

LFC Requester:

Julisa Rodriguez

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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** \_\_\_\_\_ *Check all that apply:*  
**Bill Number:** SB 121 Original  Correction   
 Amendment  Substitute

**Sponsor:** Senator George K. Munoz **Agency Name and Code Number:** Office of Superintendent of Insurance - 440  
**Short Title:** \_\_\_\_\_ **Person Writing:** Timothy Vigil  
**Phone:** \_\_\_\_\_ **Email:** Timothy.Vigil@osi.nm.gov

**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
<b>Total</b>	\$0	\$0	\$0	\$0	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**

#### **BILL SUMMARY**

Senate Bill 121 (SB 121) amends the Medical Malpractice Act to clarify that when the third-party administrator (“TPA”) acts on behalf of the Office of Superintendent of Insurance (“OSI” or the “Superintendent”) in administering the Patient’s Compensation Fund (“PCF” or the “Fund”), it is shielded from civil liability to the same extent that the OSI would be, as if those actions were taken by the OSI directly. The bill’s protections are limited to only those actions performed within the scope of the duties prescribed by the Medical Malpractice Act.

#### **FISCAL IMPLICATIONS**

None.

#### **SIGNIFICANT ISSUES**

The Medical Malpractice Act currently requires that the OSI contract with a TPA to administer the PCF on behalf of the State. There are limited qualified candidates capable of performing this role. In 2021, after the Medical Malpractice Act was amended to require the Superintendent to contract with a third-party administrator, OSI issued a request for proposals but only received one response. The contract with the current third-party administrator will reach its term limit on December 31, 2025. The ability to offer limited liability protection to prospective third-party administrators is necessary to attract qualified candidates willing to administer the PCF.

In order to secure the services of a TPA after the 2021 amendment, it was necessary for the PCF to agree to provide coverage for any judgments against the TPA in its capacity as administrator of the fund. These costs are paid from the Fund. The TPA performs government functions when it acts on behalf of the State in administering the Fund. SB121 is necessary to ensure that the solvency of the Fund is not threatened by vexatious litigation against the TPA for actions that would otherwise be precluded by the New Mexico Tort Claims Act if brought against the OSI.

#### **PERFORMANCE IMPLICATIONS**

None.

#### **ADMINISTRATIVE IMPLICATIONS**

None.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

#### **TECHNICAL ISSUES**

None.

#### **OTHER SUBSTANTIVE ISSUES**

None.

#### **ALTERNATIVES**

None.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

If SB121 is not enacted, it will be difficult or impossible for the OSI to fulfill the statutory requirement to hire a qualified TPA to administer the Fund. Potential third-party administrators will insist that the PCF hold them harmless from liability claims, costs that are paid from the fund

which in turn impose additional financial stress on the fund.

**AMENDMENTS**

None.