Overview of concerns with H.R. 620,
the ADA Education and Reform Act of 2017

H.R. 620 would weaken the ADA, a critical source of rights for people with disabilities to public accommodations (that is, businesses such as stores, restaurants, hotels, etc.). It would turn people with disabilities into second-class citizens, and undermine very principles of an inclusive society that America is all about.

It is exceptionally harmful because:

1. Today, businesses have an obligation to make themselves accessible, and there's a consequence if they don't. Under H.R. 620, there would be no consequence, and thus, no incentive to comply with the ADA. People could still be excluded without a good way to enforce the ADA, while businesses take a wait-and-see attitude. Almost 27 years since the ADA was enacted, businesses should be expected to comply with their legal obligations.

2. The bill's backers are forgetting the everyday experiences of millions of people with disabilities who cannot shop, transact personal business, or enjoy recreation like most people can take for granted, because so many public accommodations across the country have ignored the reasonable requirements of the ADA. The ADA is the difference between participation and exclusion on a daily basis. Why should a wheelchair user be unable to join her family at a restaurant, just because the owner has resisted installing a ramp for 25 years?

3. H.R. 620 requires a person with a disability who encounters an access barrier to send a written notice with the exact provisions of the ADA that are being violated. The ADA should not place the heaviest burden for ending discrimination on the very people the law is supposed to protect! H.R. 620 also gives the business owner 60 days to even acknowledge that there is a problem—and then another 120 days to begin to fix it. No other civil rights group is forced to wait 180 days to enforce their civil rights. Even then, the business would face no consequence for violating the law for months, years, or decades, if it takes advantage of the months-long period to remedy the violation before a lawsuit is permitted.

4. The ADA is already very carefully crafted to take the needs of business owners into account. Compliance is simply not burdensome. But H.R. 620 changes the careful compromise originally designed by a bipartisan Congress in 1990, and wrecks havoc with the entire ADA scheme. Remember that existing businesses are only required to provide access when doing so is readily achievable. Any further weakening would do major damage to the ADA's disability rights protections.

5. Establishing and running a business necessitates compliance with many laws and rules—this is the cost of doing business. It is unthinkable that we would delay or eliminate consequences for small businesses that failed to pay taxes, or meet

health and safety codes. Violating the rights of people with disabilities should be treated no differently.

6. Many businesses are unaware of the already extensive federal efforts to educate business owners about their ADA obligations, including the in-depth DOJ ADA website (http://ada.gov), the DOJ ADA hotline, extensive DOJ technical assistance materials, and the ten federally-funded regional ADA Centers that provide in-depth resources and training in every state (www.adata.org). Yet a great many of the millions of public accommodations in the U.S. have made no effort to comply with the ADA.

7. Supporters of this bill have raised concerns about money damage awards. But that has nothing to do with the ADA, because the ADA does not allow money damages.[1] Such damages are only available under a handful of state laws. For Congress to amend the ADA will do nothing to prevent damage awards under state laws.

8. The ADA accessibility standards are extremely important. They are not minor details or picky rules, but rather, are essential to ensure true accessibility. A doorway that is too narrow can be the difference between accessing a business or not. A too-short bathroom grab bar can be the difference between using a restroom or being forced to go without a restroom.

9. Supporters of H.R. 620 cite concerns about frivolous lawsuits or serial litigants. But the vast majority of ADA attorneys and plaintiffs are seeking solutions to fix real denials of access. For the rare few who may file fraudulent claims or engage in unscrupulous practices, courts and state bar associations already have extensive power to deal with any frivolous litigants or their attorneys. We should use those existing legal mechanisms when needed, rather than denying the civil rights established by the ADA.

Please do not place additional barriers in the path of people with disabilities! We urge you to reject H.R. 620 and similar bills.

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[1] Money damages are not allowed for private plaintiffs under Title III of the ADA, which applies to privately operated public accommodations, commercial facilities, and private entities offering certain examinations and courses. *See* 42 U.S.C. § 12188; 42 U.S.C §§ 12182 and 12181(7); 42 U.S.C. §§ 12183 and 12181(2); and 42 U.S.C. § 12189.

UPDATED: April 17, 2017