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**Center for Independence of the Disabled, NY**

**May 2018**

**CIDNY LEGISLATIVE AGENDA**

**CIVIL RIGHTS**

***Support a Right to Vote Privately and Independently for People with Disabilities. S382 (Carlucci).***

While progress has been made as a result of the Help America Vote Act, people with disabilities are still not able to vote privately and independently in local elections because inaccessible paper ballots are being used, without the option for the use of accessible Ballot Marking Devices that are available in state and federal elections. Moving local, village, county and NYC elections to coincide with the dates of state and federal elections would help eliminate discrimination in voting by making Ballot Marking Devices available at all elections.

***Support the creation of a Office to Advocate for People With Disabilities. A.10706 (Skoufis)***

This bill would re-establish the office with a Director, and would make that person in charge of the Most Integrated Setting Coordinating Council (MISCC).

**EDUCATION**

***Support the requirement that all persons applying for teaching certificate, school administrators and other staff complete enhanced coursework or training in the area of trauma as it relates to children and its impact on children's development and learning. S8000A (Bailey)/A100063A (Joyner).***

Many schools lack de-escalation plans or crisis intervention teams to address what is considered "disruptive behavior." Failure of having de-escalation plan or crisis intervention team leads to excessive use of EMS or police. This law mirrors the language of a stipulation entered into by New York City after a federal suit.

The policy of calling EMS or police when a student expresses anger and frustration in an inappropriate manner was found discriminatory against students because of their disability or perceived disabilities. The discriminatory action taken by the school interferes with the education of students with disabilities. It causes the student to miss a substantial amount of school. In some cases, the student may then have a criminal record.

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***Support oversight of student loan servicers who are a link between lenders and borrowers. These servicers should inform borrowers of all their rights to permanently discharge the student loan debt because of a disability. A.07582 (Zebrowski) /S.6589 (Hamilton).***

Currently, student loan servicers are unregulated. Their services are critical resources for borrowers with disabilities or people who become disabled. The servicers should explain to the borrower all their options in making payments or having the loan discharged. For example, a Consumer Financial Protection Bureau found that student loan servicers hinder borrowers from applying for an income-driven payments program. Instead, they push them into temporary forbearance and deferment options. This still requires payment of the interest on the loan, or it accrues increasing the total amount one has to pay. Thus, the burden actually increases.

A disability may arise while attending school or after employment when one is still making payments towards their loan. One study showed that more than one in four of today's 20 year-olds can be expected to be out of work for at least a year because of a disabling condition before they reach the age of retirement. This means that many more people than might be assumed may have to defer or request discharge of their school loans. At the same time, another study found that although people with disabilities who are receiving SSDI or SSI benefits exceed retirees' benefits, their monthly benefit amount is usually lower. Therefore, they may have more difficulty in repaying student loans. In any case, most people with disabilities who have student loans are more at risk of loan burden or default on loans.

**JUSTICE SYSTEM**

***Support the Child Victims Act which will increase statute of limitation, will allow for a child victim of sexual abuse to file a civil claim until the victim reaches age 50 and and increase the time to file a criminal claim until the victim turns 28. A.5885 (Rosenthal).***

Children with disabilities are 2.9 times more likely than children without disabilities to be sexually abused. The percentage rises dramatically for children with intellectual disabilities or mental health disabilities. These children face more than 4.6 times the risk of sexual abuse as their peers without disabilities.

Often children with disabilities can't even communicate what has happened. It may be because they physically can't speak, or because they are intellectually disabled with limited speech or ways to articulate what has happened to them. In the case of an intellectually disabled child or mentally ill child, even when they could express what happened, they may not be believed.

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Allowing more time to file a claim of sexual abuse shows an understanding of the process a sexually abused child goes through to understand what happened. Dealing with the horror and identification of being a victim of sexual abuse as a child takes decades. Children have to block out the abuse to continue living some form of a "normal" life. Even after they put a label on it, they then have to deal with the guilt because they believe that it was their fault.

**Oppose the Senator Young's Child Victims Act which will would allow for funds allocated to rape survivors to remove any responsibilities of prior heinous acts by child abusers. Plus, protect the insurance companies that would be responsible to pay damages to the children who were sexually abused. S.8736**

This bill misses the mark completely and shields abusers and institutions that perpetuated the sexual abuse of children from any liability. The state must not protect institutions that shield abusers.

There simply is no justice without accountability. In addition, it allows for no disclosure of who the perpetrator is. This would facilitate future abuses as potential victims and family members would not know to avoid the individual. The time for real reform is now. Survivors and advocates demand that the New York State Senate do better.

### **EMPLOYMENT**

***Support a Small Business Tax Credit for Employing People with Disabilities. A1369 (Cusick)/S3688 (Addabbo).***

Currently, the employment rate for New Yorkers with disabilities is 32 percent, resulting in an employment gap between people with and without disabilities of 41 percent. The Governor's Employment First Executive Order recommended establishment of a small business tax credit. We support the inclusion of a small business tax credit.

### **HEALTH**

***Access to Medication. A3119 (Joyner)/S1743 (Golden).***

CIDNY strongly supports this legislation that is necessary to ensure that consumers can have the choice of accessing their covered medications from a local pharmacy or by mail order. In 2011 the legislature passed the Anti-Mandatory Mail Order law to ensure patients had access to both an in-network local and mail order pharmacy option. Language added to the law has allowed health plans to impose additional

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terms and conditions on in-network local pharmacies, effectively excluding them from providing certain medications to patients. The legislation has passed the and is now in the Senate Insurance Committee.

