

LFC Requester:	Esquibel, Ruby Ann
-----------------------	---------------------------

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 379 Original Correction
 Amendment Substitute

Sponsor: Rep. Rod Montoya **Agency Name and Code:** AOC 218
Short Title: Punitive Damages in Medical Malpractice Claim **Person Writing:** Kathleen Sabo
Phone: 505-470-3214 **Email:** aoccaj@nmcourts.gov

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: Conflicts with HB 378 and SB 176 (also amending Section 41-5-7 NMSA 1978).

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 379 amends Section 41-5-7 NMSA 1978, within the Medical Malpractice Act and governing medical expenses and punitive damages, to restrict the awarding of punitive damages to instances where the prevailing party provides clear and convincing evidence demonstrating that the acts of the health care provider were made with deliberate disregard for the rights or safety of others.

HB 379, Section 1(F) further provides that the amount of a punitive damage award shall not be greater than thirty times the state median annual household income at the time the award is made.

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 the enforcement of this law and commenced medical malpractice actions and appeals of damage awards, as well as constitutional challenges to the law. 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

- 1) For a 2024 chart detailing state laws presenting medical malpractice liability reforms, including limiting attorney fees, see State Laws Chart I: Liability Reforms, Advocacy Resource Center, American Medical Association, 2024, <https://www.ama-assn.org/system/files/mlr-state-laws-chart-I.pdf> . See also Medical Liability/Medical Malpractice Laws, National Conference of State Legislatures (NCSL), July 2021, <https://www.ncsl.org/financial-services/medical-liability-medical-malpractice-laws> .
- 2) There will be challenges to the law as to the constitutionality of a cap on punitive damages, as infringing upon the right to trial by jury under Article II, Section 12 of the New Mexico Constitution, the separation of powers clause in Article II, Section 1 of the New Mexico Constitution, the equal protection clause of the United States Constitution, and the due process clause of the United States Constitution. New Mexico courts have held that the MMA's nonmedical, nonpunitive cap does not invade upon the province of the jury in violation of NM Constitution, Art. II, Sec. 12. See *Siebert v. Okun*, 2021-NMSC-016, overruling in part *Salopek v. Friedman*, 2013-NMCA-087, 308 P.3d 139.

Courts in other states have ruled that a cap on punitive damages is constitutional. In March of 2023, the Georgia Supreme Court in [*Taylor v. Devereux Found., Inc.*](#), Nos. S22A1060, S22X1061, 2023 Ga. LEXIS 63 (Mar. 15, 2023) held that, pursuant to OCGA Section 51-12-5.1, a \$250,000 cap in punitive damages is constitutional, upholding the trial court's decision to substantially reduce a \$50 million verdict to \$250,000. The Georgia Supreme Court also rules that the cap imposed by the law did not infringe on the right to a fair trial by jury, separation of powers, or the guarantee of equal protection.

While court decisions in other states are in no way binding upon NM courts, the arguments made in challenging the Georgia law and the legal reasoning used to counter and defeat those challenges as set out in Taylor, are instructive as to how court challenges might proceed in New Mexico.

See also, *Are Medical Malpractice Damages Caps Constitutional?*, Medical Malpractice: U.S. and International Perspectives, Fall 2005, https://law.stanford.edu/wp-content/uploads/sites/default/files/publication/684155/doc/slspublic/Mello_Are%20Medi%20cal%20Malpractice%20Damages%20Caps%20Constitutional%20An%20Overview%20of%20State%20Litigation.pdf and *Punitive Damage Caps: Constitutional?*, <https://trial.com/wp-content/uploads/2020/03/Punitive-Damage-Caps-Constitutional-NY-2012.pdf>

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

Conflicts with HB 378 and SB 176 (also amending Section 41-5-7 NMSA 1978).

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS