HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 593

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; INCREASING THE RURAL HEALTH CARE PRACTITIONER TAX CREDIT; CREATING THE PHYSICIAN INCOME TAX CREDIT; EXPANDING THE RURAL HEALTH CARE PRACTITIONER TAX CREDIT TO INCLUDE ADDITIONAL ELIGIBLE HEALTH CARE PRACTITIONERS; ENACTING THE MEDICAL RESIDENCY LOAN REPAYMENT ACT; GRANTING LOAN REPAYMENT AWARDS TO CERTAIN MEDICAL RESIDENTS AND MEDICAL FELLOWS; PROVIDING FOR CONTRACTS, CONTRACT CANCELLATIONS AND CONTRACT ENFORCEMENT; CREATING A FUND; AMENDING DEFINITIONS IN THE MEDICAL MALPRACTICE ACT; LIMITING THE AMOUNT OF DAMAGES THAT CAN BE AWARDED DUE TO A MEDICAL MALPRACTICE CLAIM; REQUIRING PAYMENTS FROM THE PATIENT'S COMPENSATION FUND TO BE MADE AS EXPENSES ARE INCURRED; LIMITING THE AVAILABILITY OF PUNITIVE DAMAGES IN MEDICAL MALPRACTICE CLAIMS; REQUIRING THE HEALTH CARE AUTHORITY TO CONDUCT COST STUDIES FOR EACH TYPE OF HEALTH CARE PROVIDER

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THAT IS REIMBURSED BY MEDICAID; AMENDING AND ENACTING SECTIONS OF THE PRIOR AUTHORIZATION ACT TO PROHIBIT THE IMPOSITION OF PRIOR AUTHORIZATION REQUIREMENTS FOR CERTAIN COVERED SERVICES AND PRESCRIPTION MEDICATION; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-2-18.22 NMSA 1978 (being Laws 2007, Chapter 361, Section 2, as amended) is amended to read:

"7-2-18.22. RURAL HEALTH CARE PRACTITIONER TAX CREDIT.--

A. A taxpayer who files an individual New Mexico tax return, who is not a dependent of another individual, who is an eligible health care practitioner and who has provided health care services in New Mexico in a rural health care underserved area in a taxable year may claim a credit against the tax liability imposed by the Income Tax Act. The credit provided in this section may be referred to as the "rural health care practitioner tax credit".

B. The rural health care practitioner tax credit may be claimed and allowed in an amount that shall not exceed:

(1) [~~five thousand dollars ($5,000)~~] fifteen thousand dollars ($15,000) for all physicians, osteopathic physicians, dentists, psychologists, podiatric physicians and optometrists who qualify pursuant to the provisions of this section and have provided health care during a taxable year for at least one thousand five hundred eighty-four hours at a

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practice site located in an approved rural health care underserved area. Eligible health care practitioners listed in this paragraph who provided health care services for at least seven hundred ninety-two hours but less than one thousand five hundred eighty-four hours at a practice site located in an approved rural health care underserved area during a taxable year are eligible for one-half of the tax credit amount; and

(2) [~~three thousand dollars ($3,000)~~] nine thousand dollars ($9,000) for all pharmacists, dental hygienists, physician assistants, certified registered nurse anesthetists, certified nurse practitioners, clinical nurse specialists, registered nurses, midwives, licensed clinical social workers, licensed independent social workers, professional mental health counselors, professional clinical mental health counselors, marriage and family therapists, professional art therapists, alcohol and drug abuse counselors, licensed practical nurses, emergency medical technicians, paramedics, speech-language pathologists, occupational therapists, chiropractic physicians and physical therapists who qualify pursuant to the provisions of this section and have provided health care during a taxable year for at least one thousand five hundred eighty-four hours at a practice site located in an approved rural health care underserved area. Eligible health care practitioners listed in this paragraph who provided health care services for at least seven hundred

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ninety-two hours but less than one thousand five hundred eighty-four hours at a practice site located in an approved rural health care underserved area during a taxable year are eligible for one-half of the tax credit amount.

