

New York State Academy of Family Physicians

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On Assembly Codes Committee Agenda 4/7/14

Memorandum in Opposition A.1056, Weinstein Changes the Statute of Limitations in Medical Liability Cases

AN ACT to amend the civil practice law and rules, in relation to the limitations of time within which an action for medical, dental or podiatric malpractice accrues

The New York State Academy of Family Physicians is strongly opposed to A.1056. This bill would essentially eliminate the 2 ½ year statute of limitations in medical liability cases by changing the current 2 ½ year statute of limitations which runs from the date of the alleged malpractice, to instead run from the date of the discovery of the alleged malpractice.

We are concerned that this measure would drastically increase the cost of medical liability insurance for our over 5,000 members. It has been estimated that the cost of eliminating the statute of limitations provision, could increase medical malpractice premiums by 15-20%, or in excess of \$150 million per year.

The medical liability system in New York is currently in crisis with enormous costs to physicians, medical liability carriers and the system as a whole. For instance, from 2003-2008, liability insurance costs for emergency physicians rose 72-80%, general surgeons 72-80%, neurosurgeons 72-80% internists 72-80%, radiologists 63-72%, and OB-GYNs 63-72%. As expensive as this coverage is, however, it does not even cover the cost of awards that increasingly exceed insurance coverage.

While other states have been cited as having date of discovery statutes, it is important to note that most of these states also have a cap on non-economic damages to balance the impact of the broader statute of limitations.

There is no question that this legislation, if enacted without also putting comprehensive medical liability reforms in place, would have devastating consequences on New York's health care system, potentially causing another malpractice crisis in this state even more serious than those in 1975-76 and 1985-86. It would also take a significant step backward from important actions taken by the State Legislature in past years to address the problem of availability and affordability of liability insurance for physicians which will have a very negative impact on accessible health care for all New Yorkers.

The New York State Academy of Family Physicians strongly urges your opposition to and the defeat of this legislation.