

DIVISION OF GOVERNMENTAL AFFAIRS

THOMAS T. LEE, MD, MBA
MSSNY Executive Vice-President

MORRIS M. AUSTER, Esq.
Senior Vice President and
Chief Legislative Counsel

ZINA CARY
Vice President
of Legislative Affairs

OKSANA GOLOVINA, Esq.
Associate Legislative Counsel

MIRIAM HARDIN, PhD
Manager, Continuing Education

MELISSA HOFFMAN, MPP
Sr. Director for Public Health

NICHOLAS HOSPODAR
Associate Director for
Legislation and Policy

HEATHER K. LOPEZ, BSc., MSihm
Vice President of Physician
Payment & Practice

EMILY RENTO
Public Health Associate

JENNIFER J. WILKS
Coordinator for Political and
Grassroots Action



July 29, 2025

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

RE: S.5170/A.3351 - AN ACT to amend the civil procedure law and rules, in relation to permitting a plaintiff in a tort case to recover against a third-party defendant in certain cases

Dear Mr. Mahanna:

We are writing to you urge that you recommend to Governor Hochul that she VETO the above referenced legislation that would allow plaintiffs to circumvent the defendant initially sued in litigation and collect directly from a third-party defendant — who may or may not have initially been sued or could have been sued — who the defendant sued for contribution or indemnification. This bill would essentially encourage those responsible parties to avoid their obligations and promote collusion in order to target financially stable third parties.

An identical version of this bill was vetoed in 2019 because of the potentially significant increase in liability insurance costs this bill would precipitate. These concerns are no different now. In fact, the challenges to our healthcare system are 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 the substantial new liability costs required by this legislation on top of the challenges we face.

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/insight/best-and-worst-states-for-doctors)), in large part because its liability costs and risks far exceed all other states. 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%! Exacerbating these problems is the fact that medical liability premiums for New York physicians have increased by nearly 15% over the last 4 years. The Legislature must take steps to contain these costs.

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 new costs that make it impossible for many practices to remain open for care to patients.

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.**

Respectfully submitted,

A handwritten signature in black ink, reading "Morris M. Auster". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

MORRIS M. AUSTER, ESQ.