



October 26, 2022

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Don't Chase Our Physicians Out of New York

Not very long ago, New York's physicians and other health care workers were cheered as heroes for their efforts to combat the COVID-19 pandemic. They risked their lives for their patients. They risked the lives of their loved ones as they provided this care.

Many physicians were sickened, and some died. Countless physicians continue to wear the emotional scars from these overwhelming circumstances.

However, the cheers are long forgotten.

Now, the physicians of New York face a potential new disaster, due to a well-intentioned—but egregiously harmful—bill recently passed by the New York State Legislature.

The recent legislation would exponentially increase the damages that are awardable under New York's wrongful death statute. One actuarial study concluded the increased damages and the new lawsuits this bill would trigger would increase liability insurance costs for New York's doctors and hospitals by nearly 40%.

Yes, 40%.

Liability costs are already an overwhelming component of the operating costs of your local hospital and doctor's office. Can you imagine how hard it would be to manage if your mortgage or rent payment went up 40%?

Even if the liability cost increases necessitated by this bill amounted to half of what has been predicted, such cost increases are untenable.

If you do not veto this bill, patient access and continuity of care could be threatened across the state as physicians move to other states with more physician-friendly environments or retire early to avoid the staggering new costs this bill would impose.

New York physicians already pay among the highest liability premiums in the country. Many already pay tens of thousands of dollars a year for their coverage. Those who provide the most critical emergency care essential to our safety net—including neurosurgeons, cardiac surgeons and OB-GYNs—often face costs of \$100-200,000 per year to provide this care.

Even before COVID, New York has long received the dubious designation as one of the worst states in the country to provide care, according to [wallethub.com](https://www.wallethub.com). In addition to New York's excessive regulations, it has by far and away the highest liability costs and insurance premiums in the country.

For example, a report from Diederich Healthcare showed that in 2019, New York once again had the highest cumulative medical liability payouts of any state in the country, a whopping 68% more than the state with the second highest amount, Pennsylvania.

This is not just because of New York's size. It also had the highest *per capita* liability payment of all the State, exceeding the second highest state Massachusetts by nearly 10%.

Some in support of this legislation have argued that New York's existing wrongful death recovery law is an outlier compared to other states' laws. However, what is not mentioned is that many of these other states—more than 30—have also enacted *comprehensive provisions to contain excessive medical liability insurance costs*, including limits on damages.

It is certainly appropriate to evaluate and determine the most responsible way to address gaps in New York's liability laws. But it must be done in a responsible manner that controls the explosive increase in costs that such new lawsuits would inevitably cause.

To preserve access to our healthcare safety net, the Governor must veto this legislation and bring together various parties to discuss how best such lawsuit expansion can be achieved responsibly.

The citizens of New York need their physicians. Please veto this bill so our physicians can continue to provide care to their patients.

Sincerely yours,
