

2024

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# TODAY'S AGENDA

**Gabe Oberfield – (12:00PM-12:05PM)**

- Agenda and NYS Budget Updates

**Jeanette M. Lombardi – (12:05PM-12:15PM)**

- Increased Exemption for Estate and Gift Taxes in 2023

**Collin Carr – (12:15PM-12:25PM)**

- New Venue Concerns for Corporations in New York State

**Eric M. O'Bryan – (12:25PM-12:35PM)**

- Considerations for the Shifting of Attorney's Fees Associated with Unsuccessful Claims

**Jackson Somes – (12:35PM-12:45PM)**

- Governor Hochul Vetoes Changes to Wrongful Death Law

**G. Oberfield – (12:45PM)**

- Questions / Wrap Up

# HC Budget Items We Are Watching

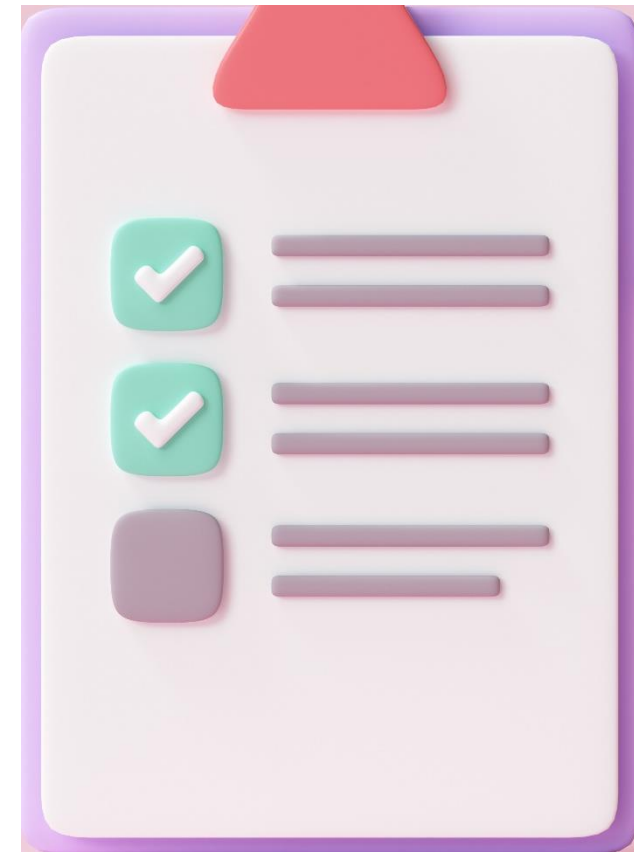
Source: Politico Pro

- Healthcare Transformation Funding:
  - “Hochul also proposed \$1 billion for the creation of a fifth iteration of the statewide health care facility transformation program, including \$500 M for projects to enhance health IT infrastructure.”
- Human Services
  - 2.5 percent cost-of-living adjustment (COLA) for human services workers
    - \$314 million (inclusive of Federal match).
    - Less than 8.5% requested by Human Services Council
- 1115 Waiver Amendment
  - Not directly attached to budget: \$13+ B request pending...timing?



# Other Items to Track

- Competitively bid MLTC proposal is back
- Managed care quality pool elimination
- Transfer of oversight of licensed healthcare professions from SED to DOH
- Joining Interstate Medical and Nurse licensure compacts
- Healthcare workforce investments
- Additional approvals for healthcare transactions involving “investor-owned entities,” including physicians’ practices



# Deep Dive – Home Care Minimum Wage

Source: Politico Pro

- Proposal to attach min wage to inflation
  - “Hochul's proposal would cap the pay floor for home care workers at \$18 per hour until the local minimum wage exceeds that amount.”
- Concern among home health advocates that doing so without meaningful hikes to home health wages will perpetuate the issues of quality and staff retention – home health won't be able to compete
- This, on heels of 2023 budget advocacy efforts that resulted in compromise staged two-part min-wage increase



