

**NORTHERN
METROPOLITAN
HOSPITAL
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MEMBER HOSPITALS

Benedictine Hospital
Blythedale Children's
Hospital
Bon Secours Community
Hospital
Burke Rehabilitation
Hospital
Catskill Regional Medical
Center
Ellenville Regional Hospital
Good Samaritan Hospital
Helen Hayes Hospital
Hudson Valley Hospital
Center
Keller Army Community
Hospital
The Kingston Hospital
Lawrence Hospital Center
The Mount Vernon Hospital
The New York Presbyterian
Hospital Westchester
Division
Northern Dutchess Hospital
Northern Westchester
Hospital
Orange Regional Medical
Center
Phelps Memorial Hospital
Center
Putnam Hospital Center
St. Anthony Community
Hospital
St. Francis Hospital
St. Joseph's Medical Center
St. Luke's Cornwall Hospital
Sound Shore Medical Center
of Westchester
Vassar Brothers
Medical Center
VA Hudson Valley Health
Care System
Westchester Medical Center
White Plains Hospital



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A PUBLICATION ADDRESSING HEALTH
ISSUES FACING HUDSON VALLEY RESIDENTS

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State Update: Med Mal Bill Promotes Inequity

The small medical malpractice reform success that the hospital industry enjoyed this past budget season, with the passage of a medical indemnity fund to pay for the cost of care of neurologically-impaired infants, would be overshadowed if a current proposed bill that seeks limits on defense counsel interviewing becomes law. The bill – A.694-A and S.3296-A – would prohibit defense counsel in a malpractice lawsuit from privately interviewing the plaintiff's treating physician. No limit, however, would be placed on the plaintiff's attorney.

Hospitals throughout the Hudson Valley would incur excessive legal expenses under the precepts of this bill, because the current and nationally acceptable practice of complete and thorough disclosure of all information, including that obtained in addition to the disposition process, would be abandoned. The 2007 Arons vs. Kutkowitz court of appeals case reaffirmed the need for all litigants to seek out relevant information to assure greater fairness in the adjudication of civil lawsuits. Without the opportunity for free and open discovery that is essential to fair litigation, cases will drag on and costs will add up for all involved, especially hospitals.

The Northern Metropolitan Hospital Association, the organization that represents hospitals in the Hudson Valley, strongly opposes this bill and has joined the Healthcare Association of New York State (HANYNS), and other regional hospital associations throughout the state in strongly opposing this bill. NorMet is urging its member hospitals and anyone concerned about preserving a fully open and fair litigation process to contact their state legislators today.

Federal Update: Med Mal, Debt Ceiling, FY 2012 Budget Crowd Agenda

Congressional lawmakers are busy addressing the looming debt ceiling, developing a fiscal year 2012 budget, modifying provisions of the Affordable Care Act, and considering medical malpractice reform. Key considerations at stake include:

- The federal government is due to default August 2, 2011, if the debt ceiling is not raised by then. For some lawmakers, raising the debt ceiling is tied to spending cuts. The Medicare and Medicaid programs are vulnerable targets.
- Privatization of Medicare through a voucher system and block granting the Medicaid program remain the major components of the GOP's FY 2012 budget blueprint that the House already passed. The Senate plan continues as a work in progress. Fixing the physician fee schedule remains a top priority for the Senate. Physicians deserve full and fair Medicare reimbursement, but paying for that should not fall to hospitals through Medicare reimbursement reductions.
- The House approved its State Flexibility Act that would roll back provisions of the American Recovery and Reinvestment Act (ARRA) and the Affordable Care Act (ACA) that require states to maintain Medicaid and Children's Health Insurance Program (CHIP) eligibility – otherwise known as maintenance of effort provisions. States are required to maintain their current levels of coverage until full Medicaid expansion kicks in 2014 when eligibility settles at 133 percent of the federal poverty level.
- The House Energy and Commerce Committee recently approved a medical malpractice measure limiting awards for non-economic damages to \$250,000. New York fought for a similar cap during recent budget negotiations. The cap was not enacted on the state level.