

Senate Judiciary

HB21-1110 CO Laws For Persons With Disabilities

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
<p>Michael Antonacci For Self</p>	<p>Thank you, members of this committee, for the opportunity for me to testify remotely, because if I was required to come in person, I wouldn't physically be able to. I have multiple chronic illness and pain conditions and spend 80 to 90% of my day horizontal, and need to control my computer by voice (I'm voice typing this testimony right now, so if there are any words that don't make any sense at all, it means the voice software didn't transcribe it correctly and I didn't catch the error).</p> <p>I recently listened to a LinkedIn course regarding digital accessibility and the line that struck me the most was "if you have to ask whether your website is accessible, it's not." What the speaker meant by that was the only way to know if something is accessible is to ask those who have disabilities and see if it is. If you're not sure, you haven't made it accessible.</p> <p>In particular, I applaud that this bill includes web accessibility. As someone who controls his computer by voice, I experience lack of web accessibility daily. In fact, as I went to submit this written testimony you are reading right now, the webpage where I did so was inaccessible: I expect that drop-down items or radio buttons on the website should be clickable by voice, so if I say "click self" to indicate I want to click the button that shows I am representing myself, it should click that button. It did not. I had to navigate my mouse by voice, a much more cumbersome process. If I say "click sign up", it should click the button labeled Sign Up, but it did not.</p> <p>Oh, the irony that the very website I'm using to testify on a bill regarding web accessibility is itself a website that is not accessible. Those of you on this committee probably had no idea that was the case (this is not intended to lay blame on you or anyone, I'm used to it, most websites are this way). If you didn't have my particular disability, you'd have no idea this is my daily struggle. That's why this bill is needed.</p> <p>As I mentioned earlier, if you have to ask if your technology is accessible, it's not. This bill would help level the playing field for people like me who need accessibility accommodations, so I urge you to vote in favor of it. Thank you.</p>

Please vote **YES** on **HB 21-1110** - Colorado Laws for Persons with Disabilities

Sponsors: Rep. David Ortiz; Sen. Jessie Danielson

- Passed the House with overwhelming bipartisan support, 55-8-2
- Passed House Appropriations 9-2 and passed House Judiciary 11-0
- HB 1110 is widely supported by Colorado disability organizations, including National Federation of the Blind, Arc of Colorado, Disability Law Colorado, & Independent Living Centers

This bill adopts the Americans with Disabilities Act into state law and incorporates it into the Colorado Anti-Discrimination Act. The added protections apply to state and local governments:

- Prohibiting a person with a disability from being excluded from participating in or being denied the benefits of services, programs, or activities of a public entity; and
- Clarifying that such prohibition includes the failure of a public entity to comply with the international Web Content Accessibility Guidelines ("WCAG"), the internationally-recognized guidelines for web and digital content accessibility.

State courts: The bill permits state court enforcement of the ADA, which is cheaper for *all* parties and more accessible to underserved communities (including rural communities who do not have easy access to federal court facilities).

Tracking federal law: The bill tracks federal law and does not add any new requirements; however, it does specify the standards by which state and local governments measure accessibility for web and digital content.

Why WCAG standards are needed: International regulations and standards (such as ones set for engineering and construction in existing statute) reduces ambiguity. WCAG standards are best-practices and easily incorporated into websites and content. WCAG standards were to be included in ADA-rulemaking in 2015, but that was delayed. The Biden administration is expected to formally incorporate WCAG in the coming year. **HB 21-1110** will help make Colorado a national leader in disability rights and help state and local governments plan ahead for future regulations.

Three-year phase-in for WCAG: After extensive stakeholdering, proponents have agreed to introduce an amendment for a three-year compliance period for WCAG standards, with the expectation that governments will incorporate compliance into their strategic planning and make that plan available to the public record. In addition, the Office of Information Technology (OIT) has committed to providing educational resources for local governments to become compliant with web accessibility standards.

Penalties: Amends the Colorado Anti-Discrimination Act ("CADA") to provide injunctive relief, attorneys costs and fees, and a flat penalty of \$3,500. It is exempt from the Colorado Governmental Immunity Act ("CGIA"), but placed under CADA, for which the (lower) penalty can be made applicable.

