.

In September 2013, the Accessibility Standards Advisory Council/Standard Development Committee (ASAC/SDC) began its review of the Customer Service Standard at the direction of the Minister of Economic Development, Trade, and Employment. The ASAC/SDC has asked for public feedback. The following is CMHA Ontario's public comment on the proposed revisions.

About Canadian Mental Health Association (CMHA) Ontario

The Canadian Mental Health Association (CMHA), which operates at the local, provincial and national levels across Canada, works towards a single mission: to make mental health possible for all. The vision of CMHA Ontario is a society that believes mental health is the key to well-being. We are a not-for-profit, charitable organization which is funded by the Ontario Ministry of Health and Long-Term Care. Through policy analysis and implementation, agenda setting, research, evaluation and knowledge exchange, we work to improve the lives of people with mental health and addictions conditions and their families. As a leader in community mental health and a trusted advisor to Government, we actively contribute to health systems development through policy formulation and by recommending policy options that promote mental health for all Ontarians. CMHA Ontario works closely with the 31 local Branches in communities across the province to ensure the quality delivery of services to approximately 50,000 individuals each year in the areas of mental health, addictions, dual diagnosis and concurrent disorders which occur across the lifespan.

CMHA Ontario is a leader in advancing mental health accessibility in Ontario, including a number of initiatives or activities:

- Mental Health Works, a workplace mental health program
- Enabling Minds project to promote mental health accessibility in the recreation sector
- Think Outside the Box, a mental health accessibility and human rights web-resource
- Ongoing activities related to supported employment initiatives
- Ongoing activities related to supportive housing initiatives
- Advocacy and public policy analysis related to the Ontario Disability Support Program (ODSP)
- Appointment to the Elections Ontario Accessibility Advisory Committee
- Participation in development of AODA and standards

In addition, CMHA Ontario receives requests from governmental and non-governmental organizations regarding compliance with the *Accessibility for Ontarians with Disabilities Act, 2005 (AODA)* and its standards. In general, organizations are seeking information and

resources about how to increase the accessibility of programs, policies, and practices for people with mental health disabilities. CMHA Ontario has received requests from the Ontario Human Rights Commission; the Canadian Transportation Agency; the Family Responsibility Office at the Ministry of Community and Social Services; Presto, a division of Metrolinx; and Elections Ontario. At the local level, CMHA branch public educators also receive similar requests.

Proposed Revisions to the Customer Service Standard

CMHA Ontario is concerned that some revisions to the Customer Service Standard of the AODA proposed by the Accessibility Standards Advisory Council/Standard Development Committee (ASAC/SDC) could have adverse impacts on accessibility for Ontarians with mental health disabilities. We are most concerned about changes to the:

- Definition of small organizations
- Definition of service animals
- Section on support persons
- Section on training

Definition of Small Organizations

CMHA Ontario is concerned about the proposed revisions to the definition of “small organizations”. Currently, small organizations include those with one to 19 employees. The proposed revision would expand this to also include organizations with 20 to 49 employees.

As a result of this revision, fewer organizations will be required to comply with several sections of the Customer Service Standard, including sections related to the establishment of policies; service animals; support persons; notice of temporary disruptions; training; feedback process; and notice of availability of documents. While CMHA Ontario understands that organizations with less than 50 employees may face unique challenges regarding compliance due to their small size, we are concerned that fewer organizations overall will be obligated to comply with these significant sections of the standard. Furthermore, not only are these sections significant in promoting accessibility, they also promote increased education, awareness and readiness for disability and accessibility for obligated organizations.

Recommendation 1: CMHA Ontario recommends that small organizations continue to be defined as to include those with one to 19 employees.

Definition of Service Animal

CMHA Ontario strongly supports the proposed revision that letters confirming that a person requires an animal for disability-related reasons can now be provided by *any* regulated health professional, rather than by only physicians and nurses. This is particularly important in the case of mental health disability, where a range of health providers, including social workers, psychologists and psychotherapists, are involved in recovery.

