



Despite Previous Vetoes, Revised Wrongful Death Liability Expansion Legislation Again Moving Through Legislature

Physicians must again contact their legislators [Reducing Medical Liability Costs \(p2a.co\)](#) to oppose legislation (A.9232-B/S.8485-B) that would significantly expand liability against physicians and hospitals in wrongful death lawsuits. The bill has advanced to the floor of the Senate and the Assembly Rules Committee, where it could be reported out to the floor and passed at any time.

The latest version does not lessen the material adverse impact of the two earlier versions that were vetoed by Governor Hochul. Specifically, it differs from the earlier vetoed versions by reducing the retroactive applicability as well as the number of individuals that can bring these actions. However, it does not change the fundamental nature of the new types of damages that would be awardable through this legislation, which essentially was the basis for the 2022 actuarial study that concluded that this bill could produce a 40-45% increase in medical liability premiums. MSSNY has joined with 17 specialty societies in a letter [S8485-A.9232-A-joint-letter.pdf \(mssny.org\)](#) to the entire Legislature urging comprehensive liability reform instead of one-sided proposals such as this that would exacerbate already challenging patient access to care issues. This letter was the subject of a *Politico* article this week discussing this issue.

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 similar 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.

Please urge your legislators to work for the enactment of comprehensive legislation to bring down these untenable costs instead of increasing them and exacerbating existing patient access to care issues.

(AUSTER)

Bills to Remediate Various Insurance Hassles Under Consideration in Session's Final Days

As the 2024 Session enters its final week, MSSNY is continuing to advocate with many other physician and patient advocacy groups in support of several bills to address various health insurer hassles that interfere with patient care delivery. Last week, prior authorization reform legislation [A.7268-A (Weprin)/S.3400 (Breslin)] advanced unanimously from the Assembly Insurance Committee to the Rules Committee. The bill 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 bill has also advanced from the Senate Health Committee to the Finance Committee. Please contact your Assemblymembers and Senators through MSSNY's [Grassroots Action Center](#) (GAC) to let them know you support passage of A.7268A/S.3400 this year!

There are also several other positive health insurer reform bills advancing in Assembly and Senate Committees, including:

A.38-A/S.2063-A. Requires health insurance coverage of scalp cooling devices to help patients preserve hair during chemotherapy. Advanced to Assembly and Senate floor.

A.901-A/S.1267-A – Supplements current step therapy protections by requiring a health insurer to follow certain rules when establishing a step therapy protocol. Passed Senate and advanced to Assembly Ways & Means Committee.

A.1696-C/S.2465-C - Requires certain insurance policies allow patients additional screenings for breast cancer when the provider deems such screening is necessary under nationally recognized clinical practice guidelines. Advanced to Assembly Rules Committee and Senate Finance Committee.

A.9019-A/S.8414-A – places additional transparency requirements on health insurers for disclosure of payment rates and selection of method of payment. Advanced to Assembly floor and in Senate Insurance Committee.

A.8576 - would prohibit the imposition of a charge or deduction from a payment due to a health care provider because such payment is made through electronic or paper means. Advanced to Assembly Rules Committee.

MSSNY will provide physicians with an update on all of these bills after the conclusion of the regularly scheduled 2024 Legislative Session next week.

(CARY)

MSSNY Continues to Work with Specialty Societies to Raise Patient Safety Concerns with Numerous 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, a litany of "stand-alone" bills remains under consideration as we enter the final days of the 2024 Legislative Session. As a result, MSSNY is continuing to work with affected specialty societies to highlight the patient safety concerns with these bills that would inappropriately expand the scope of services that can be provided by various non-physicians without adequate physician oversight, including but not limited to:

- **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.
- **A.6958-A/S.769-A** would allow Nurse Anesthetists to administer anesthesia with reduced physician oversight.

- **S.66-A/A.1262-A** which would grant prescribing rights to psychologists similar to psychiatrists.
- **A.2300/S.9716** would remove all time/visit limitations on patient access to physical therapy services without referral from a physician.
- **A.8378/S.9038 and A.5012/S.5520** - MSSNY together with many other specialty societies have strongly opposed legislation, as well as similar language proposed in the Executive Budget, which would have permitted many Physician Assistants (PAs) to practice independently without physician oversight after various hours of clinical practice, with one bill setting the standard at 3,600 hours and a second setting the standard at 8,000 hours. Our societies have continued to raise serious concerns regarding the adverse patient safety consequences of removing the important oversight that physicians provide over patient care delivery by PAs, despite an aggressive public media campaign by the PAs and unions seeking to eliminate this oversight.

