

# UNITED SPINAL<sub>NOW</sub>

## It's Been 28 Years

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**T**wenty eight years after the passage of the ADA (Americans with Disabilities Act), let's take a little time to assess where we've been, where we are and where we're going, both in New York and nationally.

Certainly, the visibility of people with disabilities (PWDs) has increased. Since 1975, the Individuals with Disabilities Education Act (IDEA) mainstreamed children with disabilities into the public school system and required integrated educational settings to the maximum extent feasible.

The theory behind IDEA was that mainstreamed children with disabilities would be exposed to their peers in public school settings which will, in addition to making people with disabilities educated and employable, remove the stigma of disability and encourage socialization between children without disabilities and children with disabilities.

Coupling education with stigma-removal was predicted to increase the employment rate of PWDs. Unemployment among PWDs ranges in the 55-65 percent, the same as it was in 1990 when the Americans with Disabilities Act passed.

The ADA, the omnibus nondiscrimination law required reasonable accommodation by proprietors of places of public accommodation, employers and state and local government. Nevertheless, the percentage of PWDs that remain unemployed is at least 10 times the national average.

The Affordable Care Act (ObamaCare) could have been the Emancipation Proclamation for PWDs as it outlawed denials of health insurance or waiting periods before eligibility, based on preexisting conditions. Theoretically, this provision would encourage those with disabilities to leave Medicaid, get jobs and be covered by employer provided healthcare.

Currently, the Justice Department is not defending the Affordable Care Act in a suit brought by Texas and 19 other state attorneys general. Moreover, the Trump administration is discussing not requiring insurers to cover preexisting conditions – a proposal that would set back employment of people with disabilities and discourage job seekers from leaving Medicaid despite their education, training and previous work history.

We've had some resounding victories in the past few years, however. We've made taxis accessible (at least in Manhattan, although there are some in the boroughs and in other cities). We've brought the battle to the rideshares, like Uber (but they are still fighting back) and encouraged Airbnb to include accessibility in their matrix of apartment features.

Various technological developments have made life easier, more affordable and rewarding for people with severe physical and mental disabilities.

New buildings are routinely constructed accessibly, and when they are not, the public notices. Existing buildings have had to remove barriers, but only when barrier removal can be done without great difficulty or expense. This means that many places open to the public remain inaccessible, or have inaccessible restrooms, dining areas, changing rooms, etc.

When Pres. George H.W. Bush signed the ADA, he stated "I now lift my pen to sign this Americans with Disabilities Act and say - Let the shameful wall of exclusion finally come tumbling down."

The "shameful wall of exclusion" did not exactly tumble down. Instead, it's eroding, slowly but certainly. It's been ramped in places, worn down in others but, unfortunately, it still exists.

In spite of that, PWDs and the organizations that represent them continue to educate, cajole, persuade and force change. Nondiscrimination used to mean refrain from treating people differently because of their status, i.e. race, religion, age, marital status, etc. As it applies to disability, nondiscrimination means not to just treat PWDs the same as everyone else but to act, albeit reasonably, to accommodate disability.