GOTHAM
GOVERNMENT RELATIONS

Ten Executive Budget Proposals

The following ten legislative proposals are designed for inclusion in the upcoming Executive Budget. They are original mechanisms with no searchable history of being proposed in the New York State Senate or Assembly.

Additionally, these proposals operate around the Scaffold Law by utilizing civil procedure, corporate law, and the penal code to create unavoidable legal, financial, and administrative choke points that neutralize the attorneys, medical mills, and financiers exploiting the statute.

Proposal 1 - Biometric and Geolocational Standing Verification

1. **What is the legislative proposal:** Mandate digital proof of presence to access absolute liability protections, eliminating "phantom" accidents.

2. **What is the legislative language:** "No absolute liability shall attach unless the claimant was verified as physically present at the specific worksite via a certified biometric, digital, or geolocational site-safety registry or employer payroll system at the exact time of the alleged incident."

3. **What does it solve:** Fraud syndicates frequently use "runners" to bring non-employees or off-duty individuals to a construction site after hours to stage unwitnessed, gravity-related falls.

4. **How does it solve this:** By making verifiable digital/biometric presence a statutory prerequisite for the absolute liability standard, it instantly collapses claims fabricated by individuals who were never lawfully on the site or who were brought there specifically to stage a fall.

Proposal 2 - The "Factored Medical Lien" Cap and Collateral Source Application

1. **What is the legislative proposal:** Cap the recoverable value of medical expenses sold to third-party litigation funders at their actual purchase price.

2. **What is the legislative language:** Amend CPLR § 4545 (Collateral Source Rule) to include: "In any action arising under Labor Law §§ 240 or 241, if a medical provider's accounts receivable or medical liens have been sold, assigned, or factored to a third-party entity, the recoverable special damages for such medical costs shall be strictly limited to the actual purchase price paid by the factoring entity, plus a maximum five percent statutory interest."

3. **What does it solve:** Medical mills inflate billing codes for unnecessary surgeries to hundreds of

thousands of dollars, then sell these liens to litigation funders for pennies on the dollar. Plaintiffs' attorneys then present the inflated, face-value bills to juries to extract massive settlements.

4. **How does it solve this:** It destroys the financial arbitrage model of the fraud ecosystem. If a $150,000 surgical bill is sold to a funder for $30,000, the plaintiff can legally only claim $30,000 in damages. This eliminates the artificial inflation that drives multi-million-dollar Scaffold Law payouts.

Proposal 3 - The "Expert-Attorney Pairing" Presumption of Bias

1. **What is the legislative proposal:** Automatically pierce discovery protections for lawyers and doctors who repeatedly operate as a cartel.

2. **What is the legislative language:** Amend CPLR § 3101(d) to mandate: "In personal injury actions under Labor Law § 240, if the plaintiff's counsel and the treating medical provider or expert witness have appeared as co-retained entities in more than five actions within a twenty-four month period, a rebuttable presumption of bias shall attach, rendering all financial agreements, referral logs, and communications between the entities mandatorily discoverable."

3. **What does it solve:** Corrupt law firms exclusively funnel claimants to the same corrupt medical mills and expert witnesses to guarantee diagnoses of "serious physical injuries." Currently, courts heavily protect the communications between lawyers and their experts.

4. **How does it solve this:** It forces the disclosure of the syndicate's operational and financial structure. Defense counsel can legally demand the referral logs and kickback structures, allowing them to easily impeach the credibility of the "objective" medical evidence before a jury.

Proposal 4 - Private Right of Action (Qui Tam) for Private Construction Insurance Fraud

1. **What is the legislative proposal:** Incentivize insiders to turn on the fraud syndicates by allowing them to sue for massive bounties.

2. **What is the legislative language:** Amend State Finance Law Article 13 (New York False Claims Act) to add § 195: "Private Insurance Fraud Qui Tam: Any individual may bring a civil action on behalf of a private commercial general liability (CGL) or workers' compensation insurer for fraudulent claims arising from construction site accidents, entitling the relator to 15 to 30 percent of the recovered proceeds and treble damages."

3. **What does it solve:** Currently, the NY False Claims Act only applies to fraud against government funds (like Medicaid). Private insurance fraud relies solely on overburdened District Attorneys or the DFS for prosecution.

4. **How does it solve this:** It weaponizes the syndicate's own members against it. Disgruntled clinic workers, paralegals, or rival "runners" can file devastating civil lawsuits against the ringleaders for a massive financial bounty, creating intense internal paranoia and fracturing the criminal enterprise.

Proposal 5 - The "Algorithmic Anomaly" Mandatory Civil Stay

1. **What is the legislative proposal:** Bypass judicial reluctance by creating a mandatory, data-driven stay of civil litigation during fraud investigations.

2. **What is the legislative language:** Add a new CPLR § 2201-a: "Mandatory Statistical Stay. A court shall stay all proceedings in a Labor Law § 240 action for up to 180 days upon a defending carrier's submission of an algorithmic data affidavit demonstrating a statistically anomalous overlap (exceeding 75%) of the plaintiff's counsel, medical facility, and litigation funding entity across ten or more concurrent actions."