S.3119/A.1743 will help fully realize the promise of the 2012 Anti-Mandatory Mail Order law and protect patient access to their prescription medications from a pharmacy option which best meets the patient's individual care needs. While mail order pharmacies work well for some patients, other patients need direct pick-up of medication because they lack a secure, private place to have medication delivered or they take medication that requires special handling (and can't be left outside). When a patient can see a pharmacist in person, the pharmacist is better able to monitor patient adherence to treatment regimens, assess possible side effects or drug interactions and communicate with patients. Local pharmacies can also better interact with clinicians to adjust medication regimens. All of this is important to patients on multiple medications, those with complex, chronic conditions and patients with difficulty communicating.

Consumers are the ones who should decide whether to receive medications by mail or from a local pharmacy. This decision should not be left up to an insurance company.

### ***Improve Formulary Prior Authorization Processes and prohibit mid-year formulary changes. A9588 (Gottfried)/S7872 (Hannon).***

CIDNY supports A9588/S7872 which would improve prior authorization processes to ensure that clinical review criteria use recognized evidence based criteria that take into account the needs of atypical patient populations and diagnoses and shortens the decision making time frame so that a person can get medication they need in a timely way. Last year we secured passage of legislation that improved the ability to override step therapy processes when necessary. Similar protections are needed for prior authorization processes. The legislation also limits prescription drug formulary changes.

### ***Prohibit dropping drugs or moving them to a higher tier during a Plan year. A2317 (Peoples- Stokes)/S5022 (Serrino).***

CIDNY supports this legislation which would prohibit dropping of drugs from health plan formularies or adding higher cost sharing or new utilization review requirements for drugs already on formulary during a plan year unless, in the case of movement of a drug to a higher cost-sharing tier, a generic equivalent for that drug is being added to the formulary.

One of the most important things a consumer checks in determining what health plan he or she will enroll in is whether prescription drugs on which that individual depends

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are covered in the plan's formulary. Restricting mid-year formulary changes introduces a measure of fairness. Consumers who pick a plan because it covers their drugs will have the assurance that the reason for their choice will remain in place for the entire year for which they are committed to that plan.

### ***Preserving access to quality complex rehabilitation technology for patients with complex medical needs.***

Individuals with complex needs and chronic disabling conditions cannot remain mobile, safe and healthy without equipment that addresses their specific disability. CIDNY has supported legislation that would make sure that Medicaid Managed Care Plans use suppliers who have at least one storefront in New York State, have certified technicians on staff and that are able to individually fit, service and repair complex rehabilitation. We were disappointed that Governor Cuomo vetoed a modest bill (A6120 McDonald/S4557 Ortt) that would have defined complex need patients, complex rehabilitation technology and qualified complex technology suppliers, and would have directed the commissioner to monitor the addition of new Medicare billing codes for complex rehabilitation technology and expeditiously add these codes to the Medicaid program. Legislation should be introduced that will improve access to quality complex rehabilitation equipment that is essential to CIDNY participants' lives.

## **HOUSING**

### ***Support Inclusive Home Design/Visitability Features in Residential Housing That Receives Financial Assistance for Construction from Federal, State, County or Local Governments. A1023 (Simon) /S3315 (Kreuger).***

There is an accessible housing crisis in New York State for people with disabilities that contributes to unnecessary institutionalization. People who are no longer nursing home eligible are unable to leave nursing homes because there is insufficient housing stock that is accessible for people with disabilities—at great cost to State taxpayers. Inclusive home design/visitability can contribute to a solution to this problem.

### ***Support a Proposal in the Governor's Program Bill to Amend the States Human Rights Law to Make Discrimination by Landlords Based on a Tenant's Source of Income Illegal. Program Bill Number 23 same as A.10610 (Weprin).***

More than one third of people with disabilities are severely rent burdened, spending more than 50 percent of their income on housing. A modest one bedroom costs an average of 133 percent of a person's SSI in New York State. However, too often landlords turn down rental subsidies that permit people with disabilities to live in the community—relegating them to institutions at high cost to taxpayers. A prohibition

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against permitting discrimination based on source of income, whether someone has a voucher or other rental subsidy, would help alleviate this problem.

### **Employment**

#### ***Support a Waiver of the State's Sovereign Immunity to Claims under the ADA and Section 504. A2546 (Lifton)/S1522 (Avella).***

When state workers are discriminated against, they are not currently permitted to sue their employer in federal court for money damages, including lost wages. Public employers should be held to the same standard as private employers and should not be permitted to violate federal civil rights law.

Three states have waived their Sovereign Immunity from the ADA and none have reported an increase in cost or litigation. By waiving New York State's Sovereign Immunity, the State would be required to make reasonable accommodations. New Yorkers employed by the State would also be afforded the protection under the ADA and Fair Labor Standards Act.

### **TRANSPORTATION**

#### ***Support that taxi and limousine companies are required to have accessible vehicles. A.5537 (Weprin)***

People with disabilities should be afforded the same opportunities to use all forms of transportation. Taxis and limousines don't have access to accessible vehicles. This bill will require them to have accessible vehicles.

#### ***Support fare parity for paratransit. A. 3980 (Sepulveda)/S. 2382 (Alcantara).***

CIDNY supports bills that set paratransit fees no higher than bus/subway fares for transportation of non-disabled adults using the public transit system. Currently people with disabilities who cannot use public transportation use the paratransit system. However, fares are higher for paratransit transportation than for public transit. For people with disabilities who are at a low and fixed income, this is an unreasonable financial burden.