

**MEDICAL SOCIETY OF THE STATE OF NEW YORK
NEW YORK STATE SOCIETY OF ANESTHESIOLOGISTS
NEW YORK AMERICAN COLLEGE OF EMERGENCY PHYSICIANS
NEW YORK STATE SOCIETY OF DERMATOLOGY & DERMATOLOGIC SURGERY
NEW YORK STATE SOCIETY OF EYE PHYSICIANS & SURGEONS
NEW YORK STATE NEUROLOGICAL SOCIETY
NEW YORK STATE NEUROSURGICAL SOCIETY
NEW YORK STATE PSYCHIATRIC ASSOCIATION
NEW YORK STATE RADIOLOGICAL SOCIETY
NEW YORK STATE SOCIETY OF ORTHOPEDIC SURGEONS
NEW YORK STATE SOCIETY OF PLASTIC SURGEONS**

**OPPOSITION TO PROPOSAL TO UPEND NEW YORK'S GROUNDBREAKING
INDEPENDENT DISPUTE RESOLUTION PROCESS FOR RESOLVING SURPRISE
MEDICAL BILLS (PART T OF THE PUBLIC PROTECTION & GENERAL GOVERNMENT
BILL – A.10005/S.9005)**

Our respective associations, which collectively represent tens of thousands of physicians providing care to hundreds of thousands of patients each year, are writing to you to **strongly oppose** a proposal within Part T of the PPGG Executive Budget Bill that would completely upend the rules for the determination of claims brought to New York's Independent Dispute Resolution (IDR) process for emergency and other hospital-based care provided to adult and pediatric patients by a non-participating physician. It would also eliminate the right of healthcare providers to even bring claims for IDR consideration related to care provided to enrollees of Medicaid Managed Care plans. I thank the Assembly and Senate for rejecting similar proposals in previous Budget cycles and urge that you again **OPPOSE** this short-sighted and greatly expanded proposal this year.

Physicians across the State are very concerned with the serious adverse impact that these profound changes will have on adult and pediatric patients' access to skilled specialty physician care, including access to needed and often immediate surgical care in hospitals across the State, particularly in underserved urban and rural areas. In implementing New York's successful surprise billing law, which has become a model for the nation, policymakers sought to establish a fair dispute resolution process to resolve payment disputes that did not favor either physicians or health insurers.

The law has historically given the IDR entity the power to consider a number of factors in arriving at its decision, including the circumstances of the patient care provided, the expertise of the particular physician providing the care, and similar fees and payments charged by and paid to physicians of that particular specialty in that region. In fact, at the request of the health insurance industry, the criteria was expanded in 2023 to permit the IDR entity to factor in the median payments made by health plans to its participating physician, data which the health insurer controls.

This new Budget proposal would significantly shift the balance of this law by creating a process that puts its "thumb on the scale" in favor of the already well-heeled health insurance industry, which holds dominant market power in most

regions of New York State, market power which makes it impossible for smaller community medical practices to negotiate fairly with these behemoths. It would for all intents and purposes eliminate the IDRE's consideration of the various factors it can currently consider in arriving at a decision for which party – the health plan or the physician – should prevail.

The impact of this legislation goes far beyond adversely impacting the relatively small number of physicians providing care on an out-of-network basis. It would also adversely impact the ability of all physicians to attempt to negotiate a fair contract with health insurers that protects physicians' right to advocate for their patients – rights which include not only the level of payments but also rules relating to time frames for payment, audits, prior authorization, prescription drug coverage and circumstances for covering patient treatment. The one minimal right physicians have in negotiating with these healthcare behemoths is the "right to walk away" from an oppressive health plan contract with the health plan facing the risk they may have to pay above their fee schedule if their enrollee is treated by a non-participating physician in an emergency or urgent context. This Budget provision would take away even this one minimal right, again at the expense of physicians' ability to advocate for their patients.

Far from reducing health care costs, this proposal would increase them as more and more community-based medical practices find they have no choice but to become hospital employed. This would further accelerate hospital consolidation across the State and reduce competition in the delivery of healthcare services.

Of greatest concern to New York's health care system is that, without a fair appeal process to obtain fair reimbursement, many physician specialties will be discouraged from providing essential on-call emergency department care, at a time when many such departments are already frequently understaffed. With regard to Medicaid Managed Care plans, this change will also encourage these plans to significantly cut fee schedules for all of their network physicians, endangering access to care for their enrollees and further threatening the viability of many community-based physician practices. The result would be far less patient access to needed care in emergency settings all across the State.

The relatively small State Budget savings of this proposal is significantly outweighed by the risk that it will greatly harm adult and child patient access to needed emergency and post-emergency care, particularly in underserved rural and urban areas of the State. The Legislature has long recognized the importance of protecting a fair dispute resolution process to ensure needed on-call specialty care in hospital emergency departments across the State.

Based on the foregoing, we urge you to reject this short-sighted proposal as you work to adopt the Budget for the 2026-27 Fiscal year.