Testimony submitted for the Joint Legislative Public Hearing on Health 2023-2024 Executive Budget

January 23, 2024

Honorable Chairs and Members of the Senate and Assembly Health Committees, Senate Finance Committee and Assembly Ways & Means Committee, thank you for the opportunity to submit testimony related to our priorities for the SFY 2024-25 Executive Budget Proposal.

The New York State Radiological Society represents diagnostic radiologists, radiation oncologists, interventional radiologists, nuclear medicine physicians, medical physicists and patients served by these professions across New York State. In addition to advocating for the above listed professions, a key component of the Society's mission is to improve the access to, and quality of, radiologic services to patients throughout the state.

OPPOSE: Expanded Physician Assistant Scope of Practice (H/MH Article VII Part Q)
The New York State Radiological Society is opposed to proposals that would weaken the current standard of care and urge lawmakers to prioritize patient safety by ensuring access to providers with the highest level of training and experience. This proposal would compromise quality of care and jeopardize patient safety and outcomes.

Physician assistants (PAs) are an integral part of the healthcare team. Physician supervision of PAs helps ensure patient health and safety through care coordination, assisting patients with accessing treatments, testing, and needed specialty care. Given the success of physician-led health care teams, we believe this legislation would fragment and weaken patient care by eroding supervision requirements. A primary reason for this is the significant difference in education and training between a physician and that of a PA. Following undergraduate education, physicians' training includes four years of medical school, 3-7 years of residency and fellowship training, and 12,000-16,000 hours of supervised clinical practice. In comparison, PAs typically undergo two years of graduate training with about 2,000 hours of clinical practice. This difference in education is the reason why physician-led healthcare continues to result in the highest quality, safest, and most cost-effective care.

The ability for PAs to practice without physician supervision would sacrifice quality for our patients as the training and experience of PAs is substantially shorter and not equal to that of physicians. In a survey taken by the Medical Society relating to expanded scope allowances made during the COVID-19 pandemic Disaster Emergency, 75% of the physician respondents indicated that advanced care practitioners working independently during the pandemic under the Governor's Executive Orders (waiving physician supervision requirements) had committed an

error while treating a patient; 90% indicated that the error could have been prevented had there been physician oversight. This survey data reflects the realities of PA training curriculum which is built around a model of supervision with physicians.

Various studies have shown that non-physician practitioners order more diagnostic imaging than physicians for the same clinical presentation, which not only increases health care costs but also threatens patient safety by exposing them to unnecessary radiation. In a study published in the Journal of the American College of Radiology that analyzed skeletal x-ray utilization for Medicare beneficiaries from 2003 to 2015, ordering of diagnostic imaging increased substantially-more than 400% by non-physicians, primarily NPs and PAs during this time frame.

These findings are further supported in a January 2022 study in the Journal of the Mississippi State Medical Organization. The article by Batson et al, entitled "Mississippi Frontline – Targeting Value-based Care with Physician-led Care Teams" detailed a retrospective study looking at almost 10 years of data from the Hattiesburg Clinic looking at over 300 physicians and 150 advanced practice nurse and physician assistant providers. *The study found that allowing advance practice providers to function with independent panels failed to meet goals in the primary care setting of providing patients with an equivalent value-based experience for quality of care, keeping costs stable and meeting patients' expectations and satisfaction with healthcare delivery*.

While PAs play an important role in providing care to patients, their skillsets are not interchangeable with that of fully trained physicians. Patient care would be adversely affected by removing requirements for physician supervision of PAs and this would further deepen the healthcare disparities in our state with unequal levels of care provided in communities.

This proposal would be a very significant divergence from the care model that has been in place in New York since inception. This change should not be hastily enacted as part of the state budget. Rather, much further discussion and objective studies are needed to ensure that it does not result in health care costs increasing and most importantly, that patient quality of care is not sacrificed. For these reasons, the NYS Radiological Society strongly urges your opposition to this proposal and requests that it be rejected in the budget.

OPPOSE: Physicians Excess Medical Malpractice Program (H/MH Article VII Part K)
The NYS Radiological Society is strongly opposed to the proposed restructuring of the Physicians Excess Medical Malpractice program that would require the 15,000 physicians currently enrolled in the program to bear 50% of the cost of these policies. This restructuring was proposed during multiple Cuomo administration Executive Budgets, but was thankfully rejected by the State Legislature because of its adverse impact not only on physicians, but ultimately for patients who are the beneficiaries of this program. Unfortunately, the proposal has now returned to the Executive Budget, and we urge the Legislature to again reject it.

