



CAPITAL UPDATE

News of legislative, regulatory, and other matters of interest to New York's physicians
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New Survey Shows New York Again One of the Worst States to be a Physician - Please Don't Make That Worse with Ruinous Liability Expansion Legislation

New York's continued designation as one of the worst states in the country in which to be a physician [Best & Worst States for Doctors in 2024 \(wallethub.com\)](https://www.wallethub.com) is a major contributing factor to patient access to care shortages we face in New York. As legislators seek to address these gaps in patient access to care, we can ill afford to make this problem worse by enacting legislation (A.9232/S.8485) to greatly increase the damages awardable in wrongful death actions. With this legislation - identical to the bill vetoed by Governor Hochul last December - before the Senate Judiciary Committee next week, physicians are urged to contact their legislators [Reducing Medical Liability Costs \(p2a.co\)](https://www.p2a.co) to request that any legislation to expand liability against physicians and hospitals also take corresponding steps to bring down New York's already staggering medical liability costs.

New York's liability costs far exceed any other state in the country. Increasing these costs by any amount, let alone the potential 40% increase that actuaries have predicted when analyzing this legislation, will exacerbate existing patient access to care challenges in our healthcare system. Governor Hochul has twice vetoed legislation that would have expanded the types of damages awardable in wrongful death actions. Her veto message appropriately highlighted 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. There was also an attempt to wedge this language into the recently enacted State Budget, but thankfully it was ultimately excluded.

The key message is this - Legislators must work for comprehensive legislation to bring down these untenable costs instead of increasing them and exacerbating existing patient access to care issues. **(AUSTER)**

Final Weeks of Session Brings Numerous Concerning Scope Expansion Bills

The recently enacted State Budget importantly rejected numerous proposals that would have threatened patient safety by removing the important oversight and/or collaboration that physicians provide in the delivery of patient care. However, as we enter the final four weeks of the scheduled 2024 Legislative Session, MSSNY is continuing to work with affected specialty societies to oppose the litany of "stand-alone" bills under consideration that would inappropriately expand the scope of services that can be provided by various non-physicians without adequate physician involvement. These problematic bills include, but are not limited to:

- **A.8378/S.9038** which would allow Physician Assistants (PAs) to practice independently without physician oversight after 8,000 hours of practice. You can send a letter to your legislators in opposition here: [Preserve Physician-led, Team-based Healthcare \(p2a.co\)](#)
- **S.66-A/A.1262-A** which would grant prescribing rights to psychologists similar to psychiatrists. You can send a letter to your legislators in opposition here: [Oppose Legislation Granting Prescriptive Authority to Psychologists! \(p2a.co\)](#)
- **A.2217-B/S.2254-B** which would significantly expand the scope of practice of a podiatrist to treat conditions of the ankle and leg.
- **S.2126** would permit PAs to perform fluoroscopy without adequate physician supervision.
- **A.6958-A/S.769-A** would allow Nurse Anesthetists to administer anesthesia with reduced physician oversight.
- **A2300** would remove all time/visit limitations on patient access to physical therapy services without referral from a physician.

At the same time, MSSNY is also supporting legislation (**A.9802, Fahy**) that would enable Medical Assistants to administer immunizations.

(AUSTER)

Efforts Continue to Assist Practices Impacted by United and Change Healthcare Cyber-incident

MSSNY continues to work with the AMA and numerous allies to advocate to resolve the litany of issues relating to the Change Healthcare cyber-incident. While many actions have been taken to respond to this massive problem, full functionality has not been restored, which threatens the viability of these practices, which in turn endangers jobs and patient access to these physicians' services.

Last week New York Attorney General Letitia James joined together with 22 other state attorney generals in a letter [4.25.24-letter-to-unitedhealth\(ny.gov\)](#) to United Health Group CEO Andrew Witty to express its concern with what it deemed Change Healthcare's "wholly inadequate response". The letter identifies a number of steps it called on United to take, including expanding financial assistance to all affected providers, ensure financial assistance programs are not providing more advantageous financial assistance to certain providers, and suspending requirements for prior authorizations, contemporaneous notifications of change of status, and other documentation requirements.

For more information on United's funding assistance program, please visit [Temporary Funding Assistance for Providers](#).

