

COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS COMMISSION  
AGAINST DISCRIMINATION and  
HEIDI-JEAN MAHONEY,

Complainants

v.

DOCKET NO. 05-BPA-01057

UNIDENT DENTAL CENTER and  
MATHI THEVA, D.M.D.

Respondents

Appearances: Wendy A. Cassidy, Esq. & Mairead Blue, Esq. for Complainants  
Justine Brousseau, Esq. & Nina Kimball, Esq. for Respondents

DECISION OF THE HEARING OFFICER

I. INTRODUCTION

On April 13, 2005, Complainant Heidi-Jean Mahoney filed a complaint with this Commission charging Respondents, Unident Dental Center and its owner Mathi Theva, D.M. D., with unlawful discrimination in a place of public accommodation based on her disability and her use of a service animal in violation of G.L. c. 272, § 98A. Complainant alleged that Respondents refused to allow her service animal to accompany her into a treatment room at the Unident dental center for a dental appointment. The Investigating Commissioner found probable cause to credit the allegations of the complaint and the case was certified for a hearing after efforts at conciliation were unsuccessful. A hearing was held before the undersigned Hearing Officer on January 22 and 23, 2013. The parties submitted post-hearing briefs in April of 2013.

Following a review of the record in this matter and the post-hearing submissions, I issue the following Findings of Fact and Conclusions of Law.

## II. FINDINGS OF FACT

1. Complainant Heidi Jean-Mahoney is a forty-nine year old female who resides in Brockton, MA. (Tr. Vol. I, pp. 16-17) She was born with a hearing impairment and continues to have a mild hearing loss which is “improved to within the range of normal with amplification.” (Tr. Vol. I, p. 120; Joint Ex.5) Complainant had hearing aids in 2005 which doctors anticipated would allow her to hear normal conversational level speech, but she did not use them consistently and she testified that they did not assist her in hearing all sounds. (Tr. Vol. I, pp. 21- 23, 102-103; Joint Exs. 5 & 6)

2. In 2005 and before, Complainant suffered from a number of other physical and mental disabilities in addition to her hearing impairment. These included migraines, mental health issues, post-traumatic stress disorder, dissociative identity disorder, bi-polar disorder, anxiety, seizures, and asthma. She has a history of psychiatric intervention beginning in her teens and receives psychiatric medication from a doctor at the Brockton Multi-Service Center. (Ex. R-64, Tr. Vol. I, p. 53) From 1998 to 2006, Complainant was treated for depression, anxiety, and other mental health issues at South Bay Mental Health Center, Inc. (Ex. R-29; R-40, R-41, R-43, R-59; R-64; C-6) Complainant testified that she had a minor stroke in 2004 that affected her gait. She also suffers from concentration and memory problems. (Ex. R-28; R-29) Complainant has been the recipient of disability benefits since she was in her twenties and she receives food stamps. (Tr. Vol. 1, pp. 18-20, 23, 141,163-165)

3. Complainant acquired a dog she named Dakota in 2001 at a pet store. (Tr. Vol. I, p.24) She testified that she chose Dakota, a toy poodle who weighed approximately eight pounds, because poodles are very smart dogs who are easy to train, do not shed and are non-allergenic. (Id.) Complainant testified that she intended Dakota to be a service dog. The dog was trained in good behavior and subsequently trained to aid her with hearing by alerting her to certain sounds like the phone, fire alarm, doorbell, and someone knocking at the door. (Tr. Vol. I, pp. 25-28) In August of 2004, Complainant received a certificate from Canine Training Associates of Weymouth MA recognizing Dakota's completion of the Hearing Ear Dog Program. (Ex. C-4) Dakota also received a Canine Good Citizen certificate from the American Kennel Club in July of 2004, attesting to her good obedience. (Ex. C-2; Tr. Vol. I, p 25)

4. Complainant testified that Dakota also assisted her with her emotional difficulties by providing companionship, comfort, and security but did not stay with her when she was hospitalized for physical or mental conditions. (Tr. Vol. 1, p. 29) In January of 2003, Complainant's social worker at South Bay Mental Health wrote that Complainant's service dog provides assistance with mental health issues. She stated that the dog was able to read Complainant's feelings and changes in her moods, alert her to these changes, and help Complainant when she felt unsafe. (Ex. C-6) In 2004 Complainant's therapist at South Bay wrote a letter in support of Complainant being allowed to travel on America West Airlines with Dakota in order for the dog to provide emotional support functions, such as easing social anxiety in public. (Ex. C-7) The airline allowed Complainant to travel on a flight to California with Dakota on her lap. (Tr. Vol. 1 p. 52)