C. Before an eligible health care practitioner may claim the rural health care practitioner tax credit, the practitioner shall submit an application to the department of health that describes the practitioner's clinical practice and contains additional information that the department of health may require. The department of health shall determine whether an eligible health care practitioner qualifies for the rural health care practitioner tax credit and shall issue a certificate to each qualifying eligible health care practitioner. The department of health shall provide the taxation and revenue department appropriate information for all eligible health care practitioners to whom certificates are issued in a secure manner on regular intervals agreed upon by both the taxation and revenue department and the department of health.

D. A taxpayer claiming the credit provided by this section shall submit a copy of the certificate issued by the department of health with the taxpayer's New Mexico income tax return for the taxable year. If the amount of the credit claimed exceeds a taxpayer's tax liability for the taxable year in which the credit is being claimed, the excess may be carried

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forward for three consecutive taxable years.

E. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

[~~F. The department shall compile an annual report on the tax credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit~~]

F. The credit provided by this section shall be included in the tax expenditure budget pursuant to Section 7-1-84 NMSA 1978, including the total annual aggregate cost of the credit.

G. As used in this section:

(1) "eligible health care practitioner" means:

(a) a dentist or dental hygienist licensed pursuant to the Dental Health Care Act;

(b) a midwife that is a: 1) certified nurse-midwife licensed by the board of nursing as a registered nurse and licensed by the public health division of the department of health to practice nurse-midwifery as a certified

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nurse-midwife; or 2) licensed midwife licensed by the public health division of the department of health to practice licensed midwifery;

(c) an optometrist licensed pursuant to the provisions of the Optometry Act;

(d) an osteopathic physician licensed pursuant to the provisions of the Medical Practice Act;

(e) a physician licensed pursuant to the provisions of the Medical Practice Act or a physician assistant licensed pursuant to the provisions of the Physician Assistant Act;

(f) a podiatric physician licensed pursuant to the provisions of the Podiatry Act;

(g) a psychologist licensed pursuant to the provisions of the Professional Psychologist Act;

(h) a registered nurse or a licensed practical nurse licensed pursuant to the provisions of the Nursing Practice Act;

(i) a pharmacist licensed pursuant to the provisions of the Pharmacy Act;

(j) a licensed clinical social worker or a licensed independent social worker licensed pursuant to the provisions of the Social Work Practice Act;

(k) a professional mental health counselor, a professional clinical mental health counselor, a

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marriage and family therapist, an alcohol and drug abuse counselor or a professional art therapist licensed pursuant to the provisions of the Counseling and Therapy Practice Act; [~~and~~]

(l) a physical therapist licensed pursuant to the provisions of the Physical Therapy Act;

(m) an emergency medical technician or paramedic licensed pursuant to the Emergency Medical Services Act;

(n) a speech-language pathologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(o) an occupational therapist licensed pursuant to the Occupational Therapy Act; and

(p) a chiropractic physician licensed pursuant to the Chiropractic Physician Practice Act;

(2) "health care underserved area" means a geographic area or practice location in which it has been determined by the department of health, through the use of indices and other standards set by the department of health, that sufficient health care services are not being provided;

(3) "practice site" means a private practice, public health clinic, hospital, public or private nonprofit primary care clinic or other health care service location in a health care underserved area; and

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(4) "rural" means a rural county or an unincorporated area of a partially rural county, as designated by the health resources and services administration of the United States department of health and human services."

SECTION 2. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] CREDIT--PHYSICIAN INCOME TAX CREDIT.--

A. A taxpayer who is a physician and has completed a medical residency may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act for up to five consecutive taxable years in which the taxpayer practices medicine full-time in New Mexico and has an outstanding balance of a student loan taken to defray the expenses of a medical education. The credit authorized pursuant to this section may be referred to as the "physician income tax credit".

B. The amount of the tax credit shall be in an amount equal to fifty thousand dollars ($50,000) for the taxable year the taxpayer meets the requirements of this section.

