

## **Long Journey:**

### **The Americans with Disabilities Act of 1990 and Protection of People with Disabilities**

When the Americans with Disabilities Act (ADA) was signed into law in 1990 by President George H.W. Bush, it promised to be a vital means of protecting the interests of people who were treated unfairly because of their disability or perception of a disability. In fact, it has been very successful in opening doors to people with a wide variety of disabilities. Employers cannot ask in advance of hiring whether you have a disability; the physical world is more accessible; you cannot be excluded from participation in public activities and facilities because you have a disability. You may ask for an accommodation in the workplace if you believe you need it to do your job. Most importantly, people with disabilities like epilepsy, diabetes, cancer and other conditions recognize that they are entitled to equal protection of the law, and are increasingly seeking to protect their rights. The general public believes in the principle that people should be hired based upon their ability to do the job at hand, not on the basis of preconceived notions about people with disabilities. But a major problem was also brewing over the first 15 years of ADA implementation. Federal courts were increasingly holding that people with conditions like epilepsy and diabetes, who might take medication, or who might be doing well enough to manage daily life in between seizures or insulin shots, were not covered by the law, even if they had faced discrimination because of their condition. A series of Supreme Court decisions severely narrowed who was covered by the law. Much to their surprise, most people with epilepsy who went to court to allege employment discrimination found they were not protected by the ADA.

On September 25, 2008, President George W. Bush signed into law the Americans with Disabilities Act Amendments Act of 2008 (ADAAA). This law restored the rights of persons with epilepsy to be protected under the ADA and to be treated fairly by employers. Once again, people with any type of disability should no longer have to worry they will not be protected by law from discrimination in the workplace. The ADAAA makes it clear that Congress intends, as it originally intended, for people with conditions such as epilepsy, diabetes, cancer and multiple sclerosis to be covered by the law and protected from discrimination on the basis of their disability.

The fight to restore these basic civil rights to people with chronic health conditions was long and hard-fought. Following are some highlights of that heroic struggle.

- 1988                      Congressman Tony Coelho (D-CA) and Senator Lowell Weicker (R-CT) introduce H.R. 4498 and S. 2345, proposing that people with disabilities be protected from unfair discrimination similar to civil rights protections contained in the Civil Rights Act of 1964.
- 1990                      Following two years of hearings, and the introduction by Congressman Coelho and Senator Tom Harkin (D-IA) of modified versions of legislation to protect people with disabilities against unfair discrimination, on July 26<sup>th</sup>, President George H.W. Bush signs the Americans with Disabilities Act into law. The passage of the ADA marked the most significant advancement for the civil rights of people with disabilities the world has known. The ADA provided comprehensive protections against disability discrimination in employment, public services, public accommodation and services operated by private entities, transportation and telecommunications. It becomes a model for countries all over the world.
- 2000 to 2006            The U. S. Supreme Court issues decisions dramatically limiting the scope of the definition of disability under the ADA. People with epilepsy, along with many others, discover routinely in court that they are no longer protected by the ADA from discrimination because they do not have a disability.
- Fall 2006                H.R. 6258, the Americans with Disabilities Restoration Act of 2006, is introduced in U.S. House of Representatives by Judiciary Committee Chair F James Sensenbrenner, Jr (R-WI), Ranking Member John Conyers (D-MI), and Minority Whip Steny Hoyer (D-MD). This first legislative attempt to address some of the problems resulting from the federal courts' interpretations of the ADA followed an oversight hearing by the Chair of the Judiciary Subcommittee on the Constitution, Representative Steve Chabot (R-OH), on the ADA.
- July 26, 2007           The ADA Restoration Act of 2007, H.R. 3195 is introduced by Majority Leader Hoyer, Judiciary Committee Chair John Conyers, and Representative Sensenbrenner, with 144 original bipartisan cosponsors. Similar legislation, S. 1881, is introduced on the same day in the Senate by Senator Tom Harkin, Senator Edward Kennedy (D-MA), and Senator Arlen Specter (R-PA).

- Fall 2007      Epilepsy Foundation along with broader disability community organizes grassroots support for ADA Restoration throughout this time. Hearings are held in the House Judiciary Committee, and in the Senate HELP Committee. By the end of the year, the House bill has 246 cosponsors.
- 2008      The House Committee on Education & Labor, committee with primary responsibility for the legislation, holds a hearing on the bill in January. It becomes clear that bipartisan leadership in House would like to pass a bill that has strong bipartisan, business and disability community support. Parties are asked to negotiate such a bill for the House to consider.
- June 25, 2008      A negotiated bill, agreed to by all parties and by all Committees of jurisdiction, passes in the House as the amended H.R. 3195. Yeas: 402. Nays: 17
- July 31, 2008      Senator Harkin and Senator Hatch introduce S. 3406, an amended version of the House passed bill, with 62 bipartisan cosponsors.
- September 11, 2008      S. 3406 passes the Senate by unanimous consent.
- September 25, 2008      President George W. Bush signs the ADA Amendments Act of 2008 into law.

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