The Colorado disability community asks you to support HB 21-1110!

Colorado anti-discrimination statutes have progressed significantly in the last ten years, but have lagged behind in disability discrimination protections. It's time for the state to formally incorporate and affirm the 31-year-old Americans with Disabilities Act!

- HB21-1110 creates a culture of disability lens *inclusion* in government planning (versus the reactive model in which we currently operate)
- **Nearly ten percent (500,000) of Coloradans have a disability under the definition provided by the Americans with Disabilities Act**
- A U.S. Commission on Civil Rights panel found that students with disabilities were twice as likely to be suspended than their peers. Black, indigenous, and students of color with disabilities were disproportionately punished.
- According to a 2018 survey conducted by WebAIM, 42% of computer users with visual disabilities give up reading on a computer because it is too difficult (either everyday or several days a week)
 - Screen readers help the visually-impaired function independently, but have limited function when online government services are not ADA-compliant
- Coloradans with disabilities are more likely to be reliant on state programs (such as Medicaid) or public transit to live freely in and contribute to their communities - it is critical that those services are ADA-accessible
- From safety at parks, finding affordable housing, accessing the State Capitol, to renewing a driver's license online, Coloradans with disabilities have a right to equal protections under the law (and freedom to live independently)



NATIONAL FEDERATION
OF THE BLIND
COLORADO
Live the life you want.