C. A taxpayer shall apply for certification of eligibility for the tax credit from the higher education department on forms and in the manner prescribed by that department. If the higher education department determines that the taxpayer meets the requirements of this section, that department shall issue a dated certificate of eligibility to

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the taxpayer providing the amount of tax credit for which the taxpayer is eligible and the taxable years in which the credit may be claimed. The higher education department shall provide the department with the certificates of eligibility issued pursuant to this subsection in an electronic format at regularly agreed upon intervals.

D. That portion of the tax credit that exceeds a taxpayer's income tax liability in the taxable year in which the credit is claimed shall be refunded to the taxpayer.

E. A taxpayer allowed to claim a tax credit pursuant to this section shall claim the tax credit in a manner required by the department. The credit shall be claimed within three taxable years of the end of the year in which the higher education department certifies the credit.

F. The credit provided by this section shall be included in the tax expenditure budget pursuant to Section 7-1-84 NMSA 1978, including the annual aggregate cost of the credit.

G. As used in this section:

(1) "physician" means a physician licensed pursuant to the provisions of the Medical Practice Act, an osteopathic physician licensed pursuant to the provisions of the Medical Practice Act or a dentist licensed pursuant to the Dental Health Care Act; and

(2) "practices medicine full-time" means

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providing health care within the scope of a physician's practice for at least one thousand five hundred eighty-four hours during the taxable year."

SECTION 3. A new section of Chapter 21 NMSA 1978 is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 3 through 9 of this act may be cited as the "Medical Residency Loan Repayment Act"."

SECTION 4. A new section of Chapter 21 NMSA 1978 is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Medical Residency Loan Repayment Act:

A. "applicant" means a person applying for an award;

B. "award" means the grant of money to repay loans;

C. "department" means the higher education department;

D. "fund" means the medical residency loan repayment fund;

E. "loan" means a grant of money pursuant to a contract between a medical resident or a medical fellow and the federal government, the state government or a commercial lender to defray the costs incidental to an undergraduate or medical education and that requires either repayment of principal and interest or repayment in services;

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F. "medical fellow" means an individual who has completed a medical fellowship in an institution of higher education in New Mexico;

G. "medical resident" means an individual who has completed a medical residency in an institution of higher education in New Mexico; and

H. "program" means the medical residency loan repayment program, which provides money to repay undergraduate education student loans and loans for medical training."

SECTION 5. A new section of Chapter 21 NMSA 1978 is enacted to read:

"[NEW MATERIAL] POWERS AND DUTIES.--The department may:

A. grant an award to repay loans obtained for undergraduate education and medical training obtained by a medical resident or medical fellow upon such terms and conditions as may be imposed by rule of the department; and

B. delegate to other agencies or contract for the performance of services required by the program."

SECTION 6. A new section of Chapter 21 NMSA 1978 is enacted to read:

"[NEW MATERIAL] AWARDS--CRITERIA--CONTRACT TERMS.--

A. An applicant shall have completed a medical residency or medical fellowship program before applying for an award and agreed to work as a physician in New Mexico for five consecutive years upon receiving an award.

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B. Prior to receiving an award, a medical resident or medical fellow shall file an application with the department that meets the criteria established by rule of the department.

C. An award recipient shall certify on at least an annual basis the recipient's continued employment as a physician practicing medicine in New Mexico.

D. The following debts are not eligible for repayment pursuant to the Medical Residency Loan Repayment Act:

(1) amounts incurred as a result of participation in state loan-for-service programs or other state programs the purposes of which state that service be provided in exchange for financial assistance;

(2) scholarships that have a service component or obligation;

(3) personal loans from friends or relatives;

(4) loans that exceed individual standard school expense levels; and

(5) loans that are eligible for another state or federal loan repayment program.

E. Award criteria shall provide that:

(1) the applicant shall have graduated from a medical school accredited by the liaison committee on medical education or the commission on osteopathic college accreditation;

(2) the applicant shall be licensed to

practice in New Mexico as a licensed physician;

(3) the applicant shall have completed a medical residency or post-residency fellowship program offered by a New Mexico medical school within the year prior to submitting the application;

(4) the applicant agrees to practice medicine in New Mexico for a minimum of five consecutive years upon receiving an award;

(5) award amounts may be modified based on available funding or other special circumstances; and

(6) an award for an approved applicant shall be in an annual amount to repay the applicant's loan indebtedness within three years.

