

**BRONX INDEPENDENT LIVING SERVICES
BROOKLYN CENTER FOR INDEPENDENCE OF THE DISABLED
CENTER FOR JUSTICE & DEMOCRACY
CENTER FOR MEDICAL CONSUMERS
CITIZEN ACTION OF NEW YORK
COMMISSION ON THE PUBLIC'S HEALTH SYSTEM
CONSUMERS UNION
DISABILITIES NETWORK OF NEW YORK CITY
DISABLED IN ACTION OF METROPOLITAN NEW YORK
EMPIRE STATE CONSUMER PROJECT
GRAY PANTHERS, NEW YORK CITY NETWORK
HARLEM CONSUMER EDUCATION COUNCIL
NEW YORK PUBLIC INTEREST RESEARCH GROUP (NYPIRG)
NEW YORK STATEWIDE SENIOR ACTION COUNCIL
NEW YORKERS FOR PATIENT & FAMILY EMPOWERMENT
PULSE OF NEW YORK**

February 19, 2015

Hon. Andrew Cuomo
Governor
Exec Chamber
State Capitol
Albany, NY 12224

RE: Request to delete provision in Budget Bill, Article VII, Part A Section 1 that would repeal Public Health Law §2995-a, dismantling New York Physician Profile program

Dear Governor Cuomo:

The undersigned 16 public interest organizations urge you to delete the provision in the Executive Budget Bill, Article VII, Part A, Section 1, that would repeal Public Health Law §2995-a and thus completely dismantle the New York Physician Profile reporting and public disclosure program. While the New York State executive Budget Briefing Book describes this as a proposal to “discontinue a physician profile website,” the legislative language would actually require the complete dismantling of an entire medical safety reporting and public disclosure program. This important program, established pursuant to the Patient Health Information and Quality Review Act of 2000, has been in place for a decade and a half.

The New York Physician Profile reporting and disclosure program is a positive “transparency” measure that allows consumers to access, at one website,¹ key information on the credentials and safety records of doctors practicing in New York. We urge instead that you protect and strengthen this consumer protection program.

The repeal of the Public Health Law’s requirement for the Department of Health (DOH) to maintain a Physician Profile website (PHL §2995-a(9)) would be an unfair and dangerous step backwards in the effort for greater transparency in healthcare, and a step backwards for patients’ consumer rights. While the Executive Budget Briefing Book states that removing this website would save \$1.2 million, clearly *if just one person avoids death or disability because they use this site to choose a doctor with better credentials, the money is well worth it.*

¹ See New York State Physician Profile Website, available at <http://www.nydoctorprofile.com/>.

Under this important law, patients can find out whether or not their doctor has any:

- Criminal conviction;
- Action taken against the doctor pursuant to PHL §233 (unless it is still confidential)
- Current limitation of the doctor to a specified area, type, scope or condition of practice;
- Any involuntary loss or restriction of hospital privileges or failure to renew privileges at hospitals for reasons related to quality of care over the past 10 years – but only after all procedural due process has been allowed or waived; or resignation or relinquishment of any privileges at a hospital taken in lieu of a pending disciplinary case related to quality of care;
- The number of medical malpractice court judgments and arbitration awards within the past 10 years in which a payment is awarded to a complaining party, with an indication of the level of significance. This information is put in context/comparison with the experience of other doctors in New York State in the same board specialty;
- Similar disclosure of medical malpractice settlements, but only if more than two settlements of malpractice awards occur or the DOH Commissioner determines that any such settlement could be relevant to patient decision-making about healthcare quality. Such disclosures includes a statement that a settlement payment “does not necessarily mean that a medical malpractice has occurred.” Also, a doctor with no more than two malpractice awards can challenge posting of a settlement by requesting a determination that it is not “relevant to patient decision-making”;
- Medical schools attended, date of graduation, graduate medical education, current specialty board certification, dates admitted to practice in New York, names of hospitals whether the doctor has practice privileges; and
- Whether or not the doctor accepts Medicare or Medicaid.²

While the Executive Budget Briefing Book states that “much of the information is duplicated on other publicly accessible websites,”³ there is actually no other public website that provides all of this information in the same place, for all doctors in New York State, in a complete and comprehensive way, based on information that the doctors themselves are required to provide, and with the “checks and balances” provided in the law to promote accuracy while protecting doctors’ procedural rights.

People who are ill or facing a health issue should not have to wade through a plethora of incomplete websites, which may or may not contain accurate or useful information, just to find basic information about the credentials and safety record of a doctor practicing in New York State.

Rather than revoke this important transparency tool for patients, we urge that you strengthen the law to *require* dissemination of information about the Physician Profile directly to patients. While the current law requires the DOH Commissioner to “develop and distribute a notice suitable for posting that informs consumers of the availability of Physician Profiles,”⁴ the law does not require the posting of this information in hospitals, clinics or doctors’ offices or its dissemination to patients.

We ask you to create an OPMC consumer assistance office to help consumers understand when a complaint is appropriate for OPMC or, if not, for another relevant agency, and also help them navigate the complaint process. Finally, we urge that the Office of Professional Medical Conduct receive stronger funding to carry out its mission.

For information, please contact: Blair Horner, NYPIRG, 518-436-0876, x257; Arthur Levin, Center for Medical Consumers, 917-836-7596; and Ilene Corina, PULSE of New York, 516-579-4711.

With best regards,

From the following 16 undersigned organizations:

² PHL §2995-a(1), (8) and (9). The physicians themselves provide the information maintained in the Profile. The doctor is given an opportunity to review the profile before it is posted, so that any corrections can be made. PHL §2995-a(5).

³ See, <https://www.budget.ny.gov/pubs/executive/eBudget1516/fy1516littlebook/BriefingBook.pdf>.

⁴ PHL §2995-a(12).

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Center for Medical Consumers
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Commission on the Public's Health System
Consumers Union
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Disabled In Action of Metropolitan New York
Empire State Consumer Project
Gray Panthers, New York City Network
Harlem Consumer Education Council
New York Public Interest Research Group (NYPIRG)
New York Statewide Senior Action Council
New Yorkers for Patient & Family Empowerment
PULSE of New York