



*Representing the advocacy interests
of hospitals and health systems on Long Island and in the Hudson Valley*

September 20, 2017

The Honorable Andrew M. Cuomo,
Governor
New York State Capitol Building
Albany, NY 12224

Re: S.6800/A.8516

Dear Governor Cuomo:

On behalf of the 51 hospitals and health systems on Long Island and in the Hudson Valley, I write again to urge that you veto S.6800/A.8516. The bill would delay the statute of limitations for medical, dental, and podiatric malpractice lawsuits until discovery of the act, for up to 7 years after the injury. Although the bill's sponsors purport that this expansion is limited to cancer cases, the actual legislative language is far less clear. The language is also ambiguous with regard to cases of continuous treatment, as well as the reopening of cases that are currently time-barred. For these reasons, the Suburban Hospital Alliance of New York State strongly opposes the bill.

While the law purports to be limited to unquestionably tragic but extremely rare cancer cases like those of the bill's namesake, Lavern Wilkinson, the text of the bill actually eliminates the existing provisions of law with regard to the baseline statute of limitations on malpractice cases. When also taking into consideration the unknown number of cases that could be brought under the "reopener" clause of the bill, the entire malpractice system could be thrown into chaos: providers would face sharply increased malpractice insurance rates as carriers would seek to guard against these unpredictable liabilities, and the already overburdened court system would struggle to establish new precedents in the absence of clear statutory mandates. Furthermore, it breaks the practice in recent years of balancing plaintiff and provider needs when considering malpractice reforms, as you previously suggested when proposing caps on non-economic damages.

So deficient is the drafting of this bill that we must ask for your veto; we cannot conceive that technical changes could resolve its many problems. At minimum, we urge that any chapter amendments you consider focus first on ensuring that the law is strictly limited to cancer cases and that it apply only to future cases, not the universe of past claims for which the veracity of testimony will be questionable at best.

New York is in need of true malpractice reform that balances the rights of patients to receive fair compensation against the need for rational procedures and limitations that keep malpractice premiums affordable. Hospitals in the suburban regions already pay some of the highest malpractice premiums in the country, which only increases the cost of care for consumers, employers and the state.

Best regards,

A handwritten signature in black ink, appearing to read 'Kevin W. Dahill'.

Kevin W. Dahill,
President and CEO