F. Every loan repayment award shall be evidenced by a contract between the medical resident or medical fellow and the department on behalf of the state. The contract shall provide for the payment by the state of a stated sum to the medical resident's or medical fellow's federal government lender, state government lender or commercial lender and shall state the obligations of the medical resident or medical fellow under the program as established by the department.

G. A contract between a medical resident or medical fellow and the department shall provide that if the medical resident or medical fellow does not comply with the terms of the contract, the medical resident or medical fellow shall

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reimburse the department for all loan payments made on the medical resident's or medical fellow's behalf plus reasonable interest at a rate to be determined by the department unless the department finds acceptable extenuating circumstances for why the medical resident or medical fellow cannot serve or comply with the terms of the contract.

H. Awards shall be in the form of payments from the fund directly to the federal government lender, state government lender or commercial lender for a medical resident or medical fellow who has received the award and shall be considered a payment on behalf of the medical resident or medical fellow pursuant to the contract between the department and the medical resident or medical fellow. An award shall not obligate the state or the department to a medical resident's or medical fellow's lender for any other payment and shall not be considered to create any privity of contract between the state or the department and the lender.

I. The department shall adopt rules to implement the provisions of the Medical Residency Loan Repayment Act. The rules:

(1) shall provide a procedure for determining the amount of the loan that will be repaid; and

(2) may provide for the disbursement of awards to the lender in annual or other periodic installments."

SECTION 7. A new section of Chapter 21 NMSA 1978 is

enacted to read:

"[NEW MATERIAL] CONTRACTS--ENFORCEMENT--CANCELLATION.--

A. The general form of a contract required pursuant to the Medical Residency Loan Repayment Act shall be prepared and approved by the department's general counsel, and each contract shall be signed by the medical resident or medical fellow and the secretary of higher education or the secretary's authorized representative on behalf of the state. The department is vested with full and complete authority and power to sue in its own name for any balance due to the state from a medical resident or medical fellow under a loan repayment contract.

B. The department may cancel a contract made between the department and a medical resident or medical fellow pursuant to the Medical Residency Loan Repayment Act for any reasonable cause deemed sufficient by the department."

SECTION 8. A new section of Chapter 21 NMSA 1978 is enacted to read:

"[NEW MATERIAL] MEDICAL RESIDENCY LOAN REPAYMENT FUND CREATED.--The "medical residency loan repayment fund" is created in the state treasury. The fund consists of appropriations, repayment of awards and interest received by the department, income from investment of the fund, gifts, grants and donations. The fund shall be administered by the department, and money in the fund is appropriated to the

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department to make awards pursuant to the Medical Residency Loan Repayment Act. Money in the fund at the end of a fiscal year shall not revert to any other fund. All payments for awards shall be made on warrants of the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's authorized representative."

SECTION 9. A new section of Chapter 21 NMSA 1978 is enacted to read:

"[NEW MATERIAL] REPORTS.--The department shall submit annual reports to the governor and the legislature prior to each regular legislative session of the department's activities, the awards granted and the job title and duties of each loan recipient. The report shall also include any contract cancellations and enforcement actions the department has taken."

SECTION 10. A new section of the Public Assistance Act is enacted to read:

"[NEW MATERIAL] COST STUDIES REQUIRED.--

A. At least every three years, the authority shall conduct cost studies for the purposes of determining the cost of providing health care services for each type of health care provider that is reimbursed by medicaid for providing services to recipients. The cost studies shall include recommendations for adequate reimbursement rates for each type of health care

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provider reimbursed by medicaid based on:

(1) the cost to provide competitive compensation to health care providers; and

(2) recent and projected changes in costs due to factors that include inflation and rising wages.

B. When the authority submits a budget request to the legislature, the authority shall include the most recent cost study performed for each type of health care provider that is reimbursed by medicaid.

C. The authority shall not be required to perform cost studies for every type of health care provider that is reimbursed by medicaid in the same year, so long as a cost study is conducted for each type of health care provider at least every three years.