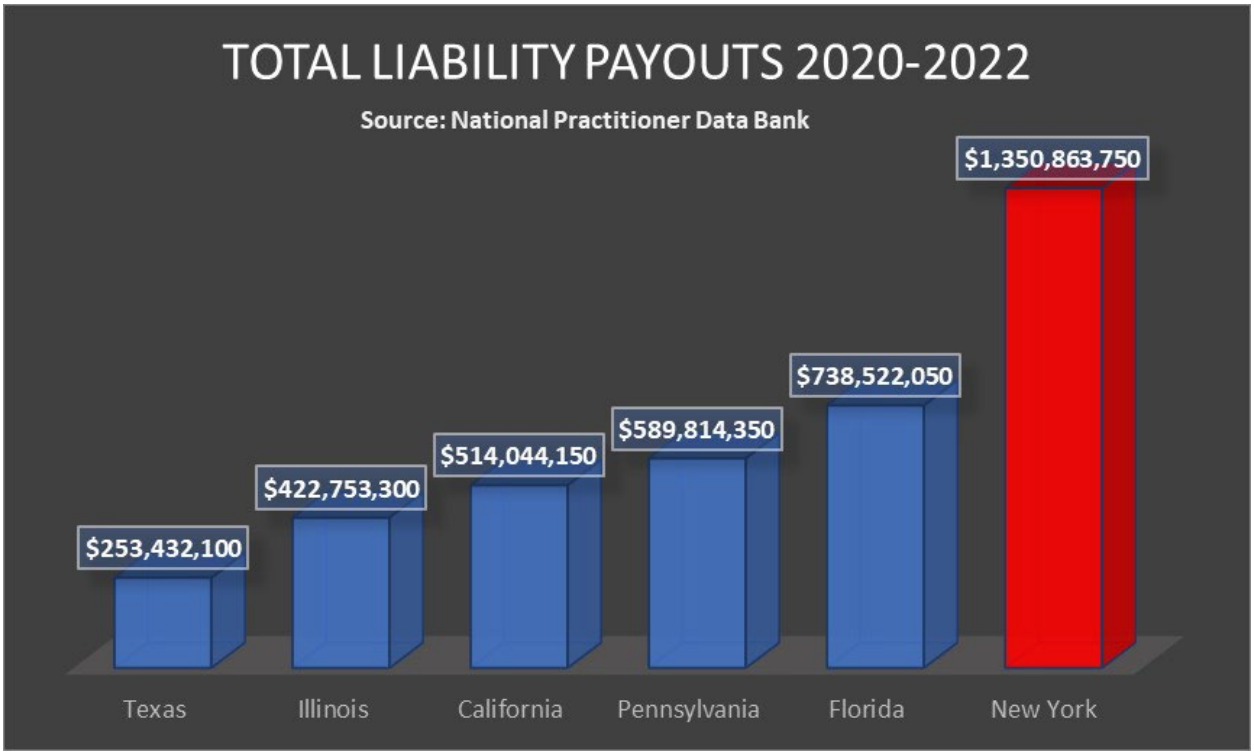
This incredibly short-sighted proposal would thrust nearly $40 million of new costs on the backs of our community-based physicians who served on the front lines of healthcare, many of whom are struggling to stay in practice to deliver needed care, and at a time when physicians already face staggeringly high liability premiums that have further risen by an additional 10% in the last

2 years. It is likely that many physicians will simply forego the coverage in order to avoid the thousands to tens of thousands in new costs, per physician, this Budget proposal would impose.

The Excess Medical Malpractice Insurance Program provides an additional layer of $1M of coverage to physicians with hospital privileges who maintain primary coverage at the $1.3 million/$3.9 million level. The program was created because of the liability insurance crisis of the mid-1980's to address concerns among physicians that their liability exposure far exceeded available coverage limitations. They legitimately feared that everything they had worked for all their professional lives could be lost because of one wildly aberrant jury verdict.

This fear continues today since New York State has failed to enact meaningful liability reform to ameliorate this risk. The size of medical liability awards in New York State has continued to rise significantly and physician liability premiums remain far out of proportion compared to the rest of the country. In fact, New York's total medical liability payouts between 2020-2022 are nearly twice as great as the second highest state, Pennsylvania (please see chart below), and far surpassing more populous states such as California and Texas. Medical liability costs hurt consumer affordability and access, as these costs contribute to New York's high premium costs, which also limit small business growth. Moreover, excessive liability costs disproportionately impact physicians working in underserved communities who have experienced heightened financial strain from the pandemic. For these reasons, New York is regularly ranked worst among states in the country for physicians to practice medicine.

Absent comprehensive liability reform to bring down New York's grossly disproportionate medical liability costs, maintaining an adequately funded Excess Medical Malpractice Insurance Program is absolutely essential to sustaining availability of skilled physician care in New York.