5. Respondent, Unident Dental Center, is a Massachusetts professional corporation incorporated under the name Mathi Theva, D.M.D., P.C. Unident Dental is in the business of

providing dentistry services. In April of 2005, its principal place of business was 200 Westgate Drive, Suite E-135, Brockton, MA, located within the Westgate Mall. Doctor Mathi Theva is a dentist and the sole owner of Mathi Theva, D.M.D., P.C., which she opened in 1993. (Tr. Vol. II, pp. 77-78)

6. Respondent Mathi Theva has lived in Braintree for twenty-five years and has practiced dentistry in Massachusetts for twenty-three years. In 1984 she came to the U.S. from Sri Lanka where she received a degree in dental surgery (D.D.S.) and practiced general dentistry for nine years. In 1990 she received her doctor of dental medicine degree (D.M.D.) from Boston University and worked for Whitworth Dental associates in Mattapan for three years prior to opening Unident. She is qualified to perform general dentistry, including prophylaxis, root canal treatment, restorations, crown and bridge work and dentures. (Tr. Vol. II, pp. 75-77)

7. Complainant was a patient of Unident Dental Center from 2003 to 2005. (Tr. Vol. II, p.89; Ex. R-1B) In providing a medical history to Respondents, Complainant did not inform them of any medications she was taking, did not state that she needed the assistance of a service animal, did not state that she had a hearing impairment, and did not inform them that she suffered from PTSD, which causes her anxiety. (Tr. Vol. I, pp. 100-101, Vol. II, p.193; Ex. R-1A)

8. Complainant testified that prior to March of 2005, she received treatment from Unident Dental Center accompanied by her dog, Dakota, who wore red service dog vest. She claims that Dakota was allowed to accompany her into the treatment area during a cleaning and two root canal procedures. She stated that the first dentist who treated her was an older male whose name she did not know. According to Complainant, this dentist allowed Dakota to sit on her lap during a cleaning, but first made certain the noise from the dental instruments would not

scare the dog. Complainant testified she was also treated for a root canal by a male dentist in his 40's who allowed Dakota to sit on her knees during the procedure. (Tr. Vol. 1, pp. 58-61, 81-83) Dr. Theva disputes that Complainant's dog was permitted in the treatment area, at least on the two occasions when she was scheduled for a root canal. I believe that Complainant may be mistaken or confused about whether she was permitted to have her dog on her lap during a prior root canal procedure.

9. Respondent's records reflect that Complainant was treated on numerous occasions in 2003, 2004 and once in 2005 by Dr. Grigory Babadustov. She was treated for a root canal and post and core restoration. She was also treated by Dr. Farrah Abbassi for a root canal in October of 2004. (Tr. Vol. II, 93-99; Ex. R1-B) Dr. Theva testified that in October of 2004, Complainant arrived for a root canal appointment holding her dog with no leash, harness or carrier, and she was informed by Dr. Abbassi that her dog could not accompany her into the treatment room for a root canal. Since Complainant had no one with her who could tend her dog, she left the dental center and returned for treatment later without her dog. (Tr. Vol. II pp. 106-109; 186; Ex. R-1B)

10. Complainant was scheduled again for a root canal on March 9, 2005 with Dr. Babadustov. On March 9, 2005, Complainant brought her dog to the dental center, intending to take her dog into the treatment room. She claims that as she stood up to enter the treatment area with her dog in her arms, Dr. Theva walked by her and stated "No dogs allowed." Complainant stated that her dog was a service animal and attempted to give Dr. Theva a card outlining the rights of disabled individuals, but she claims Dr. Theva would not allow her to receive treatment so long as she was accompanied by her dog.

11. Dr. Theva testified that she was in the reception area on March 9, 2005 and observed Complainant arrive for her appointment on that date accompanied by a dog that was not in a carrier or harness. Dr. Theva testified Complainant was holding her dog. Dr. Theva told Complainant that she could not have the dog with her during treatment and could not keep the dog on her lap during a root canal procedure for health and safety reasons, including the placement of a lead apron on Complainant's chest for x-rays. Upon being informed of this, Complainant left the dental center. (Tr.Vol. II, pp. 112-115) A written memo in Respondent's treatment records written by its dental assistant states that Complainant had been informed on her last visit not to bring her dog into the office, but that she returned with the dog on March 9, 2005 and the dog was not on a leash. The memo goes on to state it was not possible to treat the patient under these circumstances, since Respondents would not allow the dog to sit on Complainant's lap during treatment. The memo notes that Complainant left the dental center. (Ex. R-1B; Tr. Vol. II, pp. 101-103) Respondents assert that this was the first time they were informed that Complainant's dog was a service animal. (Jt. Ex. 2) Complainant testified that in her earlier visit she did not tell the dentist that her dog was a service animal because the dog wore a red vest at all times. (Tr. Vol. I, p. 61)

