

**AMERICAN COLLEGE OF OBSTETRICIANS & GYNECOLOGISTS, DISTRICT 2
MEDICAL SOCIETY OF THE STATE OF NEW YORK
NEW YORK CHAPTER AMERICAN COLLEGE OF PHYSICIANS SERVICES
NEW YORK CHAPTER AMERICAN COLLEGE OF SURGEONS
NEW YORK STATE ACADEMY OF FAMILY PHYSICIANS
NEW YORK STATE AMERICAN ACADEMY OF PEDIATRICS, CHAPTERS 1, 2 & 3
NEW YORK STATE NEUROLOGICAL SOCIETY
NEW YORK STATE NEUROSURGICAL SOCIETY
NEW YORK STATE OPHTHALMOLOGICAL SOCIETY
NEW YORK STATE PSYCHIATRIC ASSOCIATION
NEW YORK STATE RADIOLOGICAL SOCIETY
NEW YORK STATE SOCIETY OF ANESTHESIOLOGISTS
NEW YORK STATE SOCIETY OF DERMATOLOGY & DERMATOLOGICAL SURGERY
NEW YORK STATE SOCIETY OF OTOLARYNGOLOGY – HEAD & NECK SURGERY
NEW YORK STATE SOCIETY OF ORTHOPEDIC SURGEONS
NEW YORK STATE SOCIETY OF PLASTIC SURGEONS**

July 10, 2025

Brian K. Mahanna, Esq.
Counsel to the Governor
Executive Chamber, State Capitol
Albany, New York 12224

RE: S.4423/A.6063 - AN ACT to amend the estates, powers and trust law, in relation to payment and distribution of damages in wrongful death actions

Dear Mr. Mahanna:

Our respective organizations, which collectively represent tens of thousands of physicians providing care to hundreds of thousands of patients each year, are writing to you urge that you recommend to Governor Hochul that she again VETO the above referenced legislation that would exponentially expand damages awardable in “wrongful death” actions. This new bill is virtually identical to a bill vetoed by Governor Hochul last December, and very similar to bills vetoed by the Governor in January 2023 and December 2023.

Our concerns with this proposal remain unchanged - the staggering increase in liability insurance costs on top of our already unaffordable liability costs without the inclusion of any balancing measure to contain these costs. Without such balance, this legislation will undoubtedly exacerbate the already challenging patient access to care issues we face all across the State of New York. These challenges to all parts of our health care system are about to become far greater as a result of the unprecedented Medicaid and other health care coverage cuts impacting New York State recently enacted in Washington. **It would be completely untenable to add these substantial new costs on top of the challenges we face.**

Previous iterations of this legislation were vetoed by Governor Hochul for a number of reasons, including concerns that the bill:

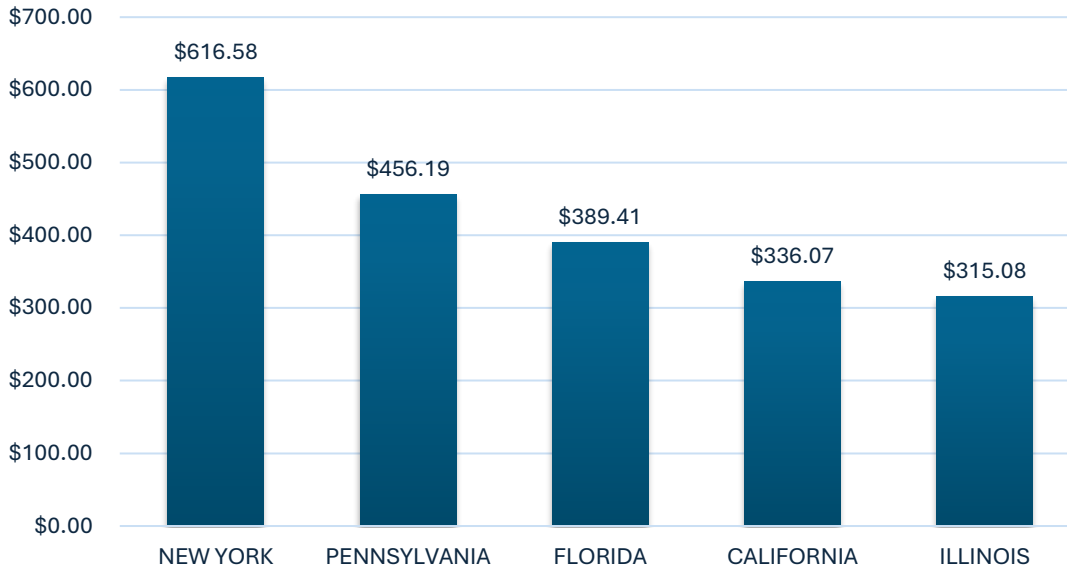
- “would likely have resulted in higher costs to patients and consumers, as well as other unintended consequences”,
- “would increase already high insurance burdens on families and small businesses and further strain already-distressed healthcare workers and institutions” and
- would be “particularly challenging for struggling hospitals in underserved communities”, and concerns with the “significant unintended consequences” of this proposal, including the impact to our community healthcare infrastructure because of the likely huge increase in liability costs it would face through these expanded liability awards.