D. For the purposes of this section, "medicaid" means the federal-state program administered by the authority pursuant to Title 19 or Title 21 of the federal Social Security Act."

SECTION 11. Section 41-5-3 NMSA 1978 (being Laws 1976, Chapter 2, Section 3, as amended) is amended to read:

"41-5-3. DEFINITIONS.--As used in the Medical Malpractice Act:

A. "advisory board" means the patient's compensation fund advisory board;

B. "control" means equity ownership in a business

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entity that:

(1) represents more than fifty percent of the total voting power of the business entity; or

(2) has a value of more than fifty percent of that business entity;

C. "fund" means the patient's compensation fund;

D. "health care provider" means a person, corporation, organization, facility or institution licensed or certified by this state to provide health care or professional services as a doctor of medicine, hospital, outpatient health care facility, doctor of osteopathy, chiropractor, [~~podiatrist~~] podiatric physician, nurse anesthetist, physician's assistant, certified nurse practitioner, clinical nurse specialist or certified nurse-midwife or a business entity that is organized, incorporated or formed pursuant to the laws of New Mexico that provides health care services primarily through natural persons identified in this subsection. "Health care provider" does not mean a person or entity protected pursuant to the Tort Claims Act or the Federal Tort Claims Act;

E. "hospital" means a facility licensed as a hospital in this state that offers in-patient services, nursing or overnight care on a twenty-four-hour basis for diagnosing, treating and providing medical, psychological or surgical care for three or more separate persons who have a physical or mental illness, disease, injury or rehabilitative condition or

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are pregnant and may offer emergency services. "Hospital" includes a hospital's parent corporation, subsidiary corporations or affiliates if incorporated or registered in New Mexico; employees and locum tenens providing services at the hospital; and agency nurses providing services at the hospital. "Hospital" does not mean a person or entity protected pursuant to the Tort Claims Act or the Federal Tort Claims Act;

F. "independent outpatient health care facility" means a health care facility that is an ambulatory surgical center, urgent care facility or free-standing emergency room that is not, directly or indirectly through one or more intermediaries, controlled or under common control with a hospital. "Independent outpatient health care facility" includes a facility's employees, locum tenens providers and agency nurses providing services at the facility. "Independent outpatient health care facility" does not mean a person or entity protected pursuant to the Tort Claims Act or the Federal Tort Claims Act;

G. "independent provider" means a doctor of medicine, doctor of osteopathy, chiropractor, [~~podiatrist~~] podiatric physician, nurse anesthetist, physician's assistant, certified nurse practitioner, clinical nurse specialist or certified nurse-midwife who is not an employee of a hospital or outpatient health care facility. "Independent provider" does not mean a person or entity protected pursuant to the Tort

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Claims Act or the Federal Tort Claims Act. "Independent provider" includes:

(1) a health care facility that is:

(a) licensed pursuant to the Public Health Act as an outpatient facility;

(b) not an ambulatory surgical center, urgent care facility or free-standing emergency room; and

(c) not hospital-controlled; and

(2) a business entity that is not a hospital or outpatient health care facility that employs or consists of members who are licensed or certified as doctors of medicine, doctors of osteopathy, chiropractors, [~~podiatrists~~] podiatric physicians, nurse anesthetists, physician's assistants, certified nurse practitioners, clinical nurse specialists or certified nurse-midwives and the business entity's employees;

H. "insurer" means an insurance company engaged in writing health care provider malpractice liability insurance in this state;

I. "malpractice claim" includes any cause of action arising in this state against a health care provider for medical treatment, lack of medical treatment or other claimed departure from accepted standards of health care that proximately results in injury to the patient, whether the patient's claim or cause of action sounds in tort or contract, and includes but is not limited to actions based on battery or

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wrongful death; "malpractice claim" does not include a cause of action arising out of the driving, flying or nonmedical acts involved in the operation, use or maintenance of a vehicular or aircraft ambulance;

J. "medical care and related benefits" means all reasonable medical, surgical, physical rehabilitation and custodial services and includes drugs, prosthetic devices and other similar materials reasonably necessary in the provision of such services;