In a significant development, the sponsors of A.8378/S.9038 amended the bill this week, with the "A-print" narrowing the focus of this bill by: 1) increasing the Physician-PA supervision ratio in various settings from 1:4 to 1:6 in private practice and from 1:6 to 1:8 for correctional facilities, in lieu of removing statutory defined physician supervision of PAs; 2) permitting PAs to execute non-patient specific standing orders with nurses for the 12 types of tests and treatment that physicians and NPs are currently permitted to execute standing orders with nurses such as emergency treatment of anaphylaxis, and testing for HIV, Hep C, tuberculosis or pregnancy; and 3) permitting PAs to order durable medical equipment in a hospital setting, again under the physician's supervision.

Health Care Transparency Act Moving. MSSNY is also working together with numerous specialty societies in support of legislation (**S.9214/A.10009**) that has advanced from the Senate Higher Education Committee to the Finance Committee that would require healthcare practitioners to provide greater disclosure of their professional credentials in their advertisements and in their clinical encounters with their patients.

MSSNY will provide an update to physicians on all of these bills after the conclusion of the regularly scheduled Session next week.

(AUSTER)

Statement by MSSNY President Dr. Jerome Cohen Urging Caution on Proposed CDPHP-Excellus "Affiliation"

"We urge great caution by the various regulatory authorities charged with review of the proposed takeover of CDPHP by Lifetime, already the parent company of Excellus Blue Cross Blue Shield and Univera. Both CDPHP and Excellus have long maintained generally collaborative relationships with the physicians and other care providers in the regions of the State they serve, as evidenced by their lower complaint rankings as compared to the health insurance industry behemoths serving much of the State. In the experience of physicians, bigger is often not better, resulting in companies becoming less receptive to the needs of the communities they serve, and more likely to initiate procedures that ultimately make it more difficult for patients to have coverage for the care they need.

"We further note that, if this takeover is permitted, it would mean that a Blues plan would be one of the dominant insurers in 12 out of New York's 13 Metropolitan Statistical Areas, according to data from the AMA's most recent Competition in Health Insurance Report.

"The Federal Trade Commission recently announced that it was investigating the increasing level of corporate ownership in healthcare. The FTC review should also be expanded to examine why this is happening, as likely one of the major drivers is the increasing consolidation within the health insurance industry, as demonstrated by this proposed Lifetime acquisition of CDPHP, but also CVS' recent purchase of Aetna and United's diversification into medical practice ownership

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with Optum. Many would question whether this enormous consolidation within the health insurance sector has served patients well.

"In sum, MSSNY is very concerned with the significant potential adverse consequences for patients and employers with this consolidation. Fewer health insurance companies will lead to a lack of market competition. This has the potential to lead to higher premiums, fewer choices, poorer customer service, stifling of medical innovation, and further restrictions in patient access to care."

Peer to Peer (P2P) Program:

Stress and burnout among physicians have been documented for years. The COVID-19 pandemic is exacerbating the public health problem of physician burnout in New York state. Throughout the pandemic, physicians and other health professionals have faced concerns about safety, overworking and feelings of loss. Without an intervention, it is possible that a high number of physicians over the next few years may develop chronic stress reactions, anger, clinical depression, substance abuse, post-traumatic stress disorder and suicidality. MSSNY's P2P program allows physicians, residents, and medical students to talk with a peer about work or life stressors.

If someone you know is struggling with life stressors, reach out to the P2P program to connect them to a peer supporter!

**Email: P2P@mssny.org and request that you be connected with a peer supporter
Phone: 1-844-P2P-PEER (1-844-727-7337) and request that you be connected with a peer supporter**

(RENTO)

Registration Now Open Medical Matters CME Webinar

[Public Health! What is it Good for?](#)

Wednesday June 12, 2024 @ 7:30am

Join a group of public health experts on **June 12th at 7:30am** for the next Medical Matters webinar, **Public Health! What is it Good for?** This webinar will be a panel discussion with Dr. William Valenti, Dr. Arthur Cooper and Tom Henery, Preparedness Training Manager at the New York State Department of Health, examining the evolving nature of public health and ways to navigate it in relation to a world in which technology is continually advancing and changing the practice of medicine. [Register here](#)

Educational Objectives:

- Discuss the primary tenets of public health including the evolving nature of public health emergencies and the process of gaining knowledge and developing tools.
- Identify lessons learned related to public health responses to recent and historical public health emergencies.
- Outline public health priorities for future public health emergencies including social media, artificial intelligence, and the internet.

Additional information or assistance with registration may be obtained by contacting Melissa Hoffman at mhoffman@mssny.org You can also email any questions that you wish to have discussed during this webinar to Melissa Hoffman at this email address.

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.

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)