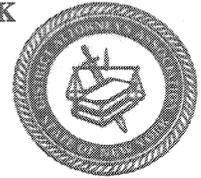


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February 24, 2010

Senator Charles J. Fuschillo, Jr.
New York State Senate
635 Legislative Office Building
Albany, New York 12247

Assemblyman Harvey Weisenberg
New York State Assembly
731 Legislative Office Building
Albany, New York 12248

STRONGLY SUPPORT PASSAGE OF JACK SHEA'S LAW (A8601a/S46a)

Dear Senator Fuschillo and Assemblyman Weisenberg:

I write on behalf of the District Attorneys Association of the State of New York to express our unwavering support for Jack Shea's Law, a bill that you have sponsored for the last four years. The District Attorneys Association strongly believes this important legislation would assist us in the proper prosecution of drunk drivers. The hyper technical underlying statute that this bill seeks to correct jeopardizes cases throughout this state. Too many injustices have resulted, and it is time to make this common sense correction. The bill amends section 1194.4(a)(1) to update the legal requirements governing which medical personnel are authorized to withdraw blood in such cases so that it better reflects current medical practice.

When a serious crash occurs, the police sometimes suspect that the driver is intoxicated. To determine whether that suspicion is correct, the officer requests that the attending medical professional draw blood for the purpose of testing for drugs or alcohol, if the driver is being treated for injuries. This request may take place at a medical facility or at the scene of a crash where emergency medical technicians are attending to the injured. Vehicle and Traffic Law section 1194(4) specifically limits the individuals who are permitted to take blood for this purpose to a doctor, a physician's assistant, or a registered nurse. Others are permitted to take blood only under the supervision of a physician.

Under today's current medical protocols, however, other types of medical personnel routinely take blood at medical facilities and other locations without a physician's supervision. Medical personnel, such as emergency medical technicians and phlebotomists who are trained to draw blood, and do so independently on a daily basis, are barred by New York's statutes from taking blood to test for alcohol or drugs unless a physician is present. As illogical as it seems, if these individuals, who are

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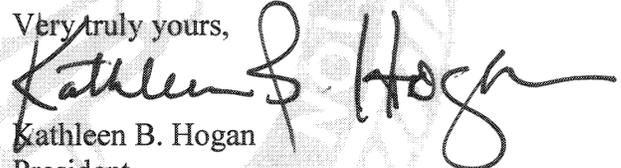
February 24, 2010

licensed to draw blood by the state, draw blood in these cases, Section 1194.4 (a) (1) prohibits the admission of that evidence in a New York court.

Frequently, one family's pain becomes a poignant symbol of an issue that desperately needs to be changed. The most well known example of this senseless legal anomaly is the case of former Olympian Jack Shea who was tragically killed by a drunk driver. In that case, a court refused the admission of blood results of the drunk driver who killed Mr. Shea, because an emergency medical technician, who is not included in 1194.4 (a) (1) but licensed by the state to draw blood, withdrew the blood from the drunk driver. In that rural area, there was no doctor on duty at the small regional clinic where both men were brought for medical attention after that crash. Out of necessity, the blood was drawn taken by the EMT at the direction of a physician's assistant and a registered nurse who were both busy attending to the victim's injuries. The resulting evidence of intoxication was suppressed, because the blood was not drawn under the supervision of a physician. In light of the injustice of the current law, the appellate court that reviewed the suppression decision affirmatively called on the legislature to amend the statute to remedy what they saw as an unnecessary and illogical restriction in the law.

We believe that A8601a/S46a is the simple and straightforward remedy. We urge you to do all that you can to obtain passage of this critical legislation that will provide New Yorkers better protection from drunk drivers by allowing relevant and reliable evidence of intoxication to be considered by the trier of fact.

Very truly yours,


Kathleen B. Hogan
President