

September 6, 2024

Elizabeth Fine, JD  
Counsel to the Governor  
Executive Chamber, New York State Capitol  
Albany, New York 12224

Re: A.9232-B/S.8485-B

Dear Ms. Fine:

I write on behalf of the Suburban Hospital Alliance's member hospitals on Long Island and in the Hudson Valley regarding the above-referenced bill, known as the Grieving Families Act, which is awaiting delivery to the governor. **We emphatically urge the governor to veto this bill.**

Governor Hochul has twice vetoed prior versions of this bill that would have similarly expanded the types of damages recoverable in a wrongful death suit, expanded the number of individuals permitted to receive them and extended lookback period for filing claims. The governor's veto messages have been clear: that the economic and social costs of implementing this legislation were unsustainable and would result in significant unintended consequences. She has called for a "serious evaluation" of these consequences, which still has not happened.

Instead, the Legislature has chosen to make minimal modifications to the bills. One category of recoverable damages has been removed, the list of eligible claimants has been narrowed and the lookback period reduced from six years to three.

The cost of the legislation also has not meaningfully changed. According to an analysis conducted by Milliman, an independent actuarial firm, this legislation still would increase medical liability costs by \$1.2 billion annually, equivalent to a premium increase of between 40 and 45 percent.<sup>1</sup> Because the law would apply retroactively to all causes of action accruing on or after January 1, 2021, reserve requirements also would need to increase an estimated \$4 - 4.5 billion.

Some of these costs would be borne by the State of New York itself. In a memo on the 2022 legislation, the Division of the Budget estimated the bill's provisions would lead to upwards of \$667 million in additional hospital subsidies paid for by the state. This figure included distressed safety net providers (\$180 million), state-run and SUNY academic facilities (\$34 million) and county-run and other voluntary hospitals whose services would be threatened by

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<sup>1</sup> Based on a 2024 Milliman study commissioned by the Healthcare Association of New York State, Greater New York Hospital Association and Medical Society of the State of New York.

severe increases in medical professional liability costs. These costs have only increased over the past two years.

If enacted, this legislation would impose an extraordinarily and untimely cost burden on every healthcare provider. Hospitals and health systems in the New York City suburbs and across the state are continuing to struggle to manage inflationary spikes in labor, pharmaceutical and supply costs without corresponding increases in government or commercial reimbursements. In this environment, it is impossible to envision a scenario where the mandates imposed by the bill would not impact patient services. Significant increases in medical liability expenses would challenge our members' ability to make continued investments in their workforce, commit to capital improvements and enhance patient care services.

While this bill would negatively impact all hospitals and health systems in New York state, the impact would be the most painful for New York's safety net and distressed providers. These facilities are often located in economically disadvantaged communities, including immigrant communities, and operate on negative or barely break-even margins. Many of these providers are already unable to afford medical malpractice coverage and must either fully or partially self-insure. This leads to greater reliance on already extremely limited cash reserves to cover malpractice liabilities, further intensifying existing gaps in access to essential services.

This legislation represents the opposite of an equitable result and would only further intensify existing gaps in access to essential services. The result would be greater imbalance to the state's medical liability system and diminished access to critical patient services. This is in no one's best interest — not patients, underserved communities, healthcare providers or the state.

**For all of these reasons, the Suburban Hospital Alliance strongly opposes the enactment of this legislation and urges the governor to once again veto this legislation.**

Sincerely,

*/s/ Wendy D. Darwell*

Wendy D. Darwell  
President and Chief Executive Officer