Memorandum
Support Full Funding and One Year Extension of Physician Excess Medical Liability Program
Oppose 30-day Amendments to Limit Allocation to June 30, 2020
(Article VII, HMH, S7507-A/A9507-A, Part A)

The New York American College of Emergency Physicians (New York ACEP) strongly supports full funding for the Excess Medical Liability Program at $127,400,000 and a one-year extension of the program as originally provided in the 2020-21 proposed Executive Budget.

New York ACEP is opposed to the 30-day budget amendments to limit the program allocation to June 30, 2020, subject to discussion by the Medicaid Redesign Team (MRT). The 30-day budget amendments will seriously erode protections needed by emergency and other physician specialties at a time when New York is listed as one of the worst states in the nation to practice medicine (WalletHub).

The Excess Medical Liability Insurance Program was created in 1985 as a result of the liability insurance crisis of the mid-1980s to address concerns among physicians that their liability exposure far exceeded available coverage limitations. The program provides an additional $1 million of coverage to physicians with hospital privileges who maintain primary coverage at the $1.3 million/$3.9 million level. Since its inception in the 1980s, the Excess Program has been a primary component in controlling rapidly increasing costs of malpractice for hospitals and physicians.

The need for this program is as important now as it was in 1985 due to a one-sided law passed by the State Legislature in 2017 to significantly increase the length of time to bring a lawsuit against a doctor or hospital. This is likely to produce an increase in our already exorbitant costs and will contribute to New York’s long-standing reputation as one of the worst states in the country to practice as a physician.

Malpractice payouts in New York State continue to be far out of proportion to the rest of the country. For example, a report by Deiderich Healthcare showed that, in 2017, New York State had the highest number of cumulative medical liability payouts ($617,973,000), greatly exceeding the state with the second highest amounts, Pennsylvania ($342,093,300), and far exceeding states such as California ($260,668,400) and Florida ($260,480,550). At the same time, New York has the highest per-capita medical liability payments in the country. Remarkably, it was nearly 500% more than California, a state that has enacted comprehensive medical liability reform.

Full funding and a one-year extension of the Excess Medical Liability Insurance Program will assist in at least stemming the tide of physicians who may be considering leaving the State due to the hostile liability climate and protect access to quality emergency care for patients.

For these reasons, New York ACEP strongly urges the New York State Legislature to provide full funding for the Excess Medical Liability Program at $127,400,000 and extend it for one year.