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NY Auto Insurance Reforms Fail to Address Alleged IME Abuses: Trial Lawyers

Independent Medical Exams are anything but what their name suggests, with insurer-paid and chosen doctors producing nearly identical reports, for purposes of limiting liability, argues the president of the New York State Trial Lawyers Association.

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auto insurance

Gov. Kathy Hochul's push to weed out payments for allegedly fraudulent auto

insurance claims will do nothing to combat comparable efforts aimed at improperly curbing an injured person's ability to recover on legitimate claims. That's according to New York's personal injury bar, which is continuing to push back on the governor's controversial policy initiative.

In a recent conversation with Law.com, New York State Trial Lawyers Association President Andrew Finkelstein said Hochul's proposal would fail to address alleged improper uses of Independent Medical Examinations, which, he said, carriers can use to unfairly hamper or eliminate legitimate claims.

Finkelstein's argument is yet another counter to the Democratic governor's proposal, which warns that insurance carriers reported 43,811 incidents of suspected motor vehicle insurance fraud to the state Department of Financial Services in 2025, a sharp 80% uptick since 2020.

Hochul's lobbying for the initiative has targeted personal injury attorneys, whom she has often referred to as "billboard lawyers" and who, she says, are helping to drive massive jury payouts. As a result, she argues, the state's annual rates have risen to about \$4,000—roughly double the national average.

Hochul's proposal aims to target fraud claims and limit liability payouts for bad actors by narrowing the definition of a serious injury, while restricting damages for those at fault in crashes. The governor has vowed that this will ensure savings are returned to drivers. The proposal has the backing of Albany-based Lawsuit Reform Alliance of New York.

It also has the backing of a coalition of business leaders from the state's farming, retail, and transportation sectors who lobbied for it at the State Capitol on Tuesday.

Finkelstein, who has led the trial lawyers association since last summer, views

it as an attempt to close courthouse doors to the benefit of insurance companies.

He told Law Journal and Law.com that targeting policyholders' rights, by significantly confining an injured person's ability to sue, wouldn't do anything to thwart fraud through the IME process that Finkelstein argues is anything but independent.

IMEs are physical exams or records review by doctors who are chosen and paid for by the insurer to assess injuries in no-fault cases and workers' compensation claims. The exams, Finkelstein said, often last about three minutes, with the majority of the time spent interrogating the injured person to gather information for the defense, not for medical assessment.

Finkelstein stressed the need for reforms to hold insurers accountable for bad-faith practices and to address the systemic fraud in defense cases.

To highlight what he said is a rampant concern, Finkelstein pointed to a 2021 negligence case filed in Queens where the plaintiff allegedly sustained serious injuries from falling on a cracked or broken sidewalk. A recent exhibit in the case, *Tovar v. Queens 111-02 LLC*, indicates the insurance company directed a doctor to limit his opinion and exclude positive information.

Though it is a slip-and-fall case, rather than an auto crash, the practice is used broadly, said Finkelstein. He argues these IME-related tactics are as fraudulent as a claimant exaggerating an injury.

"If insurance companies want to change their business model, they can easily put us out of business, because nobody wants to start a lawsuit," Finkelstein said. "But people feel compelled to start a lawsuit when they're not treated fairly, when they've been seriously hurt, and then they suffer a secondary harm

with the way they're treated by insurance companies. And that's when they call us."

The trial lawyers also counter that if fraudulent claims are paid out, it's an offense by the insurance industry, not of the personal-injury bar.

The policy debate remains a potential sticking point in state budget deliberations, and Finkelstein asserted that he believes that both the Democratic-led Assembly and Senate recognize Hochul's proposal won't reduce premiums, only standing to benefit insurers' bottom lines.

Both legislative chambers have made counter-proposals. On Monday—the day before the state budget was due—Assemblymember Jen Lunsford, D-Rochester, who is also a personal-injury attorney, joined NYSTLA to encourage passage of her bill that is aimed at lowering rates by disallowing insurers from using demographic factors to set rates.

The influential lawmaker's bill would preclude carriers from considering "discriminatory factors" such as a driver's age, race, gender, religion, educational attainment, home ownership, or other classes that are protected from discrimination in other areas of law.

It would also require that the state Department of Financial Services hold a hearing to determine the fairness of rate adjustments for applications of more than 5%.

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