| LFC Requester: | |
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# AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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## SECTION I: GENERAL INFORMATION

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

**Date Prepared**: February 27, 2025 *Check all that apply:*
**Bill Number:** SB 450 Original X Correction __
Amendment __ Substitute __

**Sponsor:** Sen. Antoinette Sedillo-Lopez
**Short Title:** Corporate Practice of Medicine Act

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## SECTION II: FISCAL IMPACT

### APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|
| **FY25** | **FY26** | | |
| | | | |
| | | | |

(Parenthesis ( ) indicate expenditure decreases)

### REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|
| **FY25** | **FY26** | **FY27** | | |
| | (300,000,000) | (300,000,000) | Recurring | SGF |
| | | | | |

(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** | | | | | | |

(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

Synopsis:

SB 450 creates the Corporate Practice of Medicine Act. The Act prohibits health care entities, defined to include hospitals, telemedicine providers, health care staffing companies, health care provider organizations, health care facilities, management services organizations, and notably health care providers themselves, from interfering with, controlling or otherwise directing "the professional judgment or clinical decisions of a health care provider." The bill defines healthcare provider as "a person certified, registered, licensed or otherwise authorized pursuant to state law to perform or provide health care services to individuals in the state." An attempt appears to have been made to exempt federally qualified health centers or an independent (provider-owned) health care practices from the provisions of this bill. SB 450 grants a private right of action to anyone who feels they have been injured by a violation of the Act.

## FISCAL IMPLICATIONS

SB 450 would undermine the operations of hospitals to such a profound degree that the fiscal impact is impossible to estimate. Government funds, primarily Medicaid and Medicare, constitute 74% of New Mexico hospital revenues. By compromising the ability of hospitals to comply with CMS conditions of participation, SB 450 puts all this revenue and thus the financial viability of all New Mexico hospitals at risk.

## SIGNIFICANT ISSUES

SB 450, if enacted, would severely reduce access to healthcare in New Mexico by profoundly compromising the ability of hospitals and other healthcare providers to provide patient care. The bill prohibits hospitals from maintaining medical records, coding and billing for services, and, perhaps most troubling of all, hiring or terminating people based on clinical competency.
SB 450, if enacted, could render New Mexico hospitals ineligible for Medicaid and Medicare reimbursement, which would force most hospitals in the state to close.

The Centers for Medicare and Medicaid Services (CMS) Conditions of Participation (CoPs) are the health and safety standards that healthcare organizations must meet to participate in federally funded programs including Medicaid and Medicare. The CoPs require hospitals to govern their medical staff, maintain medical records, and oversee billing/coding to comply with federal regulations. SB 450 contains several provisions that may conflict with the CoPs for hospitals, particularly regarding hospital governance, medical staff oversight, and compliance with federal regulations, including:

1. **Hospital Governing Body Authority (42 CFR §482.12)**
   SB 450 states that a hospital (or other healthcare entity) cannot interfere with hiring, firing, or credentialing decisions of healthcare providers. However, per CMS, the hospital's governing body must be responsible for appointing and ensuring the competency of medical staff.

- Example: B(2)(b) states that a healthcare entity cannot select, hire, or fire providers based on clinical competency. This contradicts CMS requirements for hospitals to have a process for medical staff credentialing and privileging.

2. **Quality Assessment and Performance Improvement (QAPI) (42 CFR §482.21)**
   CoPs mandate hospital-wide QAPI programs, but SB 450's restrictions on "interfering...with professional judgment" hampers implementation of standardized clinical protocols, quality metrics monitoring, performance improvement initiatives and patient safety programs. Quality improvement initiatives and standardization of care protocols would be challenging to implement if they're perceived as "interfering" with clinical decision-making, worsening patient care.

3. **Medical Staff Responsibilities (42 CFR §482.22)**
   SB 450 conflicts with the CMS requirement that medical staff be accountable to the hospital governing body for the quality of medical care provided to patients. CoPs require adequate staffing plans. The Act's prohibition on determining patient volumes per "provider" could conflict with that CMS requirements.
   - Example: SB 450 section B(2)(e) limits a hospital's ability to make decisions regarding coding and billing, which may interfere with compliance with CMS documentation and billing regulations.

4. **Patient Rights and Medical Records (42 CFR §482.13 & §482.24)**
   SB 450 section B(2)(a) states that a healthcare entity cannot own or determine the content of medical records. However, CMS requires hospitals to maintain medical records that comply with federal laws and allow access for regulatory oversight. Hospitals are responsible for the security, storage, and accuracy of these records.

5. **Utilization Review and Financial Relationships (42 CFR §482.30 & Stark Law)**
   CMS allows hospitals to conduct utilization review to assess the necessity of diagnostic tests, referrals, and treatment plans to ensure compliance with Medicare/Medicaid rules.
   - Example: SB 450 section B(1)(a-c) restricts hospitals from influencing diagnostic tests, referrals, or treatment decisions, which could prevent hospitals from ensuring cost-effective, medically necessary care.

The provisions of SB 450 appear to conflict with The Health Insurance Portability and Accountability Act (HIPAA), the federal law that protects patients' health information. The provision of SB 450 preventing entities from "owning or determining the content of patient medical records" conflicts with HIPAA Security Rule requirements for organizational control of Protected Health Information (PHI). HIPAA makes covered entities responsible for maintaining medical record integrity, ensuring proper documentation, protecting patient privacy, and managing access controls.

SB 450 potentially conflicts with federal interoperability requirements such as those mandated by the 21st Century Cures Act. Health systems often standardize documentation practices for data sharing and quality monitoring.

Limits on contractual relationships with third party payers included in SB 450 would fundamentally alter the business model of healthcare organizations and fragment care delivery systems that have been designed to improve efficiency and coordination of care. Healthcare entities would be limited in negotiating group contracts with insurance companies, and

individual providers could potentially contract independently with any payer, leading to loss of collective bargaining power and lower reimbursement rates for individual providers.

SB 450 potentially interferes with Clinical Decision Support (CDS) Systems, compromising patient safety. Modern EHRs rely heavily on automated alerts, reminders and suggestions. These systems often guide clinicians and staff toward evidence-based practices. If these automated suggestions be interpreted as "interfering with" or "directing" clinical decisions pursuant to SB 450 healthcare entities would be required to disable valuable safety features to comply with the law. Similarly, most health systems use standardized order sets to improve efficiency and reduce errors. These order sets are typically developed through patient safety initiatives to improve health equity and standardization of care. Under this bill, requiring or even suggesting the use of standard order sets could be interpreted as "interference" and thus prohibited.

**PERFORMANCE IMPLICATIONS**

**ADMINISTRATIVE IMPLICATIONS**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

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

**AMENDMENTS**