

LFC Requester:	Esquibel, Ruby Ann
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/12/25 *Check all that apply:*
Bill Number: HB 374 Original Correction
 Amendment Substitute

Sponsor: Rep. Gail Armstrong **Agency Name and Code** AOC
Short Title: Medical Malpractice "Occurrence" Definition **Number:** 218
Person Writing Kathleen Sabo
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 378, Section 1 duplicates the HB 374 amendment to Section 41-5-3 NMSA 1978.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 378 amends Section 41-5-3(K) NMSA 1978, within the Medical Malpractice Act (MMA), to change the definition of “occurrence” to mean all claims for damages from all persons arising from harm to a single patient, no matter how many health care providers, errors or omissions contributed to the harm.

SB 378 also amends Subsections D and G to replace the term “podiatrist” with “podiatric physician”.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to a potential decrease in court resources devoted to medical malpractice actions as a result of the HB 374 amendment. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

In 2021, the MMA, Section 41-5-3 NMSA 1978, was amended to define “occurrence” to mean all injuries to a patient caused by health care providers’ successive acts or omissions that combined concurrently to create a malpractice claim.

The HB 378 amendment to Section 41-5-3 NMSA 1978 defines “occurrence” to mean all claims for damages from all persons arising from harm to a single patient, no matter how many health care providers, errors or omissions contributed to the harm.

On December 31, 2020, prior to the 2021 legislative session where the amendment to the MMA occurred, the Office of the Superintendent of Insurance for the State of New Mexico published a report titled, Medical Malpractice Act/Patient’s Compensation Fund Modification Report, in which the superintendent recommended that the terms “malpractice claim” and “occurrence” be synonymously defined in such a way that a single, individual injury event be treated as a single malpractice claim or occurrence, regardless of the number of contributing providers or acts. The superintendent noted that the lack of a clear definition of “occurrence” – prior to the 2021 amendment – creates a significant debate in mediation and was the subject of litigation, and that many were suggesting that clarity is needed. See pp.4, 12 and 13, https://www.osi.state.nm.us/wp-content/uploads/2021/01/12-31-2020_MMA-Report_FINAL.pdf

It is possible that the HB 378 amendment to Section 41-5-3 NMSA 1978 would bring sufficient clarity and a change in the law so as to make medical malpractice actions move more expeditiously and/or efficiently, decreasing the need for court resources.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on

the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 378, Section 1 duplicates the HB 374 amendment to Section 41-5-3 NMSA 1978.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS