



NEW YORK STATE SENATOR

Alessandra Biaggi

## NYS SENATOR BIAGGI ISSUES STATEMENT EXPLAINING HER VOTE ON S8835

ALESSANDRA BIAGGI July 24, 2020

**ALBANY, NY** – Yesterday, July 23rd, the New York State Senate passed [S8835](#).

**State Senator Alessandra Biaggi (D-Bronx/Westchester) issued the following statement:**

“More than 6,500 New Yorkers have died in nursing homes and adult care facilities from COVID-19 – almost 800 people in the Bronx alone. Each one of these deaths represents a family mourning and looking for answers. But because of the Governor’s Emergency Disaster Treatment Protection Act that was slipped into the budget this year, those healthcare facilities have been stripped of liability for the New Yorkers in their care. We have an obligation to right this wrong and create transparency and accountability for the thousands of families who have lost their loved ones.

This issue goes beyond COVID patients in nursing homes and hospitals. In practice, the Governor’s immunity provisions in Article 30-D of the Public Health Law apply to any treatment provided during the COVID outbreak – whether it is COVID related or not. For example, if you went to a doctor for a broken arm, gave birth, had appendicitis, or went to the dermatologist during the COVID emergency, and wrongdoing occurred, you cannot pursue a case or claim against the healthcare provider for malpractice less than gross negligence – an extremely high threshold. In other words, any New Yorker who went to the

doctor between March 7th and April 2nd, who walked into that appointment, treatment, or care facility with rights, had them taken away on April 3rd when the budget went into effect. In my seventeen months in office, this budget provision is one of the most egregious abuses of power I have seen.

I voted against S8835 because it fails to provide New Yorkers with the justice they deserve. S8835 only addresses COVID-related cases prospectively and restores the protections that existed prior to the pandemic for just non-COVID cases moving forward. Not only does this fail to give recourse to the thousands of families who have lost loved ones to COVID, it does not account for the budget language that retroactively took away the rights of New Yorkers who visited a doctor for non-COVID related care.

The bottom line is that we have failed to do our job to protect the rights of all New Yorkers – the fight for justice and accountability continues.”

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