



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

OPPOSITION

MEMORANDUM

April 24, 2018

TO: Senate Majority Leader John Flanagan
Members, Long Island Delegation of the New York State Senate
Members, Hudson Valley Delegation of the New York State Senate

FROM: Kevin W. Dahill, President and CEO

RE: S.412A (DeFrancisco) – in Senate Judiciary Committee

The Suburban Hospital Alliance of New York State urges your opposition to S.412A, legislation that would allow a plaintiff, when a judgment against a defendant remains unsatisfied after 30 days, to sue and collect the unsatisfied judgment from a third-party defendant.

In essence the bill would give plaintiffs the opportunity to recover funds from a party they initially decided not to sue. A plaintiff already may recover funds from a third-party defendant if liability to the plaintiff is proved and the impleading of the third party occurs within the statute of limitations. This bill allows a plaintiff to recover from the third party, even if the plaintiff neglected to sue the entity and forsook its right to recover, due to the tolling of the relevant statute of limitations.

Furthermore, the premise of the legislation is that, by virtue of its presence in a lawsuit, a third-party defendant owes a duty to the plaintiff and has breached that duty. That is simply not the case. A third party's liability to a defendant may be due to contractual terms between the two, to which the plaintiff was neither a party nor a third-party beneficiary, and to which the plaintiff is not bound. It



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is inappropriate to grant a plaintiff recovery rights against a third-party defendant that is not in contractual privity with, and owes no duty to, the plaintiff.

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. S.412A runs counter to these goals.

For these reasons, the Suburban Hospital Alliance respectfully requests your vote against S.412A.