

LFC Requestor: ESQUIBEL, RubyAnn

**2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: House
Number: 378

Category: Bill
Type: Introduced

Date (of THIS analysis): 2/13/25
Sponsor(s): Rod Montoya and Gail Armstrong
Short Title: Medical Malpractice Act Changes

Reviewing Agency: Agency 665 - Department of Health
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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$0	\$0	\$0	N/A	N/A

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: House Bill 374 (HB374)

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

House Bill 378 (HB378) proposes to revise the following Sections regarding medical malpractice:

Section 41-5-3 NMSA 1978 “Definitions”:

- Changing the word “podiatrist” to “podiatric physician” in two definitions of “health care provider” (page 2, line 11) and “independent provider” (page 3, line 20).
- The definition of “occurrence” was changed to “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” (page 5, line 12-14).

Section 41-5-6 NMSA 1978 “Limitation of Recovery”:

- Sections B through F (pages 6-9), and sections J through L (pages 9-10), were removed.
- The recovery amounts were lowered from \$250,000 to \$200,000 (page 9, lines 20-21).

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

Medical malpractice is one of the determining factors that medical providers look at when choosing where to work. Currently, New Mexico is ranked 13th for Medical Malpractice problems in the U.S. <https://www.forbes.com/advisor/legal/medical-malpractice/medical-malpractice-cases-by-state/>

Many states "cap" (or limit) the amount of damages that can be awarded in medical malpractice cases. Most states' damage caps apply only to compensation for

"noneconomic" losses, which can include such intangible injuries as [pain and suffering](#) or loss of enjoyment of life. New Mexico's damage caps, however, apply to total damages, **except for** awards for:

- past and future medical care (and related benefits), and
- punitive damages, which are intended to punish particularly bad conduct and deter similar conduct in the future.

In addition, New Mexico law provides different damages caps on health care facilities, depending on whether they are majority-owned and -controlled by a hospital. [New Mexico Medical Malpractice Laws & Statutory Rules](#)

The proposed bill would help New Mexican healthcare providers stay in New Mexico, especially those in rural hospitals or rural clinics, without the fear of increased medical malpractice suits or high malpractice insurance rates.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No
- Is this proposal related to the NMDOH Strategic Plan? Yes No
 - Goal 1:** We expand equitable access to services for all New Mexicans
 - Goal 2:** We ensure safety in New Mexico healthcare environments
 - Goal 3:** We improve health status for all New Mexicans
 - Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

HB378 relates to HB374. HB378 duplicates HB374 for Definitions only (pages 1-5 and page 6, lines 1-4).

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

There are considerations for providing healthcare in rural communities throughout the country, but especially in the West, including aging populations, closure and/or downsizing of hospitals (<https://pubmed.ncbi.nlm.nih.gov/33011448/>), aging of the local health provider workforce (<https://pubmed.ncbi.nlm.nih.gov/36205415/>), loss of younger people from rural communities, and changes in local economies away from extractive and agricultural economies.

9. HEALTH IMPACT(S)

As demand for healthcare services and providers continues to increase in New Mexico, the cost of malpractice cases has become more costly to medical providers and the institutions they work for. Not every institution would be able to withstand a multimillion-dollar settlement from a malpractice judgement, especially those in rural areas ([New Mexico Medical Malpractice Laws & Statutory Rules](#)). Rural areas already struggle with a shortage of healthcare professionals (<https://pubmed.ncbi.nlm.nih.gov/35760437/>) and it is challenging to attract and retain healthcare providers in rural communities due to factors such as costly medical malpractice rates. By supporting current and future healthcare practitioners who work and live in New Mexico's rural and medically underserved areas, HB378 could help stabilize and continue to build the healthcare workforce.

10. ALTERNATIVES

None.

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If HB378 is not enacted, there will continue to be high malpractice rates in the state which could impact the number of health care providers in New Mexico, especially in rural communities.

12. AMENDMENTS

None.