

1 SENATE BILL 444

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Pat Woods

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10 AN ACT

11 RELATING TO MEDICAL MALPRACTICE; AMENDING THE MEDICAL
12 MALPRACTICE ACT TO PROVIDE FOR A JUDGE TO DETERMINE THE AMOUNT
13 OF PUNITIVE DAMAGES AWARDED TO A PLAINTIFF.

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 41-5-7 NMSA 1978 (being Laws 1992,
17 Chapter 33, Section 5, as amended) is amended to read:

18 "41-5-7. MEDICAL EXPENSES AND PUNITIVE DAMAGES.--

19 A. Awards of past and future medical care and
20 related benefits shall not be subject to the limitations of
21 recovery imposed in Section 41-5-6 NMSA 1978.

22 B. The health care provider shall be liable for all
23 medical care and related benefit payments until the total
24 payments made by or on behalf of it for monetary damages and
25 medical care and related benefits combined equals the health

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1 care provider's personal liability limit as provided in
2 Subsection I of Section 41-5-6 NMSA 1978, after which the
3 payments shall be made by the fund.

4 C. Beginning January 1, 2027, any amounts due from
5 a judgment or settlement against a hospital or outpatient
6 health care facility shall not be paid from the fund if the
7 injury or death occurred after December 31, 2026.

8 D. This section shall not be construed to prevent a
9 patient and a health care provider from entering into a
10 settlement agreement whereby medical care and related benefits
11 shall be provided for a limited period of time only or to a
12 limited degree.

13 E. A judgment of punitive damages against a health
14 care provider shall be the personal liability of the health
15 care provider. Punitive damages shall not be paid from the
16 fund or from the proceeds of the health care provider's
17 insurance contract unless the contract expressly provides
18 coverage. Nothing in Section 41-5-6 NMSA 1978 precludes the
19 award of punitive damages to a patient. Nothing in this
20 subsection authorizes the imposition of liability for punitive
21 damages where that imposition would not be otherwise authorized
22 by law.

23 F. The amount of punitive damages against a health
24 care provider awarded to a plaintiff shall be determined by a
25 judge."

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