12. After leaving Respondents, Complainant contacted the Massachusetts Office on Disability and spoke to an advocate who contacted Dr. Theva. The advocate informed Complainant that she could return to Respondents later in the day with her dog to have her dental work done. Dr. Theva subsequently called Complainant and told that her dog could not accompany her to her appointment because a dental center employee was allergic to dogs. (Tr. Vol. I, pp. 65-67, 70-71) Upon instructions from her advocate, Complainant returned to Respondent dental center to inform Dr. Theva that her dog was non-allergenic and to provide Dr.

Theva documents relative to her rights to have a service animal. Complainant testified that Dr. Theva refused to read the documents and told her to take the dog home. (Tr. Vol. I, pp. 71-73) Complainant testified that she then became paralyzed and began to cry and Dr. Theva told her she should leave. (Tr. Vol. I, p. 74) This was very upsetting and embarrassing for Complainant, as it occurred in the presence of other patients. Complainant's advocate advised her to return to the dental center without her dog in order to receive the treatment she needed. Complainant did so, but could not remember when. (Ex. C-9)

13. Respondent's records reflect that Complainant returned on April 11, 2005 and had a tooth surgically removed by Dr. Babadustov. She was seen by Dr. Theva on April 20, 2005 for a post-operative visit. (Ex. R-B1) On neither of these occasions was Complainant permitted to bring her dog into the treatment room. Complainant testified that her husband watched the dog for her in the mall outside the entrance to the dental center after he was asked to leave the center. (Tr. Vol. I, 75-77)

14. Complainant testified that she did not return to Respondent for further treatment. Beginning in September of 2005, she changed to a new dental provider in Brockton which she testified allowed her dog to accompany her to dental appointments.

15. Dr. Theva testified that a root canal treatment is a surgical procedure which requires a lead apron to be placed on the patient in order to take x-rays, the application of a topical anesthetic, lidocaine, a rubber damn, and a clamp to the mouth. She stressed the need for a sterile environment to prevent infection because the tooth is opened up with a high speed drill while water is being sprayed and the site irrigated. She also stressed the need for the patient to remain still while the nerve of the tooth is removed and filing is done with sharp instruments to shape the canal. The remainder of the procedure requires irrigation, drying and applying

material to seal the canal, the use of a heating instrument to cut the material and the application of temporary cement. (Tr. Vol. II, pp.118 -125) Dr. Theva testified that she would not allow a patient to hold a dog or a small child on her lap during the procedure because it would be unsafe. (Tr. Vol. II, p. 132) According to Dr. Theva, she advised Complainant that she could not have her dog with her or hold her dog during the root canal procedure for health and safety reasons, because it might impact the procedure and because her office could not be responsible for care of her dog.<sup>1</sup> Dr. Theva testified at length about the health and safety protocols that would be compromised by having an animal in close proximity during a surgical proceeding. (Tr. Vol. II, pp. 141-144, 172) I credit her testimony that health and safety issues are of paramount concern in conducting a dental procedure of this nature.

16. Dr. Theva testified that she treats two patients who come to the dental center with service animals. She stated that the animals do not accompany the patients to the treatment room but remain in the reception area while the patients are being treated. She stated that both dogs are brought to the dental center on a leash and one is accompanied by a companion of the patient who waits with the dog. I credit Dr. Theva's testimony that she does not deny treatment to patients with service animals. (Tr. Vol. II, pp. 156-158)

### III. CONCLUSIONS OF LAW

Massachusetts General Laws c. 272 §98A provides that ... "any physically handicapped person accompanied by a dog guide, shall be entitled to any and all accommodations, advantages, facilities and privileges of all"... "places of public accommodation within the commonwealth, to which persons not accompanied by dogs are entitled"...

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<sup>1</sup> There was likely a problem with communication or an understanding gap between the doctor and Complainant during this conversation. I credit Complainant's testimony that Dr. Theva was unequivocal in stating "no dogs allowed," and Complainant's testimony that she was unequivocal that her dog was a service animal. During this exchange, the nuances as to the reasons for not permitting a dog in the treatment room may not have been adequately communicated or may have been lost on Complainant.