K. "occurrence" means all [~~injuries to a patient caused by health care providers' successive acts or omissions that combined concurrently to create a malpractice claim~~] claims for damages from all persons arising from harm to a single patient, no matter how many health care providers, errors or omissions contributed to the harm;

L. "outpatient health care facility" means an entity that is hospital-controlled and is licensed pursuant to the Public Health Act as an outpatient facility, including ambulatory surgical centers, free-standing emergency rooms, urgent care clinics, acute care centers and intermediate care facilities and includes a facility's employees, locum tenens providers and agency nurses providing services at the facility. "Outpatient health care facility" does not include:

(1) independent providers;

(2) independent outpatient health care

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facilities; or

(3) individuals or entities protected pursuant to the Tort Claims Act or the Federal Tort Claims Act;

M. "patient" means a natural person who received or should have received health care from a health care provider, under a contract, express or implied; and

N. "superintendent" means the superintendent of insurance."

SECTION 12. Section 41-5-6 NMSA 1978 (being Laws 1992, Chapter 33, Section 4, as amended) is amended to read:

"41-5-6. LIMITATION OF RECOVERY.--

A. Except for punitive damages and past and future medical care and related benefits, the aggregate dollar amount recoverable by all persons for or arising from any injury or death to a patient as a result of malpractice shall not exceed six hundred thousand dollars ($600,000) per occurrence. [~~for malpractice claims brought against health care providers if the injury or death occurred prior to January 1, 2022. In jury cases, the jury shall not be given any instructions dealing with this limitation.~~

~~B. Except for punitive damages and past and future medical care and related benefits, the aggregate dollar amount recoverable by all persons for or arising from any injury or death to a patient as a result of malpractice shall not exceed seven hundred fifty thousand dollars ($750,000) per occurrence~~

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~~for malpractice claims against independent providers; provided that, beginning January 1, 2023, the per occurrence limit on recovery shall be adjusted annually by the consumer price index for all urban consumers.~~

~~C. The aggregate dollar amount recoverable by all persons for or arising from any injury or death to a patient as a result of malpractice, except for punitive damages and past and future medical care and related benefits, shall not exceed seven hundred fifty thousand dollars ($750,000) for claims brought against an independent outpatient health care facility for an injury or death that occurred in calendar years 2022 and 2023.~~

~~D. In calendar year 2024 and subsequent years, the aggregate dollar amount recoverable by all persons for or arising from an injury or death to a patient as a result of malpractice, except for punitive damages and past and future medical care and related benefits, shall not exceed the following amounts for claims brought against an independent outpatient health care facility:~~

~~(1) for an injury or death that occurred in calendar year 2024, one million dollars ($1,000,000) per occurrence; and~~

~~(2) for an injury or death that occurred in calendar year 2025 and thereafter, the amount provided in Paragraph (1) of this subsection, adjusted annually by the~~

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~~prior three-year average consumer price index for all urban consumers, per occurrence.~~

~~E. In calendar year 2022 and subsequent calendar years, the aggregate dollar amount recoverable by all persons for or arising from any injury or death to a patient as a result of malpractice, except for punitive damages and past and future medical care and related benefits, shall not exceed the following amounts for claims brought against a hospital or a hospital-controlled outpatient health care facility:~~

~~(1) for an injury or death that occurred in calendar year 2022, four million dollars ($4,000,000) per occurrence;~~

~~(2) for an injury or death that occurred in calendar year 2023, four million five hundred thousand dollars ($4,500,000) per occurrence;~~

~~(3) for an injury or death that occurred in calendar year 2024, five million dollars ($5,000,000) per occurrence;~~

~~(4) for an injury or death that occurred in calendar year 2025, five million five hundred thousand dollars ($5,500,000) per occurrence;~~

~~(5) for an injury or death that occurred in calendar year 2026, six million dollars ($6,000,000) per occurrence; and~~

~~(6) for an injury or death that occurred in~~

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~~calendar year 2027 and each calendar year thereafter, the amount provided in Paragraph (5) of this subsection, adjusted annually by the consumer price index for all urban consumers, per occurrence.~~

~~F. The aggregate dollar amounts provided in Subsections B through E of this section include payment to any person for any number of loss of consortium claims or other claims per occurrence that arise solely because of the injuries or death of the patient.~~

[~~G.~~] B. In jury cases, the jury shall not be given any instructions dealing with the limitations provided in this section.

