



Legislation Text

File #: Res 0793-2023, **Version:** *

Res. No. 793

Resolution calling on the New York State Legislature to pass, and the Governor to sign, legislation to extend the statute of limitations for medical negligence and related injury civil suits to ten years.

By Council Members Hudson, Menin, Schulman, Riley, Brewer and Gutiérrez

Whereas, New York City has both a large number of medical facilities and providers, and a high volume of malpractice claims; and

Whereas, In New York State (“State”), the statute of limitations to sue for a particular condition, illness or injury resulting from medical malpractice is two years and 6 months from date of malpractice, or from the end of continuous treatment rendered by the party or entity; and

Whereas, This statute of limitations is the shortest negligence statute in the State, except for claims against municipalities; and

Whereas, The current statute of limitations causes undue hardship for victims of medical malpractice and related injuries, particularly in cases arising out of a misdiagnosis or failure to diagnose, where the patient may not discover the injury suffered until well after the statute of limitations has expired; and

Whereas, The current statute of limitations does not account for cases where the injury may not manifest itself until years after the negligent act, such as, for example, a patient exposed to radiation that eventually leads to cancer; and

Whereas, The State has already recognized the need for discovery of injuries in cases of toxic torts, enacting Civil Practice Laws & Rules (CPLR) Section 214-c in 1986, which delays the statutory period to initiate a lawsuit until individuals exposed to toxic substances have discovered their injuries; and

Whereas, In 1992, CPLR Section 214-c was amended to include implantation within “exposure” to

remedy an injustice to patients with silicone breast implants; and

Whereas, The current statute of limitations is founded on an outdated principle that a lawsuit based on negligence must be filed at the time of the negligent act; and

Whereas, Other states, including New Jersey and North Carolina, recognize that some injuries do not manifest at the time of the negligent act, and permits victims of medical malpractice to discover their injury before their statutory period to initiate a lawsuit runs out; and

Whereas, Extending the statute of limitations would remove this barrier, which effectively allows a patient's rights to expire before they are even aware they had rights in the first place; and

Whereas, While some individuals and lawyers may try to take advantage of statutes of limitations, such as, for example, by waiting until just before it expires in hopes of securing a settlement, or by disputing the date of injury; and

Whereas, According to a report by the Medical Liability Monitor, as of 2021, New York is among the states with the highest medical malpractice rates in the country; and

Whereas, These high rates are often attributed to the large number of medical malpractice claims in the State and the high cost of defending against such claims; and

Whereas, Such legislation would prevent the statute of limitations from being used as an unfair and inequitable shield for professionally negligent medical misconduct; now, therefore be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, legislation to extend the statute of limitations for medical negligence and related injury civil suits to ten years

LS #9705
03/07/2023
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