

LFC Requester:

Ruby Ann Esquibel

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: _____ *Check all that apply:*
Bill Number: HB 379 Original Correction
 Amendment Substitute

Sponsor: Representative Rod Montoya;
Representative Gail Armstrong
Short Title: Punitive Damages in Medical

Agency Name and Code Number: Office of Superintendent of Insurance - 440
Person Writing: Timothy Vigil
Phone: 505-690-0651 **Email:** Timothy.Vigil@osi.n

SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0	\$0	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0	\$0	\$0	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	\$0	\$0	\$0	\$0	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

SB 176 (Medical Malpractice Changes), SB 224 (Super. of Insurance & Med. Malpractice), SB 121 (Patient Compensation Fund Liability), HB 378 (Medical Malpractice Act Changes), HB 374 (Medical Malpractice "Occurrence" Definition); SB 132 (Limit Damages in Legal Action).

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 379 proposes two changes to the Medical Malpractice Act related to awards of punitive damages against a qualified health care provider.

- To receive an award of punitive damages, the bill would require that a plaintiff demonstrate by clear and convincing evidence that the acts of the health care provider were made with deliberate disregard for the rights or safety of others.
- HB 379 would also limit an award of punitive damages to a maximum of 30 times the state median annual household income at the time the award is made.

FISCAL IMPLICATIONS

None. Although the Superintendent of Insurance is the custodian of the Patient Compensation Fund, punitive damages are not paid by the Fund.

SIGNIFICANT ISSUES

None

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 132 contains a different limitation for punitive damages that would be applicable to legal actions in general. If both bills were to pass, HB 379 would likely prevail as it relates to medical malpractice act actions under the rules for statutory construction.

SB 176 contains provisions concerning the apportionment of punitive damages in part to a new state fund.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

The bill is not clear whether juries may be advised of the limit on punitive damages.

Elsewhere in the Medical Malpractice Act, a limit is placed on the amount of compensatory damages a qualified healthcare provider can incur. In that section it is clearly stated: "In jury cases, the jury shall not be given any instructions dealing with the limitations provided in this section." NMSA 1978, Section 41-5-6 (2023). A similar provision in HB379 would provide consistency and ensure that a jury's award is not influenced by knowledge of the limitations on awards of certain damages. In the event a jury awards more than the amount permitted by statute, the judge

would conform the verdict to the law after trial.

ALTERNATIVES

SB 132, SB 176.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None