[~~H.~~] C. The value of accrued medical care and related benefits shall not be subject to any limitation.

[~~I.~~] D. Except for an independent outpatient health care facility, a health care provider's personal liability is limited to [~~two hundred fifty thousand dollars ($250,000)~~] two hundred thousand dollars ($200,000) for monetary damages and medical care and related benefits as provided in Section 41-5-7 NMSA 1978. Any amount due from a judgment or settlement in excess of [~~two hundred fifty thousand dollars ($250,000)~~] two hundred thousand dollars ($200,000) shall be paid from the fund [~~except as provided in Subsections J and K of this section.~~

~~J. An independent outpatient health care facility's personal liability is limited to five hundred thousand dollars~~

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~~($500,000) for monetary damages and medical care and related benefits as provided in Section 41-5-7 NMSA 1978. Any amount due from a judgment or settlement in excess of five hundred thousand dollars ($500,000) shall be paid from the fund.~~

~~K. Until January 1, 2027, amounts due from a judgment or settlement against a hospital or hospital-controlled outpatient health care facility in excess of seven hundred fifty thousand dollars ($750,000), excluding past and future medical expenses, shall be paid by the hospital or hospital-controlled outpatient health care facility and not by the fund. Beginning January 1, 2027, amounts due from a judgment or settlement against a hospital or hospital-controlled outpatient health care facility shall not be paid from the fund.~~

~~L. The term "occurrence" shall not be construed in such a way as to limit recovery to only one maximum statutory payment if separate acts or omissions cause additional or enhanced injury or harm as a result of the separate acts or omissions. A patient who suffers two or more distinct injuries as a result of two or more different acts or omissions that occur at different times by one or more health care providers is entitled to up to the maximum statutory recovery for each injury~~]."

SECTION 13. Section 41-5-7 NMSA 1978 (being Laws 1992, Chapter 33, Section 5, as amended) is amended to read:

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"41-5-7. MEDICAL EXPENSES AND PUNITIVE DAMAGES.--

A. Awards of past and future medical care and related benefits shall not be subject to the limitations of recovery imposed in Section 41-5-6 NMSA 1978.

B. The health care provider shall be liable for all medical care and related benefit payments until the total payments made by or on behalf of it for monetary damages and medical care and related benefits combined equals the health care provider's personal liability limit as provided in Subsection [~~I~~] D of Section 41-5-6 NMSA 1978, after which the payments shall be made by the fund.

C. Payments made from the fund for medical care and related benefits shall be made as expenses are incurred.

[~~C.~~] D. Beginning January 1, 2027, any amounts due from a judgment or settlement against a hospital or outpatient health care facility shall not be paid from the fund if the injury or death occurred after December 31, 2026.

[~~D.~~] E. This section shall not be construed to prevent a patient and a health care provider from entering into a settlement agreement whereby medical care and related benefits shall be provided for a limited period of time only or to a limited degree.

[~~E.~~] F. A judgment of punitive damages against a health care provider shall be the personal liability of the health care provider. Punitive damages may only be awarded if

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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. Punitive damages shall not be paid from the fund or from the proceeds of the health care provider's insurance contract unless the contract expressly provides coverage. Nothing in Section 41-5-6 NMSA 1978 precludes the award of punitive damages to a patient. Nothing in this subsection authorizes the imposition of liability for punitive damages where that imposition would not be otherwise authorized by law.

G. 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."

SECTION 14. Section 59A-22B-1 NMSA 1978 (being Laws 2019, Chapter 187, Section 3) is amended to read:

"59A-22B-1. SHORT TITLE.--[~~Sections 3 through 7 of this act~~] Chapter 59A, Article 22B NMSA 1978 may be cited as the "Prior Authorization Act"."