3. **What does it solve:** Courts routinely deny civil stays under CPLR 2201 unless the specific plaintiff is actively indicted (as seen in restrictive precedents like *Harrison v. 160-01 Jamaica Ave. Corp.*). This allows syndicates to keep extracting cash while under investigation.

4. **How does it solve this:** It removes judicial discretion when clear mathematical patterns of a syndicate exist. It instantly freezes the cash flow of the medical-legal ring across all their cases, starving them of operational capital while investigators close in.

Proposal 6 - Blind Independent Medical Panel (IMP) Pre-Clearance

1. **What is the legislative proposal:** Strip corrupt doctors of the unilateral power to authorize catastrophic-value surgeries.

2. **What is the legislative language:** Amend Workers' Compensation Law § 13-a to require: "No elective spinal, orthopedic, or pain-management surgical intervention shall be deemed causally related or compensable in any civil action unless pre-cleared for absolute medical necessity by a randomized, blind, state-appointed Independent Medical Panel (IMP)."

3. **What does it solve:** Medical mills perform highly invasive, unnecessary surgeries (like spinal fusions) on healthy or minorly injured workers to mathematically transform a minor injury into a statutory "serious physical injury," instantly unlocking catastrophic Scaffold Law payouts.

4. **How does it solve this:** A corrupt treating physician can no longer rubber-stamp a $200,000 surgery. The blind IMP acts as an impenetrable, objective firewall against medically unnecessary physical mutilation driven by legal profit.

Proposal 7 - Criminalizing the "Coercion of a Statutory Narrative"

1. **What is the legislative proposal:** Create a specific felony targeting the coaching of absolute-liability legal triggers.

2. **What is the legislative language:** Amend the Penal Law to add § 215.18: "Coercion of a Statutory Liability Narrative. A person is guilty of a Class D felony when they compensate, coach, or direct another individual to falsely recite specific legal or factual elements designed solely to trigger strict liability under Labor Law §§ 240 or 241."

3. **What does it solve:** Syndicates easily defeat the "sole proximate cause" defense by coaching workers to lie that "no safety harness was provided" or "I was told not to tie off." Proving complex enterprise corruption is difficult, but proving witness tampering is highly actionable.

4. **How does it solve this:** It allows prosecutors to arrest attorneys and runners for the specific act of *coaching the lie*, rather than having to prove the entire multi-million dollar insurance fraud structure.

Proposal 8 - The Statutory "Safe Harbor" Settlement Escrow

1. **What is the legislative proposal:** Delay the payout of massive settlements to ensure thorough fraud checks can be completed.

2. **What is the legislative language:** Amend Insurance Law § 3420 to mandate: "Fifty percent of any settlement or judgment exceeding $1,000,000 arising under Labor Law § 240 shall be held in a state-administered Safe Harbor Escrow for 24 months. If a finding of systemic fraud or professional misconduct is established against the plaintiff's counsel or treating physician within that period, the escrowed funds shall be frozen and subject to carrier clawback."

3. **What does it solve:** Syndicates currently cash out multi-million dollar settlements and hide the money offshore long before slow-moving administrative or criminal investigations can catch them.

4. **How does it solve this:** It drastically alters the risk/reward calculus for funders and organizers by tying up their illicit profits for two years, rendering the immediate-extraction business model obsolete and ensuring carriers can recover stolen funds.

Proposal 9: Expedited Dissolution of "Shadow" Medical Management Companies

1. **What is the legislative proposal:** Enact a corporate death penalty for the unlicensed laypersons running medical syndicates.

2. **What is the legislative language:** Amend Business Corporation Law § 1101 to state: "The Attorney General or Department of Financial Services may execute an expedited administrative dissolution of any management company or LLC found to exercise *de facto* financial or operational control over a medical professional corporation (PC) billing for construction-related injuries."

3. **What does it solve:** Organized crime figures and laypersons hide behind licensed "straw-man" doctors to run medical mills, controlling the bank accounts, real estate, and billing operations.

4. **How does it solve this:** It bypasses the need to prosecute the doctors individually or rely on slow medical board revocations. By instantly dissolving the shadow LLCs controlling the syndicate, the State severs the enterprise's financial nervous system.

Proposal 10: Mandatory Treble Damages Clawback for Fraudulent LOPs

1. **What is the legislative proposal:** Turn the plaintiff's law firm into a financial liability sinkhole if they facilitate off-books medical mills.

2. **What is the legislative language:** Add a new Judiciary Law § 487-a: "If a plaintiff's attorney utilizes a Letter of Protection (LOP) to direct settlement funds to a medical provider previously excluded from the Workers' Compensation Board (WCB), the insurance carrier possesses a direct, statutory right to claw back treble damages directly from the law firm's operating and escrow accounts."

3. **What does it solve:** When corrupt doctors are banned from the Workers' Comp system, they simply treat patients privately and use LOPs to get paid directly by the attorney out of the final Labor Law 240 civil settlement.

4. **How does it solve this:** No attorney will risk bankrupting their own law firm, paying treble damages, and facing disbarment just to guarantee payment for a corrupt doctor. This permanently destroys the LOP pipeline that keeps excluded doctors in business.