In order to establish a prima facie case of discrimination under c. 272 § 98A, Complainant must prove that she is (1) a physically handicapped person, (2) accompanied by a dog guide, (3) who was denied access to or restricted in the use of, (4) a place of public accommodation. *Low v. Costco Wholesale Corp.*, 31 MDLR 87, 90 (2009); *Sten Clanton v. Fung Wah Bus Transp. Inc.*, 29 MDLR 95, (2007). If Complainant meets this burden, the burden of production shifts to Respondent to articulate a legitimate, non-discriminatory reason for its actions. If Respondent does so, Complainant must prove by a preponderance of the evidence that Respondent's reason is a pretext and that Respondent acted with discriminatory animus. *Lipchitz v. Raytheon Co.*, 434 Mass. 493, 502-504 (2001).

Complainant has satisfied the requirement of being a physically handicapped person. The evidence demonstrates that Complainant was born with a hearing impairment and suffers from other physical and mental impairments that render her disabled. Complainant has hearing aids which she admitted to not using faithfully. She testified that she has difficulty hearing certain sounds such as doorbells, phones ringing or someone knocking at her door. Complainant has received some form of government benefits, presumably disability benefits, since she was in her twenties. She has been treated and prescribed medication for her psychiatric disabilities. There was evidence that Complainant's mental health providers supported her need to have an emotional support animal to assist her with myriad mental health issues. One social worker supported Complainant's need to have her dog with her on a transcontinental flight to help control her anxiety and to aid her in social interaction.

Massachusetts law does not require any specific training or certification for guide dogs, and such animals are not required to display any specific form of identification. Complainant testified and submitted certification that her dog, Dakota, successfully completed training in

obedience. Dakota was also trained as a hearing assistance dog to alert Complainant to sounds that she had difficulty hearing. Complainant testified that Dakota always wore a vest indicating that she was a service dog. Given the state of the law, Complainant's dog met the minimum requirements for qualification as a guide dog within the meaning of G.L. c. 272 § 98A by assisting her with a physical disability.

Chapter 272 §98A does not address whether dogs who provide only emotional support or comfort constitute service animals, nor does the law address the rights of individuals with such animals to access all places of public accommodation.<sup>2</sup> In the absence of statutory language or regulations, the Commission may look to Federal law for guidance. Regulations interpreting the Americans with Disabilities Act define a service animal as “any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, **psychiatric, intellectual, or other mental disability.** [emphasis added] 28 CFR §36.104. However, “the work or tasks performed by the service animal must be directly related to the individual’s disability.” *Id.* Consistent with this definition, the Commission in one case has adopted an interpretation of dog guide to include situations where emotional or psychiatric issues are linked to an underlying disease, resulting in physical symptoms which a support animal assists in alleviating, preventing or warning about. *See Low v. Costco, supra.*<sup>3</sup>

There was testimony that Complainant's dog, Dakota, in addition to providing hearing assistance, also served as an emotional support for Complainant, to assist her with anxiety, PTSD, and social interaction. Complainant testified that she kept her dog near and hugged her

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<sup>2</sup> Although distinctions between guide dogs, other service animals, and emotional support/comfort animals have come to be blurred, G.L. c. 272 § 98A as currently written speaks only to physically handicapped individuals with dog guides.

<sup>3</sup> This view would be expanded by proposed agency regulations addressing discrimination in places of public accommodation. See 804 CMR 5.04 (13) proposing that the definition of service animal “shall also include any companion animal certified to provide emotional support to an individual with a disability.”

when she needed emotional support. The evidence indicates that Complainant's dog provided comfort and emotional support to her, although it is unclear whether the dog received any specific training as a therapy dog. Moreover, other than assisting Complainant with her hearing loss, there is scant evidence regarding any tasks her dog performed that were related to her emotional problems, beyond providing comfort and easing Complainant's anxiety by her presence. Since I have concluded that Complainant's dog qualifies as a dog guide pursuant to G.L. c. 272 §98A, I need not address the issue of whether she would otherwise qualify as a service animal under the broader federal law definition, particularly where state law does not currently address the latter.<sup>4</sup>

