

ALBANY REPORT

Legislative developments impacting the New York medical
and dental professional liability insurance marketplace

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New York 2022 Regular Legislative Session Concludes

OVERALL LEGISLATIVE ISSUES

The regular session of the New York State Legislature adjourned on June 4. While there is always a potential for members to reconvene prior to the end of the year, the Legislature is not currently scheduled to return until January 2023.

There were several liability-expanding bills heavily promoted by the New York State Trial Lawyers Association (“NYSTLA”) during the 2022 session that would have had a negative impact on MLMIC Insurance Company policyholders. Working closely with our healthcare and insurance industry partners in opposition to these measures, we ensured all but one of these harmful bills were stopped. However, the bill that passed both houses, the NYSTLA-referenced “Grieving Families Act” set forth in S74A/A6770, would have serious negative consequences for all New York healthcare providers and facilities if enacted into law.

The Grieving Families Act would greatly expand the type of damages that could be awarded in wrongful death cases, increase the eligible close family members who can bring a wrongful death case, and increase the statute of limitations for bringing such an action. A well-respected actuarial firm estimates that these provisions would result in a roughly 40 percent increase in New York medical professional liability (MPL) insurance premiums.

MLMIC Insurance Company has already begun to coordinate with our healthcare organization partners to begin the process of seeking a veto from Governor Hochul’s office, which must receive this bill and act on it before it becomes law. We encourage any policyholder who wishes to register their opposition to this harmful legislation to click on the following link and follow the directions for submitting a brief message: [**Urge Governor to Veto Wrongful Death Liability Expansion**](#)

OTHER LEGISLATIVE ISSUES

MLMIC continues to support legislation that would reduce the risks involved with practicing medicine and thereby allow healthcare practitioners to provide the best possible care to their patients. One of these legislative proposals, S1589/A157, is medical malpractice peer review and quality improvement programs for qualifying medical group practices. MLMIC continued its longtime advocacy of these programs with our support of this bill and its provisions for strong confidentiality and immunity protections under New York law. Unfortunately, this bill was strongly opposed by the NYSTLA and did not pass either house.

MLMIC was also able to obtain introduction in the Senate of robust legislation that would, in the aggregate, significantly reform New York’s one-sided civil justice system in the MPL arena. The affirmative medical liability reform legislation consists of the following four bills:

- S9214 — Require the Department of Financial Services to conduct a study of insurance products (primarily annuities) that could be effectively used to finance a plaintiff’s future economic damages.
- S9215 — Expand Medical Indemnity Fund eligibility to include all neurological injuries (not just birth-related injuries).
- S9216 — Extend the confidentiality protections in quality assurance proceedings to all participants, including medical malpractice defendants.
- S9219 — Enact the following medical liability reforms:
 - a. expand the limitation of liability law to include economic damages;
 - b. create a robust Affidavit of Merit requirement with full disclosure of expert witnesses in medical malpractice actions; and
 - c. limit recovery of medical damages in medical malpractice actions to actual healthcare costs incurred.

These affirmative bills are meant to help the entire healthcare industry counter the unfortunate trend in recent years of the new supermajorities in the Assembly and Senate to support much of the NYSTLA’s legislation. As described above, this trend has proven to be an alarming development for physicians, dentists, hospitals, and all other participants in the New York State healthcare sector.



Questions?

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