Southwest Center for Independence



DISABILITY LAW
COLORADO

Protecting the rights of Coloradans of all ages since 1976



OFFICE OF RESPONDENT
PARENTS' COUNSEL

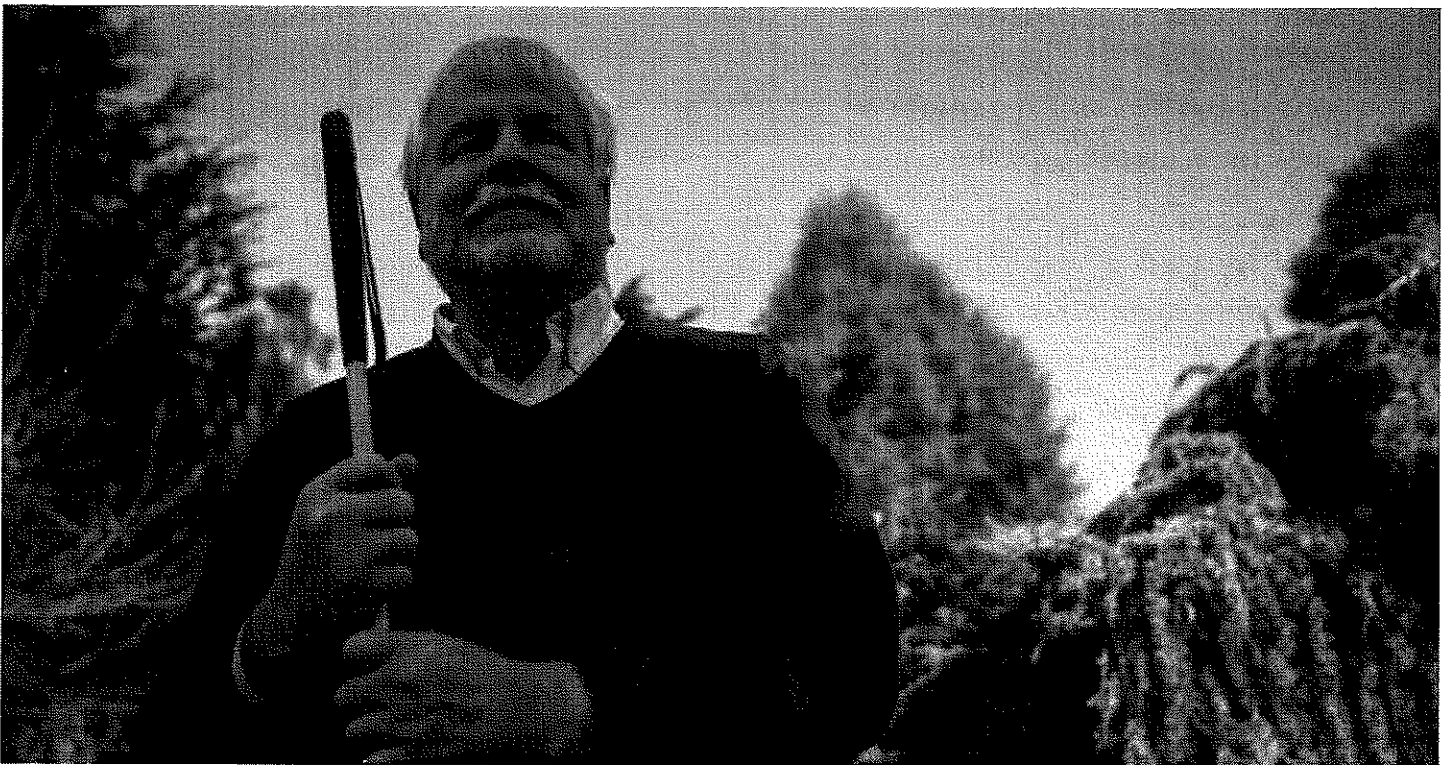


HOMELAND SECURITY

Vaccine Websites Violate Disability Laws, Create Inequality

Across the country, people who use special software to access the Web have been unable to sign up for the vaccines or obtain vital information because many government websites lack required accessibility features.

March 02, 2021 • Lauren Weber and Hannah Recht, Kaiser Health News



When Bryan Bashin of Alameda County, California, tried on Feb. 9 to sign up for his vaccine appointment, he found the website was inaccessible. Bashin is blind and the CEO of the LightHouse for the Blind and Visually Impaired in San Francisco. (Shelby Knowles for KHN/TNS)

TNS

(TNS) - Many COVID vaccination registration and information websites at the federal, state and local levels violate disability rights laws, hindering the ability of blind people to sign up for a potentially lifesaving vaccine, a KHN investigation has found.

Across the country, people who use special software to make the web accessible have been unable to sign up for the vaccines or obtain vital information about COVID-19 because many government websites lack required accessibility features. At least 7.6 million people in the U.S. over age 16 have a visual disability.

WebAIM, a nonprofit web accessibility organization, checked COVID vaccine websites gathered by KHN from all 50 states and the District of Columbia. On Jan. 27, it found accessibility issues on nearly all of 94 webpages, which included general vaccine information, lists of vaccine providers and registration forms.

In at least seven states, blind residents said they were unable to register for the vaccine through their state or local governments without help. Phone alternatives, when available, have been beset with their own issues, such as long hold times and not being available at all hours like websites.

Even the federal Centers for Disease Control and Prevention's Vaccine Administration Management System, which a small number of states and counties opted to use after its rocky rollout, has been inaccessible for blind users.

Those problems violate the Rehabilitation Act of 1973, which established the right to communications in an accessible format, multiple legal experts and disability advocates said. The federal Americans with Disabilities Act, a civil rights law that prohibits governments and private businesses from discriminating based on disability, further enshrined this protection in 1990.

Doris Ray, 72, who is blind and has a significant hearing impairment, ran into such issues when she tried to sign up for a vaccine last month with the CDC's system, used by Arlington County in Virginia. As the outreach director for the ENDependence Center of Northern Virginia, an advocacy center run by and for people with disabilities, she had qualified for the vaccine because of her in-person work with clients.

When she used screen-reading technology, which reads a website's text aloud, the drop-down field to identify her county did not work. She was unable to register for over two weeks, until a colleague helped her.

"This is outrageous in the time of a public health emergency, that blind people aren't able to access something to get vaccinated," Ray said.

Mark Riccobono, president of the National Federation of the Blind, wrote to the U.S. Health and Human Services Department in early December, laying out his concerns on vaccine accessibility.

“A national emergency does not exempt federal, state, and local governments from providing equal access,” he wrote.

Dr. Robert Redfield, who was then leading the CDC, responded that the interim vaccine playbook for health departments included a reminder of the legal requirements for accessible information.

CDC spokesperson Jasmine Reed said in an email that VAMS is compliant with federal accessibility laws and that the agency requires testing of its services.

