

LFC Requester:	RubyAnn Esquibel
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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: 2/13/25 *Check all that apply:*
Bill Number: HB 374 Original Correction
 Amendment Substitute

Sponsor: Gail Armstrong **Agency Name and Code:** NM Hospital Association
Short Title: MEDICAL MALPRACTICE "OCCURRENCE" DEFINITION **Number:** _____
Person Writing: Julia Ruetten **Phone:** 5053409489 **Email:** jruetten@nmhsc.com

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		

(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

The New Mexico Hospital Association supports HB 374, as introduced. The changes made to the Medical Malpractice Act in 2021 resulted in a cascade of unintended consequences, which the legislature has partially addressed, and the changes proposed in this bill will aid in slowing down and reversing the negative impacts to access to care. Currently, limited access to care is the leading healthcare issue facing all New Mexicans, and the medical malpractice environment is a primary driver of the access emergency.

HB 374 changes the definition of occurrence in the Act to treat one malpractice injury event as one malpractice claim, regardless of the number of health care providers involved or the number of “errors or omissions [that] contributed to the harm.” The existing definition of “occurrence” was added to the Medical Malpractice Act in 2021 when significant changes were made to the Act. As a result of the inclusion of this definition, trial attorneys have advised patients pursuing malpractice claims to utilize this single definition to expand the potential awards or settlements, if there is cause found, which has inflated the amount of malpractice settlements and awards.

On October 7, 2022, the custodian of the Patient’s Compensation Fund (PCF), then Superintendent of Insurance Russell Toal, issued his Final Order for calendar year 2023 PCF surcharge rates. The Final Order included Exhibit A: “Recommended Changes to the Medical Malpractice Act” to “address the cost phenomena that are negatively impacting the PCF.” His first recommendation was “that “malpractice claim” and “occurrence” be synonymously defined in such a way that a single, individual event be treated as a single malpractice claim or occurrence, regardless of the number of contributing providers or acts.” (See <https://pcf.osi.state.nm.us/wp-content/uploads/2022/10/FINAL-ORDER-FROM-SUPT.pdf>)

It is possible to keep the needs of patients who have been harmed by malpractice at the core of the Act while ensuring that the Act does not dissuade providers (individual providers, private practices and hospitals) from serving those in our state. HB 374 strikes this balance (though not addressing all of the unintended consequences arising from 2021’s changes).

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

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