There is no dispute that Respondent, Unident Dental Center, is a place of public accommodation, since it clearly qualifies as a "place which is open to and accepts or solicits patronage of the general public." G.L. c. 272, § 92A. There is also no dispute that Complainant was not permitted to bring her dog into Respondent's dental center treatment room on March 9, 2005 and in her two subsequent visits to Respondent. Complainant testified that she sought to have Dakota present during her root canal procedure. While there is some dispute about whether Complainant sought to have Dakota sit on her lap during the procedure or merely be present in the treatment room, she testified that Dakota was allowed to sit on her lap while she received treatment during previous visits to Respondent. This assertion, while disputed, suggests that Complainant anticipated she would be permitted to do this. Complainant was not permitted to receive treatment on March 9, 2005 because of the presence of her dog. Based on the foregoing, I conclude that she has established a prima facie case that she was denied treatment ostensibly because she was accompanied by her guide dog.

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<sup>4</sup> Given Complainant's significant emotional and mental disabilities, her dog would likely qualify as an emotional support animal under the much broader definition of support animal in proposed regulations.

Once Complainant has established the elements of a prima facie case, it must be determined whether Respondent's reasons for denying treatment were legitimate and non-discriminatory. If Respondent articulates non-discriminatory reasons, Complainant must prove that the reasons are a pretext and that Respondent was motivated by discriminatory animus. Thus, the final question to be determined is whether Complainant was unlawfully denied full access to, or treatment in, a place of public accommodation for discriminatory reasons related to her utilizing a dog guide.

Dr. Theva testified that Respondent did not refuse to treat Complainant, but told her she could not have the dog with her during the root canal procedure.<sup>5</sup> I credit Dr. Theva's testimony that Complainant arrived at the dental center carrying her dog and that the dog was not in a carrier or on a leash.<sup>6</sup> Dr. Theva testified credibly that she told Complainant she could take her dog home and return to have the root canal. It was not unreasonable for Respondents to require that someone other than the dental center employees take responsibility for the dog while Complainant was being treated.

It is apparent that Complainant did not seek, or need to have her dog accompany her to the treatment room to perform any task related to her hearing impairment or other physical disability. There is no suggestion that Complainant's dog would aid her in hearing or communicating with her dentist. Rather, the evidence establishes that her dog was present primarily for emotional support. Complainant testified that during the root canal procedure she mostly needed her dog for comfort and anxiety. She also testified she felt unhappy and insecure when separated from her dog. I accept Complainant's assertion that her dog's presence assisted

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<sup>5</sup> In fact, Complainant was treated at the Dental Center on two subsequent occasions and her dog was not allowed in the treatment room.

<sup>6</sup> According to Complainant, a leash was tucked inside the dog's vest, but there is no evidence that this was visible to Dr. Theva or that Complainant advised her that her dog could be leashed.

in calming her anxiety. However, given the countervailing interests discussed below, I conclude that Complainant's emotional comfort alone, absent any physical impairment requiring the dog's assistance, is insufficient justification for mandating her dog's presence in the treatment room during a root canal procedure.<sup>7</sup> *See Davis v. Ma*, 848 F. Supp. 1105, 1116 (C.D.Cal. 2012) ("The ADA does not create unlimited license for disabled customer to enter facilities of public accommodations with their pets. The federal regulations limit protected entry to trained service animals that help ameliorate their owner's qualifying disability.")

Even if the presence of Complainant's dog in the treatment room diminished her anxiety and stress, and would qualify her as a service animal under federal guidelines, Respondent cited significant public health and safety considerations that outweigh Complainant's right in this instance to have her dog present for emotional support only. Dr. Theva addressed legitimate health and safety concerns related to root canal procedures, which are surgical in nature, that would reasonably justify excluding an animal from the treatment room and not allowing said animal to sit on a patient's lap. The need for a sterile and sanitary operatory environment and concerns about possible infection during a surgical proceeding are legitimate, non-discriminatory reasons. Dr. Theva also cited reasonable concerns that an animal's unanticipated movements or other reactions to the noisy machines while sharp instruments are being used could cause injury or other harm to the patient, dentist or both.

Complainant asserts that these reasons are pretextual and that Respondent was motivated by discriminatory animus, because such risks are merely speculative and not based on

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<sup>7</sup> There is no testimony that Complainant was unduly agitated or unable to receive full treatment during subsequent visits to Respondent when her dog was not allowed in the treatment room.

demonstrable factors.<sup>8</sup> I am not persuaded that the articulated reasons are a pretext, nor am I persuaded that these reasons mask intent to discriminate against disabled individuals with service animals. Dr. Theva could not be expected to predict with certainty that the dog's presence would jeopardize the sterile environment or that the animal would not react badly to an unforeseen complication, in order to justify implementation of the dental center's safety protocols. Respondents were not required to compromise health and safety standards based on the probability of harm not occurring. The potential risk of harm cited by Respondent is real and I believe that in this instance Dr. Theva determined in good faith that the health and safety of the patient and dentist could be jeopardized by the presence of Complainant's dog. As a Doctor of Dental Surgery with twenty-three years in the profession, I conclude that she is competent to make such judgments in her practice.