SECTION 15. A new section of the Prior Authorization Act is enacted to read:

"[NEW MATERIAL] PRIOR AUTHORIZATION FOR CHEMOTHERAPY SERVICES PROHIBITED.--

A. A health insurer shall not require prior authorization for covered chemotherapy services.

B. A health insurer may require a health care

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provider to provide notification to the health insurer after the initiation of chemotherapy services.

C. A health insurer may require a health care provider to develop and submit a treatment plan for a covered person receiving chemotherapy services in a manner that is compliant with federal law."

SECTION 16. A new section of the Prior Authorization Act is enacted to read:

"[NEW MATERIAL] PRIOR AUTHORIZATION FOR DIALYSIS SERVICES PROHIBITED.--

A. A health insurer shall not require prior authorization for covered dialysis services.

B. A health insurer may require a health care provider to provide notification to the health insurer after the initiation of dialysis services.

C. A health insurer may require a health care provider to develop and submit a treatment plan for a covered person receiving dialysis services in a manner that is compliant with federal law."

SECTION 17. A new section of the Prior Authorization Act is enacted to read:

"[NEW MATERIAL] PRIOR AUTHORIZATION FOR ELDER CARE SERVICES PROHIBITED.--

A. A health insurer shall not require prior authorization for covered elder care services.

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B. A health insurer may require a health care provider to provide notification to the health insurer after the initiation of elder care services.

C. A health insurer may require a health care provider to develop and submit a treatment plan for a covered person receiving elder care services in a manner that is compliant with federal law."

SECTION 18. A new section of the Prior Authorization Act is enacted to read:

"[NEW MATERIAL] PRIOR AUTHORIZATION FOR HOME HEALTH CARE SERVICES PROHIBITED.--

A. A health insurer shall not require prior authorization for covered home health care services.

B. A health insurer may require a health care provider to provide notification to the health insurer after the initiation of home health care services.

C. A health insurer may require a health care provider to develop and submit a treatment plan for a covered person receiving home health care services in a manner that is compliant with federal law."

SECTION 19. Section 59A-22B-8 NMSA 1978 (being Laws 2023, Chapter 114, Section 13, as amended) is amended to read:

"59A-22B-8. PRIOR AUTHORIZATION FOR PRESCRIPTION DRUGS OR STEP THERAPY FOR CERTAIN CONDITIONS PROHIBITED.--

A. Coverage for medication approved by the federal

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food and drug administration that is prescribed for the treatment of an autoimmune disorder, cancer, diabetes, high blood pressure or a substance use disorder, pursuant to a medical necessity determination, shall not be subject to prior authorization, except in cases in which a biosimilar, interchangeable biologic or generic version is available.

B. A health insurer shall not impose step therapy requirements before authorizing coverage for medication approved by the federal food and drug administration that is prescribed for the treatment of an autoimmune disorder, cancer, diabetes, high blood pressure or a substance use disorder, pursuant to a medical necessity determination, except in cases in which a biosimilar, interchangeable biologic or generic version is available."

SECTION 20. APPROPRIATION.--Three million dollars ($3,000,000) is appropriated from the general fund to the medical residency loan repayment fund for expenditure in fiscal year 2026 and subsequent fiscal years for the purposes of the medical residency loan repayment fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

SECTION 21. APPLICABILITY.--

A. The provisions of Sections 1 and 2 of this act apply to taxable years beginning on or after January 1, 2025.

B. The provisions of Sections 11 through 13 of this

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act apply to all claims for medical malpractice that arise on or after the effective date of this act.

C. The provisions of Sections 14 through 19 of this act apply to an individual or group policy, contract, certificate or agreement to provide, deliver, arrange for, pay for or reimburse any of the costs of medical care, pharmaceutical benefits or related benefits that is entered into, offered or issued by a health insurer on or after July 1, 2025, pursuant to any of the following:

(1) Chapter 59A, Article 22 NMSA 1978;

(2) Chapter 59A, Article 23 NMSA 1978;

(3) the Health Maintenance Organization Law;

(4) the Nonprofit Health Care Plan Law; or

(5) the Health Care Purchasing Act.