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FISCAL IMPACT REPORT

SPONSOR <u>Sedillo Lopez</u>	LAST UPDATED _____
	ORIGINAL DATE <u>3/8/2025</u>
SHORT TITLE <u>Corporate Practice of Medicine Act</u>	BILL NUMBER <u>Senate Bill 450</u>
	ANALYST <u>Hernandez</u>

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
		See fiscal implications	See fiscal implications	See fiscal implications	See fiscal implications	Recurring	Federal Funds

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMAG		At least \$131.8	At least \$131.8	At least \$263.6	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Department of Health (DOH)

New Mexico Attorney General (NMAG)

University of New Mexico (UNM)

Agency Analysis was Solicited but Not Received From

Health Care Authority (HCA)

Office of the Superintendent of Insurance (OSI)

SUMMARY

Synopsis of Senate Bill 450

Senate Bill 450 (SB450) mandates that a healthcare entity, such as a hospital or healthcare staffing company, shall not indirectly or directly interfere with, control, or otherwise direct the professional judgment or clinical decisions of a healthcare provider. Moreover, a healthcare entity cannot own a patient's medical records, cannot select, hire, or fire healthcare providers based on clinical competency, and cannot make decisions regarding coding and billing procedures for patient care services. Finally, SB450 gives individuals the right to private action

for any violations of the bill. Moreover, the New Mexico Attorney General (NMAG) has the right to bring an action in the name of the state alleging violations.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

The University of New Mexico (UNM) states that:

SB450 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 percent of New Mexico hospital revenues. By compromising the ability of hospitals to comply with Centers for Medicare and Medicaid Services (CMS) conditions of participation, SB450 puts all this revenue and thus the financial viability of all New Mexico hospitals at risk.

NMAG states that:

SB450 tasks the NMAG with enforcing the act and seeking appropriate relief, including temporary or permanent injunctive relief and restitution from healthcare entities that interfere with the professional judgment of health care providers. The bill, however, does not appropriate any money to the NMAG to perform these additional duties. As a result, the NMAG's operating budget may need to be increased so it can fulfill its newly created responsibilities.

This analysis assumes NMAG will need at least 1 additional FTE to enforce the provisions of SB450 at a recurring cost of \$131.8 thousand annually (the average salary in the agency's Legal Services Program).

SIGNIFICANT ISSUES

UNM states:

SB450, 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. SB450, if enacted could render New Mexico hospital ineligible for Medicaid and Medicare reimbursement, which would force most hospitals in the state to close.

UNM also notes:

CMS Conditions of Participation (CoPs) are the health and safety standards that healthcare organizations must meet to participate in federally funded programs including Medicare and Medicaid. CoPs require hospitals to govern their medical staff, maintain medical records, and oversee billing/coding to comply with federal regulation. SB450 contains several provisions that may conflict with CoPs for hospitals, particularly regarding hospital governance, medical staff oversight, and compliance with federal regulations.

1. Hospital Governing Body Authority (42 CFR §482.12). SB450 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.
- a. 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 SB450'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). SB450 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.
 - a. Example: SB450 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). SB450 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.
 - a. Example: SB450 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.

NMAG raised further concerns:

Section 3 appears to prohibit hospitals and staffing health care companies from having any role in selecting, hiring or firing "health care providers, allied health staff or medical assistants based, in whole or part, on clinical competency or proficiency." Such a restriction may expose such entities to lawsuits for negligent hiring, supervision, and retention of health care employees. *See Spencer v. Health Force, Inc.*, 2005-NMSC-002, ¶¶ 8, 18-26, 137 N.M. 64 (denying a home health care company summary judgment on a negligent hiring, supervision, and retention claim because it had a duty to with regard to the actions of its agents to protect disabled persons under its care); *see also Trujillo v. Presbyterian Health Services*, 2025-NMSC-__, ¶¶ 2-26 (Feb. 20, 2025) (reinstating vicariously liability claims against the defendant hospital, even though medical negligence claims against its employees or agents, who were radiologists had been previously dismissed with prejudice).