

MEDICAL SOCIETY
of the
STATE OF NEW YORK

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MEMORANDUM IN SUPPORT

ON SENATE HEALTH COMMITTEE AGENDA

S.2245 (HANNON)

IN ASSEMBLY CODES COMMITTEE

A.2703 (GOTTFRIED)

AN ACT to amend the public health law, in relation to granting immunity from liability to organizations which establish physician committees

This measure would clarify that the statutory liability protections offered for physician participants in the Committee for Physicians' Health (CPH) program extend to the organization who sponsors the program as well as to the employees of the sponsoring program acting without malice and within the scope of its functions for the committee. **The Medical Society of the State of New York strongly supports this bill and urges its enactment.**

For over 30 years, the Medical Society's Committee for Physicians' Health (CPH) has successfully facilitated needed referrals for treatment and counseling to numerous New York State physicians who are thought to be suffering from alcoholism, substance abuse, or mental illness. The New York State Legislature has re-authorized the program numerous times, including most recently enacting a 5-year extension in 2013 (another extension of the program must be enacted this year).

Importantly, to encourage physicians with appropriate expertise to actively participate in efforts to rehabilitate physicians suffering from these conditions this statute expressly provides liability protections for those physicians who serve on these committees for actions taken within the scope of their functions for the committee.

However, a recent lower court decision interpreted these liability protections as not applying to the entity creating this physician committee even though the statute expressly provides liability protection for the physician members serving on this committee. Such a conclusion could not have possibly been contemplated when the law was first enacted. Even though this decision was ultimately reversed on appeal and the case was dismissed, because the appellate court did not address the issue of the statutory liability protections, there remain serious concerns that, without clarifying the scope of the liability protections offered in this legislation, the program run by the Medical Society and other similar programs in New York State will be unable to continue to function.

Enactment of this legislation will enable physicians in need of treatment and counseling who have not harmed patients to continue to be able to obtain referrals for this needed treatment. In this regard, **the Medical Society of the State of New York supports this legislation urges its enactment.**

2/2/18

MMA - support

Respectfully submitted,

MSSNY DIVISION OF GOVERNMENTAL AFFAIRS