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November 22, 2022

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

Dear Ms. Fine:

On behalf of the Suburban Hospital Alliance of New York State, which represents hospitals and health systems on Long Island and in the Hudson Valley, **I write again to implore the governor to veto S.74-A/A.6770**, legislation that significantly expands potential claims of non-economic damages in wrongful death liability cases. This legislation has passed both houses of the Legislature and will soon be delivered to Governor Hochul for her consideration.

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. S.74-A/A.6770 opens the door to substantially more speculative claims by friends and family members, in addition to measurable damages, by making eligible for recovery grief, anguish, loss of love, loss of society, loss of protection, loss of comfort, loss of companionship and loss of consortium. This legislation would apply to all currently pending cases and extend the statute of limitations for wrongful death cases from 24 to 42 months.

While the bill would apply to all wrongful death cases, the impact on medical liability cases would be most profound. Hospitals and other healthcare providers in the suburban regions already pay among the highest malpractice premiums in the country. According to a study by the independent actuarial firm Milliman, **premiums are expected to rise more than 45 percent across the state** if the legislation is enacted. Hospitals and health systems, still reeling from the financial and operational impacts of the COVID-19 pandemic, facing sharply increased pharmaceutical, supply and energy costs, and paying extreme rates for contracted labor to ensure safe patient care during a workforce shortage are in no position to shoulder such an extraordinary increase in premiums. Because the law would apply to all open wrongful death cases, Milliman estimates that it **would also create an estimated \$6 billion one-time expense**.

Furthermore, enactment of this legislation would undermine the governor's stated goal of achieving health equity. Among the hardest hit by premium increases will be safety net institutions that serve our regions' most vulnerable residents. These institutions and other providers that serve a disproportionate share of low-income and uninsured patients are already struggling financially to meet the needs of their communities. Providers will have no choice but to curtail or terminate services if facing premium increases of this magnitude, deepening inequities in the healthcare system and far outweighing any benefit of the law to individuals in the communities they serve.

Our state 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.74-A/A.6770 would worsen what is already an unsustainable litigation environment for New York healthcare providers.

For these reasons, the Suburban Hospital Alliance strongly opposes this legislation and urges the Governor to veto S.74-A/A.6770.

Sincerely,



Wendy D. Darwell  
President and CEO