But more than two months into a national vaccine campaign, those on the ground report problems at all levels.

Some local officials who use VAMS are aware of the ongoing problems and blame the federal government. Arlington Assistant County Manager Bryna Helfer said that because VAMS is run by the federal government the county cannot access the internal workings to troubleshoot the system for blind residents.

Connecticut Department of Public Health spokesperson Maura Fitzgerald said the state was aware of “many accessibility issues” with VAMS. She said it had staffed up its call center to handle the problems and was working with the federal government “to improve VAMS and enable the functionality that was promised.”

Deanna O’Brien, president of the National Federation of the Blind of New Hampshire, said she had heard from blind people unable to use the system. New Hampshire’s health department did not answer KHN questions about the problems.

Blind people are particularly vulnerable to contracting the COVID virus because they often cannot physically distance themselves from others.

“When I go to the grocery store, I do not have the option of walking around and not being near a person,” said Albert Elia, a blind attorney who works with the San Francisco-based TRE Legal Practice on accessibility cases. “I need a person at the store to assist me in shopping.”

There is no standardized way to register for a COVID vaccine nationwide — or fix the online

accessibility problems. Some states use VAMS; some states have centralized online vaccination registration sites; others have a mix of state-run and locally run websites, or leave it all to local health departments or hospitals. Ultimately, state and local governments are responsible for making their vaccination systems accessible, whether they use the VAMS system or not.

“Once those portals open, it’s a race to see who can click the fastest,” Riccobono said. “We don’t have time to do things like file a lawsuit, because, at the end of the day, we need to fix it today.”

Common programming failures that make sites hard to use for the visually impaired included text without enough contrast to distinguish words from the page’s background and images without alternative text explaining what they showed, the WebAIM survey showed. Even worse, portions of the forms on 19 states’ pages were built so that screen readers couldn’t decipher what information a user should enter on search bars or vaccine registration forms.

The new vaccine pages had more errors than states’ main coronavirus pages but slightly fewer than state government websites in general, said WebAIM Associate Director Jared Smith.

In Alameda County, California, when Bryan Bashin, 65, who is blind and CEO of the LightHouse for the Blind and Visually Impaired in San Francisco, tried to sign up on Feb. 9 for his vaccine appointment, he encountered multiple hurdles. The appointments slipped away. That night he received an email from the city of Berkeley offering vaccinations. But after two hours struggling with its inaccessible website, all the slots were again taken, he said in an email.

He was only able to get an appointment after his sighted sister signed him up and has since received his first shot.

“It’s an awful bit of discrimination, one as stinging as anything I’ve experienced,” Bashin said.

Susan Jones, a blind 69-year-old in Indianapolis, had to rely on the Aira app, which allows a sighted person to operate her computer remotely, when she tried to register for her vaccine appointment.

“I resent that the assumption is that a sighted fairy godmother ought to be there at all times,” said Sheela Gunn-Cushman, a 49-year-old also in Alameda County, who also had to rely on Aira to complete preregistration for a vaccine.

Emily Creasy, 23, a visually impaired woman in Polk County, Oregon, said she tried unsuccessfully for a month to make the scheduling apparatus work with her screen reader. She

finally received her first shot after her mother and roommate helped her.

Even Sachin Dev Pavithran, 43, who is blind and executive director of the U.S. Access Board, an independent agency of the federal government that works to increase accessibility, said he struggled to access vaccine registration information in Logan, Utah.

The Indiana Health Department, Public Health Division of Berkeley and Oregon's Polk County Public Health did not respond to requests for comment. Utah's Bear River Health Department did not answer questions on the issue.

After Alameda County received complaints from users that its site was not compatible with screen readers, officials decided to move away from its preregistration technology, Health Department spokesperson Neetu Balram said in mid-February. The county has since switched to a new form.

If vaccine accessibility issues are not fixed across the country, though, lawsuits could come next, Elia said. Members of the blind community recently won landmark lawsuits against Domino's Pizza and the Winn-Dixie grocery chain after being unable to order online.

And, Elia said, "this is not ordering a pizza — this is being able to get a potentially lifesaving vaccine.

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