

Organizational Sign-On Letter In Support of Lavern's Law

June 10, 2015

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

Honorable John Flanagan
Senate Majority Leader
NYS State Capitol Building
Albany, NY 12247

Honorable Carl Heastie
Assembly Speaker
NYS State Capitol Building
Albany, NY 12248

Re: Lavern's Law -- A.285 (Weinstein) / S.911 (Libous)

Dear Governor Cuomo, Majority Leader Flanagan, and Speaker Heastie:

We are writing to express our strong support for New York to pass Date of Discovery legislation to amend the statute of limitations to protect the rights of medical malpractice victims.

New York is one of just six states without a Date of Discovery law. This means that the statute of limitations for patients hurt by preventable medical errors starts from the day the mistake was made, and not when the patient discovers the error. This is unfair to victims of medical errors who may *only realize the harm they have suffered after the statute of limitations has already passed.*

This is exactly what happened to Brooklyn mother Lavern Wilkinson.^[1] She was not told of an x-ray revealing lung cancer for more than two years and her disease was left untreated. By the time she discovered the error, the cancer had spread and become fatal. Lavern Wilkinson passed away in March, 2013.

Because New York lacks a Date of Discovery rule, Lavern and her family were left with no legal rights and without proper access to justice. She is not alone. Too often, hospitals and health care providers who commit egregious, preventable mistakes are allowed to escape responsibility simply because their mistake was hidden until it was too late. The current law removes incentives for hospitals and doctors to improve patient safety measures and these avoidable mistakes continue to occur. In fact, it encourages a wall of silence that can further harm patients.

^[1] Heidi Evans, *Clock Has Run Out for Cancer-stricken Single Mom to Sue for Malpractice*, New York Daily News, February 24, 2013, available at <http://www.nydailynews.com/new-york/laverne-article-1.1271925>.

We call on you to **act now to close this harmful loophole** in New York's statute of limitations so that patients can pursue their legal rights when they need them – instead of discovering that an outdated law denies them access to justice, adding insult to injury. This is a sensible change that is fair and reasonable to all involved.

Thank you for your consideration of this critical issue. If you wish to discuss this matter further, feel free to contact Bob Cohen, Policy Director, Citizen Action of New York, at bcohen@citizenactionny.org or (518) 465-4600 x104.

Very truly yours,

Brooklyn Center for Independence of the Disabled
Bronx Independent Living Services
Center for Independence of the Disabled, NY
Center for Justice & Democracy
Citizen Action of New York
DENSE NY (Density Education National Survivors' Effort)
Disabled in Action of Metropolitan NY
Empire State Consumer Project
Gray Panthers, NYC Network
Long Island Progressive Coalition
Long Term Care Community Coalition
Lupus and Allied Diseases Association, Inc.

Metro Justice
Metro New York Health Care for All Campaign
NAACP New York State Conference
New York Public Interest Research Group
New Yorkers for Accessible Health Coverage
New Yorkers for Patient & Family Empowerment
Niagara Health Quality Coalition
Peace Action of New York State
The Commission on the Public's Health System
The New York Immigration Coalition