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The Honorable Kathy C. Hochul,
Governor of New York State
Executive Chamber
State Capitol
Albany, New York 12224

Re: Support for A.136 (Paulin)/S.138 (Hoylman-Sigal) (Medical Aid in Dying)

Dear Governor Hochul,

On behalf of the New York State Bar Association (“the Bar Association”), the nation’s largest voluntary state bar association, I write to urge you to approve the Medical Aid in Dying Act. This important legislation would allow terminally ill adults with decision making capacity to request and receive from their physician, a prescription for medication to bring about a peaceful death at the time of their choosing. The New York bill is modeled after similar statutes in Oregon, nine other states, and Washington D. C., where medical aid in dying has been safely and compassionately authorized.

To study this issue and establish an informed position, the Bar Association established a Task Force on Medical Aid in Dying, which conducted an extensive and rigorous review of the legal, ethical, public health, and policy considerations, while also evaluating the impact on patients, families, healthcare providers, nursing homes and correctional facilities, ultimately issuing a robust report in support of this legislation.¹ The report was approved and adopted as Association policy at the January 2024 meeting of the House of Delegates.

The Bar Association recognizes the ethical considerations, particularly the concern for potential abuse and/or coercion. In researching and preparing the attached report, our Task Force found no

¹ See Report and Recommendations of the New York State Bar Association Task Force on Medical Aid in Dying, January 2024, pgs. 32-39; [2024-January-HOD-Approved-Report-on-Medical-Aid-in-Dying-MAID.pdf](#) (and attached)

evidence of abuse or coercion in those jurisdictions that have implemented similar statutes. Nonetheless, New York's legislation includes additional safeguards:

- To be a qualified patient, the individual must have a medically confirmed, incurable, irreversible terminal illness with a prognosis of 6 months or less to live.
- Two physicians must confirm the diagnosis and that the person is making an informed health care decision without coercion.
- The patient's attending physician must inform the patient about all their end-of-life care options, including palliative care and hospice.
- If either physician has concerns about the person's mental capacity to make their own healthcare decisions, a mental health evaluation will be required, and the mental health provider must confirm the dying person's capacity before a prescription can be issued.
- The individual must make an oral and written request for aid-in-dying medication, witnessed by two people – neither of whom may be a relative or someone who stands to benefit from the person's estate.
- The terminally ill person can withdraw their request for aid-in-dying medication, elect not to take the medication once they have it, or otherwise change their mind, at any time.
- The individual must be able to self-ingest the medication.
- Participation by physicians, health providers, and pharmacists is voluntary, and those who comply with all aspects of the law are granted civil and criminal immunity.
- Anyone attempting to coerce a patient will be subject to criminal prosecution.
- Unused medication must be disposed of in accordance with state and federal laws.

Additionally, as the U.S. Supreme Court and the New York Court of Appeals have declined to recognize medical aid in dying as a fundamental liberty interest, legislation is the only pathway to legalization in New York. This legislation offers dignity and compassion for those experiencing a terminal illness.

Based on the foregoing, as well as the attached report, the New York State Bar Association **SUPPORTS** A.136 (Paulin)/S.138 (Hoylman-Sigal) and urges that it be signed into law. Please do not hesitate to contact me, or NYSBA's General Counsel, David Miranda, who can be reached at dmiranda@nysba.org, 518-487-5524, with any questions.

Respectfully,

A handwritten signature in cursive script, appearing to read "Kathleen M. Sweet".

Kathleen M. Sweet
President

Cc: Brian M. Mahanna, Esq., Counsel to the Governor
Denise Gagnon, Director of Legislative Services/ Legislative Secretary