Doctors, business groups urge Cuomo to veto malpractice bill

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****Photo courtesy of the Governor’s Office

Two powerful associations are hoping the governor will not sign Lavern’s law, which would change the statute of limitations for certain types of medical malpractice.

A coalition of business groups and medical professionals is pushing for Gov. Andrew Cuomo to veto a bill that would redefine the statute of limitations on certain types of medical malpractice. Known as Lavern’s Law, the bill (S.6800/A.8516) would allow cancer patients to file lawsuits starting from the day they become aware of malpractice, not from the day it actually happened.

The bill, which originally applied to all malpractice before being made exclusive to cancer-related cases, was popular with malpractice victims and groups for patients’ rights. State lawmakers approve of it as well, passing it 56-6 in the Senate and 112-27 in the Assembly.

The law is named for Lavern Wilkinson, a Queens woman who died from a curable form of cancer in 2013. Lavern’s cancer had previously appeared on a chest x-ray when she sought treatment for pain, but medical professionals failed to notice it at the time. After the cancer had become incurable, Lavern sought to file a malpractice lawsuit, but the statute of limitations had expired by then.

****Lavern Wilkinson

An organization of 30,000 licensed physicians, medical residents and medical students opposes Lavern’s Law. They argue that it would drive medical professionals to practice in other states.

“It comes as no surprise that New York was recently given the dubious distinction as the worst state in the nation in which to practice medicine, in large part due to its huge liability costs as compared to most other states,” states the Medical Society of the State of New York in an open letter on its website asking Cuomo to veto the bill.

Others oppose the bill from a legal perspective, such as Tom Stebbins of the Lawsuit Reform Alliance of New York, a coalition of builders, contractors and business groups who are pushing to change the state’s liability laws.

“The enactment of this legislation would increase the cost of medical liability insurance for doctors and hospitals and have a detrimental impact on New Yorkers’ access to care, especially when it comes to women seeking breast cancer screenings,” said Stebbins in a letter to the governor last week.

Lavern’s Law has not yet been delivered to the Governor’s Office. Cuomo voiced his support for it, but that was before the bill was revised to only apply to cancer-related malpractice. Following its passage in the Legislature, a spokesperson for Cuomo said that the governor will review it before making a decision.

New York is one of six states that start a malpractice victim’s statute of limitations on the day it occurred.