

LFC Requester:

Ruby Ann Esquibel

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 02/12/2025

Check all that apply:

Bill Number: HB379

Original Correction
Amendment Substitute

Sponsor: Rep. Rod Montoya; Rep. Gail
Armstrong.

**Agency Name and
Code Number:** 305 – New Mexico
Department of Justice

**Short
Title:** Punitive Damages in Medical
Malpractice Claim

**Person Writing
Analysis:** Justin Lauriano

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	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	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: This bill adds new language to NMSA 1978, Section 41-5-7(E) (2021) that requires a plaintiff seeking punitive damages to prove by clear and convincing evidence that “the acts of the healthcare provider were made with deliberate disregard for the rights or safety of others.” It also creates Section 41-5-7(F) which caps the amount of punitive damages available to a plaintiff.

Section 41-5-7(E): Requires that a plaintiff prove by clear and convincing evidence that the medical professional acted with “deliberate disregard for the rights and safety of others.”

Section 41-5-7(F): Caps the amount of punitive damages available to a plaintiff at “thirty times the state median annual household income at the time the award is made.”

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

The Supreme Court of the United States has said punitive damages exceeding an amount greater than ten times the compensatory damages *may* violate the Due Process and or Taking Clause of the United States Constitution. *BMW v. North America, Inc. v. Gore*, 517 U.S. 559, 581-82 (1996).

This bill, HB379, relies upon HB378 passing; if one passed without the other, it would create an uncanny medical malpractice statutory framework.

In theory, a situation could arise where a plaintiff recovers, for example, \$10,000 in compensatory damages and then receives substantially more than ten times in punitive damages. That could potentially run afoul of *BMW v. North America Inc. v. Gore*.

PERFORMANCE IMPLICATIONS

N/A.

ADMINISTRATIVE IMPLICATIONS

N/A.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill, HB379, is related to HB378. HB378 modifies the compensatory damages available for medical malpractice claims, and HB379 modifies punitive damages available for medical malpractice claims.

TECHNICAL ISSUES

N/A.

OTHER SUBSTANTIVE ISSUES

N/A.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A.

AMENDMENTS

N/A.