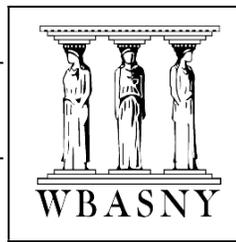

Women's Bar

OF THE STATE



Association

OF NEW YORK

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October 12, 2017

Honorable Andrew M. Cuomo
Governor of the State of New York
State Capitol
Albany, New York 12224

Dear Governor Cuomo:

The Women's Bar Association of the State of New York ("WBASNY") urges you to sign A.8516/S.6800, also known as Lavern's Law. WBASNY is the second largest bar association in the state, comprised of over 4,300 members committed to the advancement of women in the legal profession and dedicated to insuring equality for women in our society. In furtherance of these goals, WBASNY's mission is to advocate for legislation that promotes equal access to justice and gender equality.

For these reasons, WBASNY respectfully requests your signature on Lavern's Law. This bill has a limited scope and only applies to cases involving cancer or malignant tumors. Passage of this bill will provide equal access to justice for people who have been victims of a failure or a delay in diagnosing cancer or malignant tumors by allowing them to bring a lawsuit from the time when they discover, or should have discovered, that their injury was caused by that failure. This is known commonly as a "date of discovery" rule.

New Yorkers need action on this issue now. New York is one of only seven states that does not have a date of discovery rule. This bill addresses a problem that negatively and disproportionately affects women, as women are more vulnerable and at higher risk for being a victim of this type of medical error in that women routinely undergo annual mammograms and other annual gynecological testing.

The intent behind Lavern's Law (A.8516/S.6800) is to rectify the injustice of the current rule, which leaves New Yorkers without a remedy when the statute of limitations (currently 2 1/2 years) expires before they ever had reason to know that the medical care they received, failed to disclose cancer and/or a malignant tumor.

The unfairness manifests itself primarily in a failure or delay to diagnose cancer cases. It happens when mammograms, x-rays, laboratory tests or other diagnostic results are either misread or in some cases not read at all. The patients are then wrongly advised they are fine, but later they discover they have cancer, which if it had been timely diagnosed and treated can literally mean the difference between life and death.

It needs no citation of authority that when patients are misdiagnosed their chance of survival are diminished by the delay. Under the current law, these patients and/or their families are often time barred from seeking redress. In this regard, New York is out of step with most of the rest of the country and victims of malpractice are punished through no fault of their own. Thus, the current rule makes these patients victims not once, but twice.

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WBASNY strongly supports Lavern's Law (A.8516/S.6800). The lack of a date of discovery rule in New York is damaging to all New Yorkers, but discriminates disproportionately against women. This bill will bring some equity to this unjust circumstance.

New York has been and continues to be a progressive state, championing its citizens' rights. We should not be one of only seven states without a fair and just discovery statute. We respectfully request that you sign the bill and allow equal access to justice.

Sincerely,

A handwritten signature in black ink, reading "Amy Baldwin Littman", followed by a long horizontal flourish.

Amy Baldwin Littman
President, WBASNY