

Redesigning
THE MEDICAID PROGRAM



NEW YORK STATE DEPARTMENT OF HEALTH

Medicaid Redesign Team (MRT)

Medical Malpractice Reform Work Group

FINAL RECOMMENDATIONS



Medicaid Redesign Team Medical Malpractice Work Group Final Recommendations

Work Group Charge:

To review the cost of malpractice coverage, including the identification of significant cost drivers of coverage, review the available data (insurance and other relevant data), and develop recommendations on reducing the cost.

Work Group Membership:

Joseph W. Belluck, Co-chair
Kenneth E. Raske, Co-chair
Edward J. Amsler
John Bonina, Jr.
Arthur Fougner
Matthew Gaier
Joel Glass
Lee Goldman
Fred Hyde
Hon. Douglas E. McKeon
Christopher Meyer
Nicholas Papain

Meeting Dates and Focus:

October 17, 2011-The costs of adverse events and medical malpractice and the impact of these costs on providers, the State's Medicaid program, and the delivery of health care in general in New York State.



Brief Summary of Discussions: Presentations were made on the following subjects, with a question and answer/discussion period following each presentation:

- 2011 Medical Practice Initiatives –The New York State Medical Indemnity Fund and the Agency for Healthcare Research & Quality Grant to the Unified Court System
- Cost of medical malpractice insurance in New York State
- The impact of Medical Malpractice Costs on Providers, the State Medicaid Program, and the Delivery of Health Care
- The impact of Adverse Outcomes on Provider Malpractice Cost
- Practices Being Undertaken to Reduce the Number of Adverse Events, the Success of such Practices; and the Impact of these Practices on Malpractice Coverage Expenses
- The Non-economic Impact of Medical Malpractice Claims on Providers.

Outside Experts Consulted with:

- Geoff Taylor, Senior Vice President for Corporate communications and Public Policy, Excellus BlueCross;
- Donald Faber, Vice President and Assistant Secretary, Medical Liability Mutual Insurance Company;
- Susan Waltman, Executive Vice President and General Counsel, Greater New York Hospital Association;
- Michelle Mello, Professor of Law and Public Health, Harvard School of Public Health;
- Arthur Levin, Director, Center for Medical Consumers;
- Lorraine Ryan, Senior Vice President, Legal, Regulatory and Professional Affairs, Greater New York Hospital Association;
- Arthur Kleinman, President of the New York State Plastic Surgeons Society and Treasurer of the Medical Society of the State of New York.



Meeting Date and Focus: October 27, 2011- The Effectiveness of the Tort System in Resolving Medical Malpractice Claims and Promoting Patient Safety

Brief Summary of Discussions:

Presentations were made on the following subjects, with a question and answer/discussion period following each presentation:

- Effectiveness of the Tort System in Resolving Medical Malpractice Claims and Promoting Patient Safety
- Analysis of Key Medical Malpractice Insurance Issues in New York State
- The Tort System's Cost to New York City and Recommendations for Medical Malpractice Reform;
- The Patient Safety Role of the Tort System; A judicial Perspective on the Tort System for Resolving Medical Malpractice Claims;
- The Positives and Negatives of the Tort System for Resolving Medical Malpractice Claims.
- Medical Malpractice Insurance Rates; PRI's Actuarial Approach to Claims;
- Analysis of the Impact of California's Insurance Regulatory Law;
- CIRCO's Experience in Using Closed Claims as a Tool in Implementing Patient Safety Measures.

Outside Experts Consulted with:

- J. Robert Hunter, Director of Insurance, Consumer Federation of America; Former Federal Insurance Administrator; Former Commissioner of Insurance for the State of Texas; actuary
- Michael Cardozo, Corporation Counsel for the City of New York
- Nicholas Papain, Partner, Sullivan, Papain, Block; McGrath & Cannavo, PC
- Hon. Anne Pfau, Coordinating Judge of the New York State Medical Malpractice Program and former Chief Administrative Judge for New York State
- Hon. Eileen Bransten, Justice, Supreme Court, Civil Branch
- Brian J. Noonan, Vice President, Claims & Litigation, Management New York-Presbyterian Hospital
- Gregory V. Serio, Consultant to PRI and former New York State Insurance Superintendent, Physicians' Reciprocal Insurance
- Harvey Rosenfield, Founder, Consumer Watchdog; Author of Prop. 103, California's 1988 Insurance Regulatory Reform Law
- Robert Hanscom, Senior VP CIRCO Strategies, (Insurer for Harvard Medical System)

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Statement of the Medical Malpractice Work Group In Lieu of Third Meeting and Recommendations

The Medical Malpractice Work Group has worked diligently over the last month to address its charge. In addition, the co-chairs have had multiple good faith conversations regarding the information shared at the Work Group meetings as well as potential recommendations. Notwithstanding the discussions that have taken place, there remain significant differences of opinion regarding the recommendations that should be supported. As a result, we have concluded that the Work Group is unable, at this time, to support any recommendations.

We thank the Executive for empanelling the Work Group, which has been of value in learning about individual members' views and perspectives, and for the time and commitment of all involved.