The standards that Dr. Theva articulated are also consistent with ADA Public Accommodations regulations issued in 2010 for the use of animals in hospital settings, stating that..."consistent with CDC guidelines, it is generally appropriate to exclude service animals from limited-access areas that employ general infection-control measures, such as operating rooms and burn control units." 75 Fed. Reg. 56, 272 (Sept. 5, 2010) Non-discrimination on the Basis of Disability by Public Accommodations and Commercial Facilities, Final Rule. Federal case law interpreting the ADA sets forth similar standards. *See Roe v. Providence Health System-Oregon*, 655 F. Supp. 1164, 1167-68 (D. Or. 2009) (dismissing ADA public accommodation claim finding that the dog's presence at the hospital created a risk to the health or safety of other patients, visitors, and staff due, in part to the possible risk of infection); *Pool*

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<sup>8</sup> Complainant cites the testimony of a disability advocate that there is no blanket restriction on service animals in dental offices and that a service animal seated on the floor does not jeopardize every sterile environment. I do not consider this advocate competent to testify regarding public health and safety protocols in the dental office environment.

*v. Riverside Health Servs., Inc.* 1995 WL 519129 \*4-5 (D. Kan. Aug. 25, 1995) (ADA not violated when hospital denied service dog access to treating areas of hospital including emergency room due, inter alia, the need for infection control). In light of the above, I conclude that Respondents stated legitimate non-discriminatory reasons for denying Complainant's dog access to the treatment room during a root canal procedure that are consistent with generally accepted norms and are not based on discriminatory animus. The fact the Dr. Theva treats at least two patients with service animals who are allowed to remain in the reception area is additional evidence of good faith and lack of discriminatory animus.

Moreover, I accept Respondents' assertion that Complainant would not have been able to control her dog during the root canal treatment because of her inability to move freely or speak during the procedure. In addition, Respondents cannot have been expected to be responsible for the care and handling of Complainant's animal during the procedure. This is another area where Federal ADA regulations pertaining to service animals may provide some guidance. Federal Regulations require that: "A service animal shall be under the control of its handler" and state that a place of public accommodation "is not responsible for the care or supervision of a service animal." 28 C.F. R. § 36.302 (c) (4)&(5). Given the nature of the procedure, I am skeptical that Complainant could have been in control of her dog while undergoing a root canal.

Finally Complainant argues that Respondents had an obligation to make reasonable modifications to their policy of not allowing service animals in the treatment area as an accommodation to Complainant's disability. She argues that the request to have her dog with her during the treatment for emotional support was a reasonable accommodation for her disability that would have allowed her equal access to the services offered by Respondent. However, other than providing comfort, it is unclear how the presence of Complainant's dog would have enabled

her to take full advantage of the root canal treatment services offered by Respondent. Her dog would not have performed any physical tasks for her during the dental procedure. When balanced against the legitimate safety considerations articulated by Respondent, I find that the accommodation Complainant sought was not reasonable.<sup>9</sup> Given these facts, I decline to conclude that Complainant's access to the dental services provided by Respondent was restricted, limited or severely compromised because her dog was not permitted to be in the treatment room.

#### IV. ORDER

In light of the above, I conclude that Respondents are not liable for violating G.L. c. 272 §98A and hereby Order that the complaint in this matter be dismissed.

This decision represents the final order of the Hearing Officer. Any party aggrieved by this Order may appeal this decision to the Full Commission. To do so, a party must file a Notice of Appeal of this decision with the Clerk of the Commission within ten (10) days after receipt of this Order and a Petition for Review within thirty (30) days of receipt of this Order.

So Ordered this 14<sup>th</sup> day of February, 2014.

Eugenia M. Guastaferrri  
Hearing Officer

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<sup>9</sup> This is not to say that there are not circumstances that could justify the presence of a trained service animal in a treatment room, particularly where the animal performs an essential task for a physically disabled person or the disabled person's treatment would be compromised or full access to the services restricted absent the animal's presence.