

Return of the "Grieving Families Act" (A.6698/S.6636)

The Wrongful Death/Grieving Families Act in its current form would greatly expand the possible damages awardable in a wrongful death action and dramatically increase our already outrageously high liability insurance premiums, resulting in devastating outcomes for all New Yorkers. One recent actuarial estimate indicated that passage of this legislation could require a liability premium increase of nearly 50%, which translates to tens of thousands of dollars in new costs for many physicians and could make it impossible for many physicians to stay in practice. These kinds of increases are untenable and could have negative consequences on patient access to care at community hospitals and physician offices, particularly as we continue to attempt to recover from the pandemic.

We must again work together to convince the Governor to veto the wrongful death bill before she acts on it in the coming weeks.

Earlier this year, members of our community successfully pulled together to urge the Governor to veto the bill. We need your help again. Please call **Governor Hochul** today to urge her to veto the Wrongful Death bill. Send a letter to the governor [here](#) and call the Governor's office at **518-474-8390** and press option **3**. Then press option **1** to leave a voicemail or option **2** to speak with an operator.

Following are suggested talking points for physicians to use when contacting the Governor:

- I am urging that the new version of the Grieving Families Act be vetoed, and instead be re-drafted so it can protect our patients' continued access to our healthcare system.
- The new bill is only marginally different than the legislation the Governor vetoed earlier this year, which she vetoed because of the huge potential adverse impact to our health care system.
- The new version would still exponentially expand damages awardable in a wrongful death action.
- The inclusion of non-economic damages under this bill is why studies have shown it would lead to a nearly 40% premium cost increase. This undoubtedly will have an enormously disruptive impact on our already stressed healthcare system, considering that New York physicians and hospitals already face by far and away the highest medical liability insurance costs in the country
- The Governor fought for substantial investments in the State Budget to help address the financial challenges facing our hospitals and community-based providers. However, this bill would completely undo these positive investments that had been allocated to protect the stability of our healthcare safety net.
- The physician community stands ready to work with all parties on a revised bill to ensure legal remedies for grieving families, but at the same time protect the ability of New York's physicians, hospitals, and health care workers to deliver the care our patients expect and deserve.

- Again, this bill must be vetoed and re-drafted to include provisions to reduce New York's excessive liability costs. Otherwise, our already challenging access to care problems will be made far worse.
- Thank you for your time.

Additional Talking Points on 2023 Version Of Grieving Families Act ("GFA 2.0", A. 6698/S. 6636)

- GFA 2.0 contains the exact same new damages provision as contained in the 2022 version of GFA ("GFA 1.0", S. 74-A/A6770 of 2022), namely awarding those close family members of a person who dies due to negligence damages for those survivors' "grief or anguish", that studies found could result in a 40 percent increase in medical liability premiums.
- Despite this fact, the Legislature passed GFA 2.0 without any fiscal analysis. In fact, the bill sponsor memo in each house states that the fiscal impact on the State of New York and local governments will be "none".
- However, New York's Division of the Budget ("DOB") calculated in its memorandum urging a veto of GFA 1.0 that the increase in medical liability expenses for State-run health care facilities and Safety Net health providers would be \$214 million annually.
- Despite the Legislature's awareness of this DOB memo months before they even introduced GFA 2.0, the Legislature not only incorrectly stated that there would be no fiscal impact when GFA 2.0 contains the exact same new damages provision found to lead to medical liability premium increases of up to 40 percent, they did not conduct any public hearings for the purpose of undertaking a serious evaluation of the impact of this bill on the economy, small businesses, individuals, and the state's complex health care system.

- As the Governor stated in her January 30, 2023 open letter to the Daily News with respect to GFA 1.0, "It is reasonable to think that the legislation as drafted will drive up already-high health insurance premiums, adding significant costs for many sectors of our economy, particularly hospitals that are still recovering from the pandemic and struggling to stay afloat – including public hospitals that serve disadvantaged communities. This is a question that would benefit from careful analysis before, not after, passing sweeping legislation."
- The call for a thorough and comprehensive study of the fiscal impact of GFA 1.0 remains compelling with respect to GFA 2.0 since the cost component remains identical in each bill. Since the Legislature failed to perform this study, we urge the Governor to veto GFA 2.0.
- Vetoing the bill would be consistent with the Governor's stated focus, as reported by New York State of Politics on August 22, 2023 ("Hochul focuses on migrant work authorizations in upstate"), "on three things: How to make New York more affordable, how to make it more livable and how to make it safer." Raising costs of medical liability by almost 40 percent will certainly not make New York more affordable, nor will it make it more livable or safer given the likely closure of safety net hospitals and health care facilities in addition to more health care providers deciding practicing medicine in New York is simply too costly.
- A veto of GFA 2.0 would enable the Governor to bring the various stakeholders and Legislature together in order to commence such study and analysis before work begins on a third version of this legislation.