



October 22, 2016

Amelia Brown  
Luke Skau  
Honorable Andrew M. Cuomo  
Ava Fiacco  
Governor of New York State  
NYS State Capitol Building  
Albany, NY 12224

RE: S.7873-B / A.9835-B; NYS Medical Indemnity Fund

Dear Governor Cuomo,

As an organization that advocates for persons with disabilities and families of neurologically injured children who are enrolled in the NYS Medical Indemnity Fund ("MIF"), we strongly support S.7873-B (Hannon) / A.9835-B (Abinanti). We need this legislation, because it will fix problems that impair the ability of the MIF to provide children with the care and services they need. We urge you to sign this important bill into law.

As you know the MIF applies to children who sustained birth-related neurological injuries because of negligence in medical care. Each of these children who are now enrolled in the MIF received either a court-approved settlement or judgment because of such an injury. Under the MIF law these children cannot obtain direct compensation from defendants. Instead they must be enrolled in the MIF which then pays for medical care over time as costs are incurred.

Unfortunately, because of shortcomings in the MIF that will be remedied by this legislation, many parents have been forced to pay out-of-pocket to obtain the healthcare services or accommodations their children need. This increases the stress on parents, in caring for their neurologically injured children, and in some cases it results in these children being deprived of the care or accommodations they should have.

Right now the law allows only doctors to be paid at the "usual and customary rates." Nurses, physical therapists and other providers – who must provide most of the healthcare services children need – are only paid at Medicaid rates. Children require specialized care; it is often very hard to find services at these low rates, and we end up having to pay out-of-pocket just to get our children proper care. That is not how it should be.

Some parents have faced unreasonable denials for care or accommodation that have made it hard to provide for their children's needs. The existing appeal process is cumbersome, and often ends up with the need to bring an entirely new legal action through Article 78. This legislation would streamline the process by allowing us to bring a motion in the case already established.

We know that the MIF can afford to provide better care for children. We understand from recent reports that the MIF currently has approximately \$150 million in accumulated surplus.

We therefore respectfully urge you to sign this bill into law, so that these children will be better served and parents will be better able to obtain for their children the care they need.

Sincerely,

Lisa Tarricone  
Director, Systems Advocacy