RECOMMENDATIONS PRESENTED BY
CORPORATION COUNSEL MICHAEL A. CARDOZO
TO THE MEDICAL MALPRACTICE WORK GROUP OF
THE NEW YORK STATE MEDICAID REDESIGN TEAM

October 27, 2011
I. REFORMING THE STATE TORT LAWS

Recommendation 1: Cap Pain And Suffering

Recommendation 2: Establish Schedules For Quantifying Non-Economic Damages

Recommendation 3: Medical Expense Threshold

Recommendation 4: Limit Joint And Several Liability For Economic Damages
II. RECOMMENDATIONS TO COURTS AND JUDGES CONCERNING MEDICAL MALPRACTICE

Recommendation 5: Expand The Number Of Cases Adjudicated In Medical Malpractice Parts By Judges Trained And With Proficiency In Medical Malpractice

Recommendation 6: Expand The Use Of Court Assisted Mediation, As Early As Possible Following Commencement Of A Lawsuit, As A Means Of Resolving Medical Malpractice Cases Outside Of The Courtroom

Recommendation 7: Encourage Judges To Hold Frye Hearings And To Perform Their Gatekeeper Function More Vigorously In Determining Whether Scientific And Medical Testimony Is Sufficiently Reliable To Be Heard By A Jury
III. OTHER PROPOSED STATUTORY CHANGES

Recommendation 8: Authorize The Appointment By Judges, Particularly In Cases Of High Exposure, Of Independent Experts To Calculate Future Medical Costs And The Cost Of Custodial Care, And To Analyze Certain Issues Related To Liability (Such As Standard Of Care And Causation)

Recommendation 9: Establish Rules That Would Encourage Doctors To Apologize To Patients Without The Risk Of The Apology Being Admissible In Court

Recommendation 10: Protect Statements By Doctors To Quality Assurance Committees From Discovery

Recommendation 11: Require An Affidavit Of Merit For Each Named Defendant

Recommendation 12: Require Each Party To Identify Its Experts By Name Within A Specified Period Following A Filing Of A Notice Of Issue, And To Produce The Expert For Deposition Should The Other Party So Request