

Opposition Memorandum

May 11, 2021

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

From: Wendy D. Darwell, President and CEO

RE: A.2199 (Cruz) – Passed Assembly
S.473 (Hoylman) – On Third Reading

The Suburban Hospital Alliance of New York State strongly opposes A.2199/S.473, which would require that interest start accruing on malpractice damages before a judgment has even been made in favor of the plaintiff and prior to any determination of the level of liability. The legislation would begin applying interest retroactively to the date that a court denies a summary judgment in favor of the plaintiff, if that judgment is later overturned on appeal.

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. Cases of this nature are frequently delayed due to a severely backlogged court system. The appeals process, under the best of circumstances, can take several months to a year to complete. Some have taken more than two years to be resolved. Under this legislation, the 9 percent interest rate on personal injury payouts would be applied going back to the date that the court initially denied the motion for summary judgment. This would unfairly hold defendants responsible for the state's failure to adequately fund and efficiently run its court system.

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.6770 (Weinstein)/S.74A (Hoylman), which would open the door to substantially more speculative claims of pain and suffering by friends or family members affected by the death of an injured patient;
- A.3486 (Dinowitz)/S.5152 (Skoufis), which would, when a judgment against a defendant remains unsatisfied after 30 days, sue and collect the unsatisfied judgment from a third-party defendant; and
- A.4849 (Cruz)/S.3528 (Benjamin), which would add bodily injury to the list of actions for which interest is recoverable and allow interest to accrue from the date of injury or loss.

For the reasons cited above, the Suburban Hospital Alliance urges your opposition to A.2199/S.473 and other harmful medical malpractice bills.