

**AMERICAN COLLEGE OF OBSTETRICIANS & GYNECOLOGISTS, DISTRICT II  
AMERICAN COLLEGE OF SURGEONS, NEW YORK CHAPTER  
MEDICAL SOCIETY OF THE STATE OF NEW YORK  
NEW YORK STATE ACADEMY OF FAMILY PHYSICIANS  
NEW YORK AMERICAN COLLEGE OF EMERGENCY PHYSICIANS  
NEW YORK CHAPTER AMERICAN COLLEGE OF CARDIOLOGY  
NEW YORK CHAPTER AMERICAN COLLEGE OF PHYSICIANS  
NEW YORK STATE NEUROLOGICAL SOCIETY  
NEW YORK STATE OPHTHALMOLOGICAL SOCIETY  
NEW YORK STATE OSTEOPATHIC MEDICAL SOCIETY  
NEW YORK STATE PSYCHIATRIC ASSOCIATION  
NEW YORK STATE RADIOLOGICAL SOCIETY  
NEW YORK STATE SOCIETY OF ANESTHESIOLOGISTS  
NEW YORK STATE SOCIETY OF DERMATOLOGY AND DERMATOLOGICAL SURGERY  
NEW YORK STATE SOCIETY OF ORTHOPEDIC SURGEONS  
NEW YORK STATE SOCIETY OF OTOLARYNGOLOGY – HEAD & NECK SURGERY  
NEW YORK STATE SOCIETY OF PLASTIC SURGEONS**

The above-signed groups represent tens of thousands of physicians delivering patient care across New York State every day. We are writing to you to express our **strong objection to a proposal contained in the Governor’s proposed State Budget (Part K of the Health/Mental Hygiene Article 7 bill) that would require the 16,000 physicians currently enrolled in the Excess Medical Malpractice Insurance program to bear 50% of the cost of these policies.** We thank you for your past support for the Excess program including helping to reject this proposal last year when it was brought up during State Budget negotiations. We urge you to reject this proposal again.

This incredibly short-sighted proposal would thrust over \$50 million of new costs on the backs of our community-based physicians who served on the front lines of responding to the pandemic. This new cost imposition would hit these practices at a time when many of these practices are already facing huge losses as a result of a substantial reduction in the number of patients receiving care during the pandemic. Many procedures have been and continue to be delayed due to elective surgery restrictions, as well as patients appropriately limiting their trips out of their homes. Moreover, physician capacity to treat patients has been and continues to be significantly reduced due to reduced quantities of personal protective equipment (PPE) for themselves and their staffs.

Imposing these new costs is stunning given all that physicians did and continue to do to serve the public during this crisis, putting their health and their families’ health at risk. Many became sick and some even passed away.

As you may be aware, the Excess Medical Malpractice Insurance Program provides an additional layer of \$1M of coverage to physicians with hospital privileges who maintain primary coverage at the \$1.3 million/\$3.9 million level. The program was created as a result of the liability insurance crisis of the mid-1980’s to address concerns among physicians that their liability exposure far exceeded available coverage limitations. They legitimately feared that everything they had worked for all of their professional lives could be lost as a result of one wildly aberrant jury verdict.

This fear continues today since New York State has failed to enact meaningful liability reform to ameliorate this risk. The size of medical liability awards in New York State has continued to rise significantly and physician liability premiums remain far out of proportion compared to the rest of the

country. For example, a recent report from Diederich Healthcare showed that in 2019, New York once again had the highest cumulative medical liability payouts of any state in the country, 68% more than the state with the second highest amount (Pennsylvania). It also had the highest per capita liability payment, 10% more than the 2nd highest state (Massachusetts). These disturbing statistics demonstrate a major reason why New York once again received the dubious distinction of being one of the worst states in the country in which to be a doctor.

With all the pressure our healthcare system is under now, this program is more important than ever. While many physicians did receive some stimulus support from the federal government to help offset the historic drop in patient visits, most report that these funds only helped to cover a fraction of their lost costs. For example, 85% of respondents to a MSSNY survey reported that stimulus funds offset less than half of their losses, and that 40% of physician respondents had to lay off at least 10% of their staff because of these losses. Furthermore, an AMA survey reported that during the pandemic the average number of in-person visits to physician offices fell from 97 per week to 57. As a result, physicians averaged a 32% drop in revenue since February, with about one in five doctors seeing revenue drop by 50% or more, while nearly 1/3 saw a 25%-49% decrease.

If last year was a terrible time to adopt this proposal, this year would be even worse. In fact, these new costs would likely force many physicians to forego obtaining the coverage altogether. We believe this would be contradictory to the goal of the Excess program to help protect patients and the public at large.

Again, we urge you to reject this short-sighted proposal and to maintain the existing mechanism for covering the Excess Medical Malpractice Insurance Program.

Thank you for your attention to these concerns.