

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:** 2/12/2025

Check all that apply:

Bill Number: HB 374Original Correction Amendment Substitute

Sponsor: Representatives Gail Armstrong,
Mark Duncan, and Harlan
Vincent

**Agency Name
and Code
Number:**

Office of Superintendent of
Insurance - 440

**Short
Title:** Medical Malpractice
"Occurrence" Definition

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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: HB 378; HB 379; SB 121; & SB 224
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

HB 374 amends the definitions contained in the Medical Malpractice Act (“MMA”) by substituting “podiatric physician” for “podiatrist”.

HB 374 amends the definition of “occurrence” for purposes of the MMA to mean “all 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.”

FISCAL IMPLICATIONS

HB 374 will result in a reduction in the damages paid by the PCF.

SIGNIFICANT ISSUES

None

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

The Medical Malpractice Act (“MMA”) imposes caps on compensatory damages awarded against qualified health care providers, the amount of which vary depending on the type of health care provider. Presently, if a plaintiff can distinguish multiple occurrences of medical malpractice, he or she may receive payment of multiple “caps” from a single health care provider, or from several providers.

In enacted, HB374 will result in a plaintiff being entitled to a single award of non-medical, non-punitive damages up to the damage cap for a malpractice claim, thereby limiting the exposure of most medical malpractice defendants to a single occurrence.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 374 contains the same amendments proposed by HB 378. HB 378 goes further by proposing additional amendments to Section 41-5-6 relating to damages but does address the conflict noted below by deleting Section 41-5-6(L).

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

HB 374 conflicts with NMSA 1978, Section 41-5-6(L). Section 41-5-6(L) currently states “[t]he 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.” This is incongruous with HB 374, as Section 41-5-6(L) is premised upon an occurrence being an “injury” (and is intended to provide multiple maximum payments to a plaintiff that can show multiple injuries).

In order for HB 374 to be effective, Section 41-5-6(L) in the MMA should be revised or deleted.

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

Address the conflict Section 41-5-6(L).