

LFC Requester:

Ruby Ann Esquibel

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 02/12/2025

Check all that apply:

Bill Number: HB378

Original Correction
Amendment Substitute

Sponsor: Rep. Rod Montoya; Rep. Gail Armstrong

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: Medical Malpractice Act Changes

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A

(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	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: This bill caps the compensatory damages for medical malpractice to \$600,000

Section 1 of this bill amends NMSA 1978, Section 41-4-3 (2023), which is the definitions section of the medical malpractice statute.

Section G changes the nomenclature of the word “podiatrist” to “podiatric physician.”

Section K changes the definition of “occurrence.” The previous definition was more focused on the actions of the healthcare providers and their direct role in creating the malpractice claim. The new definition casts a wider net, considering any claim for damages related to harm to the patient, regardless of how many providers or errors were involved.

The other sections of 41-4-3 remain unchanged.

Section 2 of this bill amends the limitation of recovery section NMSA 1978, Section 41-5-6 (2023)

Section A is amended to remove the time limit for the \$600,000 cap.

Section B has been removed. It was formerly the cap for claims that occurred after the time limit in Section A against independent providers for the years 2023 and onwards.

Section C has been removed. It was formerly the cap for claims against independent outpatient facilities that occurred during the calendar years 2022 and 2023.

Section D has been removed. It was formerly the cap claims for claims against independent outpatient facilities in the calendar year 2024.

Section E has been removed. It was formerly the caps for claims against hospitals or their outpatient facilities from 2022 until forever.

Section F has been removed. It was clarified that loss of consortium claims were to be included in the aggregate amounts.

Section I has been amended to lower a healthcare provider's personal liability to \$200,000 from the previous \$250,000.

Section J is removed. It formerly limited an independent outpatient healthcare facility's personal liability to \$500,000.

Section K is removed. It formerly allowed payments on judgments in excess of \$750,000, excluding medical expenses, against hospitals and their outpatient facilities to be paid from the patient's compensation fund until January 1, 2027, at which point the fund cannot pay these judgments.

Section L is removed. It formerly instructed the courts to interpret the term occurrence to mean that separate acts of medical malpractice that create distinct injuries should be

interpreted as multiple occurrences of medical malpractice that create multiple causes of action.

Sections G to – I are renumbered to B to -D.

Section 3 of this bill modifies NMSA 1978 41-5-7 (2021)

Section B is amended to connect to the renumbered Section 45-5-6(D)

Section C is new and mandates that payments from the patient's medical care fund be made as expenses are incurred.

The former sections D to -E are renumbered to D to -F.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

This bill, HB378, relies upon HB379 passing; if one passed without the other, it would create an uncanny medical malpractice statutory framework.

PERFORMANCE IMPLICATIONS

N/A.

ADMINISTRATIVE IMPLICATIONS

N/A.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill, HB378, is related to HB379. HB378 modifies the compensatory damages available for medical malpractice claims, and HB379 modifies punitive damages available for medical malpractice claims.

TECHNICAL ISSUES

N/A.

OTHER SUBSTANTIVE ISSUES

N/A.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

N/A.