

The Honorable Kathy Hochul
Governor of New York
Executive Chamber
Albany, NY 12224

Dear Governor Hochul:

I am writing on behalf of [NAME OF HOSPITAL OR HEALTH SYSTEM] to urge you to veto A.6698/S.6636, a bill that the New York State Legislature recently passed to overhaul New York's wrongful death law. If enacted, it will have severe unintended consequences.

[BRIEF DESCRIPTION OF HOSPITAL/HEALTH SYSTEM.]

Among other things, A.6698/S.6636 expands the types of damages recoverable in wrongful death actions and the individuals who may recover them. While the bill's proponents understandably focus on sympathy for grieving families, the bill will significantly undermine New York's health care safety net and the many families it serves.

Earlier this year, you wisely vetoed an almost identical bill, and when you did so you cited a concern about the potential impact on the State's health care system.¹ We applaud you for that veto. This year's bill does not address this concern. Nor does it address concerns of the Division of the Budget or Department of Financial Services, which last year strongly recommended that the bill be vetoed based on a number of concerns, including the likelihood of it increasing costs for State-run and SUNY academic facilities, increasing subsidies to State safety net providers, and destabilizing New York's medical malpractice insurance market.²

Just like last year's bill, if A.6698/S.6636 becomes law, medical malpractice costs in New York, already the highest in the nation, are estimated to increase by approximately 40% to 45%. The application of the bill's changes to pending litigation going back six years undermines the actuarial assessments and planning assumptions of insurance companies and self-insured providers, changing the rules after the fact.

An analysis of publicly available data shows that New York's hospitals spent approximately \$1.6 billion on medical malpractice costs in 2022.³ This figure would balloon to more than \$2.2 billion annually if A.6698/S.6636 is enacted. [LAST YEAR, OUR ORGANIZATION ALONE SPENT \$___ ON LIABILITY COSTS. EVERY DOLLAR WE SPEND ON LIABILITY IS A DOLLAR WE CANNOT SPEND ON PATIENT CARE, STAFFING, EQUIPMENT, AND CAPITAL IMPROVEMENTS.]

¹ Veto Message 192 of 2022.

² NYS Division of the Budget Memo, November 28, 2022.

³ GNYHA's review of 2022 New York State Institutional Cost Reports and Medicare Cost Reports.

Signing this bill would be woefully inconsistent with the State's essential budget investments in the health care community. It would harm the care provided by all hospitals and would especially impact safety net institutions and the families they serve.

Tort changes that will push our hospitals and health systems to the financial brink are not in anyone's best interest. If one element of our tort system is to be amended in favor of plaintiffs, there should be other balancing reforms to avoid diminishing access to care.

Please veto A.6698/S.6636.

Sincerely,