

# OPPOSITION

## Memorandum

May 17, 2021

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

From: Wendy D. Darwell, President and CEO

RE: A.6770 (Weinstein) In Assembly Judiciary Committee  
S.74A (Holyman) On 5/18/21 Senate Judiciary Committee Agenda

**The Suburban Hospital Alliance of New York State, representing hospitals and health systems on Long Island and in the Hudson Valley, opposes A.6770/S.74A**, legislation 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.

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.2199 (Cruz)/S.473 (Holyman), which would begin applying interest retroactively to the date that the court denies a summary judgement in favor of the plaintiff, if that judgement is overturned on appeal.
- 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.6770/S.74A and other harmful medical malpractice bills.**