

OPPOSITION

MEMORANDUM

July 21, 2020

To: Members, Long Island Delegation of the New York State Legislature
Members, Hudson Valley Delegation of the New York State Legislature

From: Kevin W. Dahill, President and CEO

RE: A.5612 (Weinstein) Referred to Rules
S.4006 (Holyman) Committed to Finance

A.5612 and its Senate companion, S.4006, would vastly inflate medical malpractice premiums and encourage frivolous lawsuits by allowing the award of damages for emotional pain suffering to the friends, family and others affected by the death of an injured patient. **The Suburban Hospital Alliance of New York State strongly opposes these bills.**

Under current law, an injured patient may recover damages for pain and suffering. If the patient is deceased, the malpractice award goes to the estate. In a wrongful death case, current law allows the award of measurable damages like medical expenses and lost earnings to those who would suffer such losses or incur these expenses. The proposed legislation opens the door to the substantially more speculative claims of pain and suffering by friends or family members, in addition to measurable damages.

This legislation would be a vast expansion of liability for expenses that are highly emotional and difficult to calculate. Because of the attraction of a potential windfall, it would invite more of the frivolous lawsuits that already overburden our judicial system. The enactment of this proposal will most certainly lead to higher medical malpractice premiums in the suburban regions, where we already pay some of the highest rates in the nation.

New York is in need of true malpractice reform that balances the rights of patients to receive fair compensation and the need for rational procedures and limitations that keep malpractice premiums affordable. The Suburban Hospital Alliance opposes legislation that further tilts the balance in favor of the plaintiffs and their counsel and increases premiums, including: A. 2370 (Dinowitz)/S. 6194 (Parker) which would prevent defendants from learning all relevant information about a plaintiff's condition, A.7599 (Dinowitz)/S.6335 (Holyman) which would permit hearsay, and A.10427 (Kim)/S. 8497 (Biaggi) which would repeal liability protections provided by recent amendments to Public Health Law for the duration the COVID-19 public health emergency.

For the reasons cited above, the Suburban Hospital Alliance urges your opposition to A.5612/S.4006 and other harmful medical malpractice bills.