The cyber incident was also the subject of hearings last week by the US Senate Finance Committee and the US House of Representatives Energy & Commerce Committee. Previously MSSNY also worked with the New York State Department of Financial Services on a Circular letter [Insurance Circular Letter No. 2 \(2024\) \(ny.gov\)](#) setting forth that certain preauthorization, concurrent, and retrospective review requirements, appeal timeframes, reconsideration timeframes, claim submission timeframes, and eligibility verifications should be suspended or tolled when necessary, and that plans and PBMs "should ensure that there are no delays in health care services and that prescription drugs remain accessible to insureds". Working with the AMA, MSSNY has also advocated for Medicare to make available advance/accelerated payment for impacted physicians, which can be applied for here: [Request for Change Healthcare/Optum Payment Disruption \(CHOPD\) \(ngsmedicare.com\)](#)

We will continue to provide updates on this pressing matter as they arise.

(AUSTER, LOPEZ)

MSSNY Continuing Push to Pass to Bill to Increase Patient Access to Timely & Consistent Care

MSSNY is making a big advocacy push with key legislative meetings scheduled to urge passage this year of prior authorization reform bills including A.7268/S.3400 and A.859-A/S.2680-A. Joining MSSNY in these meetings will be representatives from the NY State Psychiatric Association, the American College of Obstetricians & Gynecologists, the New York State Association of Family Physicians and patient advocates from the NY State Bleeding Disorders Coalition.

The first bill, A.7268/S.3400, would make significant progress toward remedying the harm caused by prior authorization by requiring that health plan utilization review criteria be evidence-based and peer reviewed, reducing the insurer timeframe for reviewing prior authorization requests and limiting when an insurer can withdraw or repeat a previously granted prior authorization. The second bill, A.859-A/S.2680-A, would require health insurers to have a "gold card" program to exempt physicians from prior authorization requirements who have exemplary records of obtaining prior authorization for the services they provide to their patients.

Prior Authorization frequently imposes overwhelming burdens that cause unnecessary delays in needed care for patients. Delay in authorization of prescriptions, tests, or procedures can cause needless anxiety for patients already stressed by the uncertainty regarding their condition. A recent survey of physicians by the American Medical Association reported that 94% of responding physicians said that the prior authorization process delayed patient access to necessary care and nearly 90% of the respondents indicated that prior authorization led to somewhat, or significant, negative outcomes. Prior Authorization requirements may increase their risk of lapsing treatment or exacerbating progression of their disease as a result of these delays and can have a negative effect on their lives and health outcomes.

Please contact your Assemblymembers and Senators through MSSNY's [Grassroots Action Center](#) (GAC) to let them know you support passage of these bills THIS YEAR! We will update members as the bill progresses in the next four weeks.

(CARY)

Registration Now Open Medical Matters CME Webinar

[The Psychological Impact of Climate Change](#)

Wednesday May 15, 2024 @ 7:30am

The visible effects of climate change are seemingly everywhere of late. Have you assessed yourself, your family, your staff, and your patients for the possible psychological impacts of climate change? Learn more about psychological reactions to be aware of and ways to remain alert and resilient in the face of ongoing climate change by registering for the next Medical Matters webinar, ***The Psychological Impact of Climate Change*** scheduled for **May 15th at 7:30am**. Craig Katz, MD, vice-chair of MSSNY's Committee on Emergency Preparedness and Disaster/Terrorism Response and Halley Kaye-Kauderer, MD, member of the same committee, will serve as faculty for this webinar. [Register now](#).

Educational objectives are:

- Review the environmental and societal consequences of climate change and general concepts of disaster prevention.
- Describe the mental health impact of climate change, ways to prevent or mitigate this change, and particularly vulnerable populations.
- Discuss behavioral interventions to help prepare for ongoing climate change.

Additional information or assistance with registration may be obtained by contacting Melissa Hoffman at mhoffman@mssny.org.

The Medical Society of the State of New York is accredited by the Accreditation Council for Continuing Medical Education (ACCME) to provide continuing medical education for physicians.

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The Medical Society of the State of New York designates this live activity for a maximum of 1.0 AMA PRA Category 1 credits™. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

(HOFFMAN)

Women Physicians Leadership Academy – Now Available on CME Website!

The Women Physicians Leadership Academy is now available on the [MSSNY CME website](#)! This series contains six virtual leadership webinars held for physicians, residents, and medical students. Dr. Patrice Harris facilitated the fall sessions which include topics on effective communication, advocacy and changemaking, and leadership. Dr. Julie Silver facilitated the spring sessions which include the importance of networking, enhancing physician wellness and belonging, and designing your medical career. Three CME credits can be earned from each session, and up to 18 can be earned by completing the entire academy. Participants who complete all sessions by September 30, 2024, will receive an additional certificate of completion for the online WPLA.

(RENTO)