These profound concerns about the adverse impact to our already fragile health care safety net have not been addressed in the new legislation. In fact, this year’s legislation is exactly the same as last year’s. An actuarial study of the various previously vetoed legislation has concluded that the legislation is expected to increase New York’s already outrageously high medical liability premiums by nearly 40%. These extraordinary increases would be on top of the already exorbitant premium costs New York’s physicians and hospitals continue to incur, with many specialties across the New York City and Long Island region of the state already paying hundreds of thousands of dollars per year for their liability coverage. That means that this legislation would necessitate a premium increase of over \$76,000 for a Long Island OB-GYN and over \$61,000 for a Long Island surgeon. These costs are simply not assumable by most physician practices.

New York already has a notorious history as being one the worst states in the country to deliver patient care ([Best & Worst States for Doctors \(wallethub.com\)](https://www.wallethub.com/compare/best-worst-states-for-doctors)), in large part because its liability costs and risks far exceed all other states. While some advocates claim that New York’s existing wrongful death law is an outlier compared to other states’ laws, what they do not mention is that most of these other states also have comprehensive provisions to contain excessive medical liability insurance costs, including limits on damages. New York has no such law, which is why our medical liability insurance and payout costs far exceed every other state in the country.

While many other states have passed laws to contain medical liability payouts and provide greater fairness in medical liability litigation, New York has not, which is why our medical liability insurance and payout costs far exceed every other state in the country. In fact, in 2023 New York exceeded the 2nd highest state Pennsylvania by 35%, the 3rd highest state Florida by 58%, and 4th highest state California by 83%! The Legislature must take steps to contain these costs.

Medical Malpractice Payouts By State TOTAL PAYOUTS (in Millions)



Source: NPDB [Medical Malpractice Payouts By State | October 2024](#) ([consumershield.com](#))

Given New York's State reputation for being one of the worst states in the country in which to be a physician, it is imperative we take steps to ensure that we can retain and attract skilled physicians to our state to best serve the healthcare needs

of our patients. Inherent in that is passing measures to make New York a more attractive state to practice medical care, not adding staggering new costs that make it impossible for many practices to remain open for care to patients.

This bill, especially when New York now faces draconian cuts to Medicaid as a result of the federal reconciliation legislation, will result in closed hospitals and physician offices, especially in rural areas, longer drives to obtain medical care, and longer waiting times when patients need emergent care. We believe that the best care is timely care by a physician close to your home. This bill will lead to worse outcomes for trauma, stroke and heart attack care, where every second counts.

Unfortunately, this bill would do nothing to address the problems facing New York's healthcare system. Instead, it would make these problems even worse by adding substantial new costs at a time when our physicians and hospitals can least afford to incur them. Comprehensive legislation is needed, not one-sided measures. We again stand ready to work with the Governor, Legislature, and all stakeholders to make common sense changes to our broken tort system, which currently is a \$7,000 tax on each person in the state. In the absence of comprehensive reform to bring down New York's exorbitant medical liability costs, **we respectfully request that this legislation again be vetoed.**