However, CMHA Ontario is greatly concerned that proposed changes to the definition of “service animal” may have an adverse impact on people with disabilities, particularly those with

mental health-related disabilities. Specifically, CMHA Ontario is concerned about the proposed revision that animals must be “trained to provide assistance to a person with a disability that relates to that person’s disability” in order to be understood as service animals. In *Allarie v. Rouble*, 2010 HRT0 61 the adjudicator found that there is nothing in the *Ontario Human Rights Code*, R.S.O. 1990 (the Code) that would limit the definition of service animal to one that is trained or certified by a recognized disability-related organization. Animals with no or varying degrees of training or certification have been recognized as providing important and protected disability-related support. For example, in *Niagara North Condominium Corp. No. 46 v. Chassie*, 1999, the Ontario Court of Justice found in favour of residents who were asked to remove a cat from a condominium with a no pets policy. The Court found that the cat was a therapeutic animal and part of the resident’s treatment for a mental health-related disability.

If the proposed training requirement for service animals is removed, the definition of service animals would still require that the animal be “readily identifiable” as being used for a disability-related purpose or that a letter be provided from a regulated health professional confirming that the animal is required for disability-related reasons. These parameters on their own are adequate to ensure that animals are required for disability-related reasons.

Recommendation 2: CMHA Ontario recommends that no training requirements be added to the definition of service animals.

Support Persons

CMHA Ontario supports the ASAC/SDC’s interest in clarifying when an organization can require someone with a disability to be accompanied by a support person for health and safety reasons. However, CMHA Ontario remains concerned that determinations of this nature could impact on the human rights of people with disabilities in Ontario. Although the proposed changes introduce “consultation with the person with a disability” into the process of determination, it is unclear as to what specifically this means. Even with the requirement for consultation, determination appears to be at the discretion of the organization alone.

CMHA Ontario recommends that the ASAC/SDC review resources that provide clarification on how health and safety determinations may be made within the larger context of human rights obligations. In section 5.3.3 of its [Policy and Guidelines on Disability and the Duty to Accommodate](#), the Ontario Human Rights Commission (OHRC) provides guidance on this topic. Additional information is also available in [Travelling with an Attendant in the Federal Transportation System: A Resource Tool for Persons with Disabilities and Carriers](#), a tool created by the Canadian Transportation Agency (CTA) to assist stakeholders to determine when an organization may require a person with a disability to be accompanied by a support person. This resource tool emphasizes the need to balance organizational health and safety concerns with the rights of the person with a disability, and also notes that the person with a disability should be allowed to assume some personal risk.

Recommendation 3: CMHA Ontario recommends that the ASAC/SDC remove sections in the Customer Service Standard through which organizations may require people with disabilities to be accompanied with a support person for health and safety reasons, unless detailed instruction is provided regarding how such determinations are to be made, consistent with the OHRC’s Policy and Guidelines on Disability and the Duty to Accommodate.

Training

Throughout the development of the AODA and its Customer Service Standard, CMHA Ontario has consistently recommended that organizations that are obligated to provide training on accessible customer service also be obligated to provide training on the Ontario Human Rights Code (the Code). Both the Code and the AODA play significant and complementary roles in advancing accessibility for people with disabilities in Ontario. As noted above with respect to support persons, organizations have obligations under the Code as well as under the AODA, and the Customer Service Standard training provisions create the opportunity to strengthen understanding of and compliance with both.

Recommendation 4: CMHA Ontario recommends that revisions be made to the Customer Service Standard to require obligated organizations to provide training on AODA as well as the Ontario Human Rights Code.

CMHA Ontario wishes to thank the ASAC/SDC for this opportunity to comment on the proposed revisions to the Customer Service Standard. We welcome the opportunity to further discuss our recommendations or to provide additional information.

For more information, please contact:

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