OPPOSE: Nurse Practitioner (NP) Modernization Act Extender (H/MH Article VII Part P)
The NYS Radiological Society is strongly opposed to extending the exemption for NP's with over 3,600 hours to practice independently without a collaborative agreement with a physician. The shift in NY that allowed for NP independent practice represents a safety risk to patients and leads to increased health care costs. Nurse practitioners have no residency requirement and only 500-720 hours of clinical training, and their education is far less rigorous than the training of physicians. By sharp contrast, physicians complete 4 years of medical school plus 3-7 years of residency, including 12,000-16,000 hours of clinical training.

It is more than just the vast difference in hours of education and training. There is also a difference in the rigor and standardization between medical school/residency and nurse practitioner programs. During medical school, students receive a comprehensive education in the classroom and in laboratories, where they study the anatomical, physiological, biochemical, pharmacological and behavioral aspects of human conditions. This period of intense study is supplemented by two years of patient care rotations through many medical and surgical specialties, during which medical students assist licensed physicians in the care of patients. During clinical rotations, medical students continue to develop their clinical judgment and medical decision-making skills through direct experience managing patients in all aspects of medicine, under the direct supervision of licensed physicians. Following graduation, students must then pass a series of examinations to assess a physician's readiness for licensure. At this point, medical students "match" into a 3–7-year long residency programs during which they provide care in a select surgical or medical specialty under the supervision of experienced physician faculty. As resident physicians gain experience and demonstrate growth in their ability to care for patients, they are given greater responsibility and independence. NP programs do not have similar time-tested standardizations. In summary, NP education and training to deliver patient care is not interchangeable with physician education and training.

The NYS Radiological Society strongly opposes the extending the Nurse Practitioner Modernization Act and respectfully asks the Legislature to reject this proposal and sunset Nurse Practitioner independent practice in order to enable patients to receive care in a team-based effort which has been proven to provide the highest standard of care.

SUPPORT: Establish Notice of Dense Breast Tissue as Sufficient Evidence of Medical Necessity for Insurance Coverage of Breast Ultrasounds (As Provided in A2516, Paulin/ S2917, Cleare)
A leading priority for the New York State Radiological Society is ensuring patients have insurance coverage when a finding and notification of dense breast tissue lead a provider to recommend a breast ultrasound exam. Under state law, providers of mammography services are required to notify a patient when a mammogram demonstrates dense breast tissue, as defined in nationally recognized guidelines for breast imaging reporting of mammography screening. These notices are intended to educate patients that although dense breast tissue is common, it can elevate the risk of developing breast cancer and can make it more difficult to identify cancer on a mammogram. When patients are aware of these factors, they are better equipped to consult with

their physician to determine whether additional screening exams, such as breast ultrasound, are appropriate based on their individual risk profile.

Breast cancer is the second leading cause of cancer-related deaths among women in the United States. Regular check-ups and screening tests can find breast cancer at an earlier stage, when it is easiest to treat and most curable. Early detection is the key to survival. In New York State, data shows that despite white women having higher incidence rates of breast cancer, black women have the highest mortality rates. While this disparity is due to a variety of factors that impact access, limited insurance coverage that fails to cover medically necessary, supplemental breast imaging including ultrasound should be eliminated as a barrier.

When discussions prompted by a finding and notification of dense breast tissue lead a provider to recommend a breast ultrasound screening exam, patients should not have to await health plan approvals or navigate an appeal of a coverage denial from their health plan. The NYS Radiological Society supports prioritizing this policy as part of SFY 2024-25 budget discussions.

SUPPORT: Funding for the New York State Cancer Services Program
The New York State Cancer Services Program (CSP) offers free breast, cervical, and colorectal cancer screening, diagnostic testing, and referral to treatment to eligible uninsured and underinsured people. The program is administered by CSP grantees covering every county and borough in New York State. Grantees focus their efforts on reaching individuals who lack access to services and who bear a disproportionate burden of cancer to improve cancer outcomes and reduce health disparities.

Following a 20% cut enacted in 2017, state funding for the CSP decreased from $25.6 to $19.8 million. The NYS Radiological Society was pleased that this funding was increased in the enacted SFY 2024 Final Budget to $22.3 million. Unfortunately, the SFY 2025 Executive Budget failed to sustain last year's increase and provides level funding with prior years at $19.8 million.

Despite the strong success of this program, the CSP is unable to serve the entire eligible population in New York—a result of its limited budget and resources. This includes Black and Hispanic/Latino cancer patients—two groups which are more likely to be diagnosed at later stages than white patients for breast, colorectal and cervical cancers due, in part, to lower screening rates.

The NYS Radiological Society supports the inclusion of level funding with last year's enacted amount of $22.3 million to support the continued critical work of the State CSP in serving those who may otherwise be unable to access these critical, life-savings services.