



## **Revised Wrongful Death Liability Expansion Legislation Does Not Alter Fundamental Concerns About Harm to Healthcare System**

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-A/S.8485-A) to greatly increase the damages awardable in wrongful death actions. Physicians are urged to again contact their legislators [Reducing Medical Liability Costs](#) 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 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.

The legislation has been amended from earlier versions to reduce the retroactive applicability and to reduce 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 was largely the basis for the 2022 actuarial study that concluded that this bill could produce a 40-45% increase in medical liability premiums. Essentially, the amended bill has cosmetic changes but the massive adverse impact to our health care system remains the same.

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)**

## **MSSNY Joins with Patient Advocates to Reduce Prior Authorizations Burdens**

MSSNY organized meetings with several key legislators this past week to urge passage of prior authorization reform measures this year, including A.7268 (Weprin)/S.3400 (Breslin) and A859-A(McDonald)/S.2680-A (Breslin). Joining MSSNY in these meetings were 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.

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. S.859-A/S.2680-A would enact a "gold card" program to exempt physicians from prior authorization requirements if they have exemplary records for receiving prior authorization

Health insurers frequently impose overwhelming prior authorization 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. Moreover, a recent survey of physicians by the American Medical Association (AMA) 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.

Not surprisingly these measures are being vociferously opposed by the health insurance industry. Therefore, your grassroots action is essential. Please contact your Assemblymembers and Senators through MSSNY's [Grassroots Action Center](#) (GAC) urge passage of prior authorization reform legislation this year! We will update members as the bill progresses over the next three weeks.

**(CARY)**

## **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 three 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. There have been discussions regarding potential amendments that would narrow the settings where such independent PAs could practice and increase the number of clinical hours before such PA could practice without defined supervision. Nevertheless, MSSNY and specialty societies continue to raise patient safety concerns about any effort to eliminate physician supervision requirements, particularly when options exist to change regulations to increase the number of PAs a physician can supervise.

You can send a letter to your legislators here: [Preserve Physician-led, Team-based Healthcare \(p2a.co\)](#)

- **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.

- **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. You can send a letter to your legislators in opposition here:
- **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. MSSNY is also supporting legislation (S.9214/A.10009) before the Senate Higher Education Committee next week that would require healthcare practitioners to provide greater disclosure of their professional credentials in their advertisements and in their clinical encounters with their patients.

**(AUSTER)**

### **MSSNY 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](mailto: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 12<sup>th</sup> at 7:30am for the next Medical Matters webinar, **Public Health! What is it Good for?** This webinar will be a panel discussion 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](mailto: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.

*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)**