# Increased Exemption for Estate and Gift Taxes in 2023



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# New Venue Concerns for Corporations in New York State



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# Venue

- The term “venue” in New York State Civil Procedure means the county in which a lawsuit is filed and prosecuted
- Where a lawsuit is filed can create powerful imbalances in the financial burden of litigation between two opposing parties
- Where a lawsuit is filed can also provide a competitive edge at various stages of litigation

# Where is Venue Proper?

- Certain state rules govern where a lawsuit may be commenced
- Typically, a lawsuit may be commenced in the county: (1) where one of the parties resides; (2) where a substantial part of the events or omissions giving rise to the lawsuit occurred; or (3) if none of the parties reside in New York State, wherever the plaintiff designates venue. See N.Y. CPLR 503(a).
- A corporation “resides” in the county where its principal office is located. See N.Y. CPLR 503(c).

## ***Marte v. Lampert*, 2023 N.Y. Slip Op. 00375 (1st Dep't 2023)**

- The Appellate Division, First Department, placed new weight on the effect of certificates of incorporation on determining proper venue for corporations in the case of *Marte v. Lampert*
- A lawsuit was commenced in Supreme Court, New York County
- The corporate defendant sought to transfer venue to Supreme Court, Nassau County
- Supreme Court, New York County, granted the motion

# First Department Reversed

- The First Department reversed the order of the Supreme Court, New York County, and held that venue should not be transferred to Nassau County
- Corporate defendant's certification of incorporation stated that its principal office was located in New York County
- As such, the corporate defendant was a resident of New York County, and the lawsuit was properly commenced there

# The Catch

- The unusual twist, however, is the fact that the corporate defendant did not actually have an office in New York County
- Rather, the corporate defendant's office was in Nassau County
- “The corporate residence designated in the initial certificate of incorporation controls for venue purposes.” See 2023 N.Y. Slip Op. 00375, at \*1 (1st Dep’t 2023).

# Implications for Corporations

- Regularly review certificates of incorporation and execute amended certificates of incorporation as necessary
- Failure to execute an amended certificate of incorporation could result in your corporation being haled into court in a distant venue
- Such diligence could determine the success of your future litigation

# Considerations for the Shifting of Attorney's Fees Associated with Unsuccessful Claims



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# Gov. Hochul Vetoes Grieving Families Act



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# The Grieving Families Act

- Proposed changes to wrongful death statute (EPTL § 5-4.1)
  - **Damages:** permitted recovery for emotional and non-economic loss such as grief, sympathy, loss of companionship or consortium
    - **Current Law:** primarily limits recovery to pecuniary losses of the decedent
  - **Statute of Limitations:** extended limitations period from 2 years to 3 years and 6 months
  - **Who Can Recover:** expanded class of plaintiffs to “close family members” as determined by fact-finder
    - **Current Law:** limited to “distributees” of the decedent

# Why Gov. Hochul Vetoes

- **Concern for Economic Impact:** bill needs a “serious evaluation of the impact of these massive changes on the economy, small businesses, individuals, and the state’s complex health care system”
- **Concern for Health Care Insurance Costs:** it is “reasonable to think that the legislation . . . will drive up already-health insurance premiums”

# Gov. Hochul's Recommendations

- **Exempt Medical Malpractice Claims:** specifically requested an exemption for medical malpractice claims
- **Limit to Parents:** suggested that the Legislature pass a version that limits emotional damages to parents recovering for the loss of a child

# Next Steps

- **Another Version Expected in 2023:**
  - **Long Time Coming:** reports that a version of the Grieving Families Act has been in the works for a decade
  - **Broad Bipartisan Support:** passed the Senate by a vote of 57-6

# Your Questions



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## Public Health Updates

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### **New York Employment Law: The Essential Guide**

NYS Bar Association Members can buy the book from the bar [here](#).

Non-NYS Bar Association Members can purchase through Amazon [here](#).

# Thank You

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It is not to be considered as legal advice.  
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