

LFC Requester:	Hernandez, Allegra
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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: 3/7/25 *Check all that apply:*
Bill Number: SB 444 Original Correction
 Amendment Substitute

Sponsor: Sen. Pat Woods **Agency Name and Code:** AOC 218
Short Title: Medical Malpractice Damage Determination **Person Writing:** Kathleen Sabo
Phone: 505-470-3214 **Email:** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(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	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with HB 378, HB 379, SB 176, SB 444 and SB 449 (also amending Section 41-5-7 NMSA 1978).

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 444 amends Section 41-5-7 NMSA 1978, within the Medical Malpractice Act (MMA) and governing medical expenses and punitive damages, to provide that the amount of punitive damages against a health care provider awarded to a plaintiff shall be determined by a judge.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced medical malpractice actions where an award of punitive damages is sought. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) According to the National Conference of State Legislatures (NCSL), numerous states require judicial review of punitive damages awards, whether to impose a cap or to determine whether punitive damages are excessive as a matter of law. See *Medical Liability/Medical Malpractice Laws*, NCSL, February 2025, <https://www.ncsl.org/financial-services/medical-liability-medical-malpractice-laws#:~:text=Thirty%2Dseven%20states%2C%20Guam%2C,clear%20search> , for a list of state-by-state statutory damage provisions for medical malpractice actions, including punitive damages.
- 2) There may be a question as to the constitutionality of requiring a judge to determine the amount of punitive damages to be awarded against a health care provider rather than the jury, under both the New Mexico and United States Constitutions. New Mexico courts have held that the MMA's nonmedical, nonpunitive cap does not invade upon the province of the jury in violation of NM Constitution, Art. II, Sec. 12. See *Siebert v. Okun*, 2021-NMSC-016, overruling in part *Salopek v. Friedman*, 2013-NMCA-087, 308 P.3d 139. Additionally, the NM Supreme Court has ruled that a defendant has a right to a jury determination of the facts. See *State v. King*, 2007-NMCA-130, 142 N.M. 699, 168 P.3d 1123, cert. quashed, 2007-NMCERT-001, 143 N.M. 157, 173 P.3d 764. See also Section 45-1-306 NMSA 1978 and N.M. R. Civ. P. Dist. Ct. 1-038. The U.S. Supreme Court, in *Cooper Industries Inc. v. Leatherman Tool Group Inc.*, 532 U.S. 424, at 437, 440, 443 (2001), concluded that the determination as to the amount of punitive damages is "not a finding of fact."

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB 378, HB 379, SB 176, SB 444 and SB 449 (also amending Section 41-5-7).

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS