

LFC Requester:

Kelly Klundt

### 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: 2/21/2025

Check all that apply:

Bill Number: SB450

Original  Correction   
Amendment  Substitute

Sponsor: Sen. Antoinette Sedillo Lopez

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

Person Writing

Short Title: Corporate Practice of Medicine Act

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#### 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
<b>Total</b>						

(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:

SB 470 seeks to prohibit health care entities from interfering with the professional judgment of health care providers who make health care decisions for patients. SB470’s purpose appears to be to ensure that decisions about how to treat a patient’s medical condition are made by healthcare providers based on the applicable standard of care, rather than by corporations.

Section 1 refers to SB470 as the Corporate Practice of Medicine Act (CPMA).

Section 2 defines “federally qualified health center,” “health care entity,” health care facility,” “health care provider,” “health care services,” health care staffing company,” “hospital,” “independent health care practice,” “long-term health care facility,” “management services organization,” and “telemedicine provider.”

Section 3 prohibits health care entities that do business in New Mexico from interfering with the professional judgment of a health care provider who making health care decisions for patients, including:

- what diagnostic tests are appropriate for the health care condition being treated;
- whether a health care provider should consult with another health care provider about the patient’s condition or refer the patient to another healthcare provider for treatment;
- the health care provider’s responsibility for the overall care of the patient, including treatment options; and
- determining how many patients a health provider can see in a given time period.

Section 3 prohibits health care entities from exercising control over or being delegated the power to:

- own or otherwise determine the content of patient records;
- select, hire or fire health care providers, allied health staff or medical assistants based, in whole or part, on clinical competency or proficiency;
- set the parameters to which a health care provider shall enter into contractual relationships with third-party payers;
- set the parameters pursuant to which a health care provider shall enter into contractual

relationships with other health care providers for the delivery of care;

- make decisions regarding coding and billing procedures for patient care services; and
- approve the selection of medical equipment and supplies for a health care provider.

Section 4 creates a private right of action for persons who suffer injury “by reason of an action or practice” that violates the CPMA. Private persons may seek injunctive relief, compensatory and punitive damages, costs, and reasonable attorney fees.

Section 4 also permits the New Mexico Attorney General (NMAG) to bring an enforcement action based on a reasonable belief that a person is engaging in or about to engage in a violation of the CPMA and enforcement would be in the public interest.” The venue for bringing such enforcement action is in: (1) the district court of the county where the person is violating or about to violate the CPMA; (2) the district court of the county where that person resides; or (3) the district court where that person has a principal place of business.

Section 4 also provides that CPMA remedies are “in addition to remedies otherwise available pursuant to common law or New Mexico statutes.”

Section 5 provides that the CPMA’s effective date is July 1, 2025.

## **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.

SB450 tasks the NMAG with enforcing the CPMA and seeking appropriate relief, including temporary or permanent injunctive relief and restitution from health care entities that interfere with the professional judgment of health care providers. The bill, however, does not appropriate any money to the NMAG to perform these additional duties. As a result, the NMAG’s operating budget may need to be increased so it can fulfill its newly created responsibilities.

## **SIGNIFICANT ISSUES**

Section 3 appears to prohibit hospitals and staffing health care companies from having any role in selecting, hiring or firing “health care providers, allied health staff or medical assistants based, in whole or part, on clinical competency or proficiency.” Such a restriction may expose such entities to lawsuits for negligent hiring, supervision, and retention of health care employees. *See Spencer v. Health Force, Inc.*, 2005-NMSC-002, ¶¶ 8, 18-26, 137 N.M. 64 (denying a home health care company summary judgment on a negligent hiring, supervision, and retention claim because it had a duty to with regard to the actions of its agents to protect disabled persons under its care); *see also Trujillo v. Presbyterian Health Services*, 2025-NMSC-\_\_\_, ¶¶ 2-26 (Feb. 20, 2025) (reinstating vicariously liability claims against the defendant hospital, even though medical negligence claims against its employees or agents, who were radiologists had been previously dismissed with prejudice).

## **PERFORMANCE IMPLICATIONS**

Because the bill would give the NMAG the authority to bring enforcement actions without providing additional resources, it would likely degrade the agency’s performance of its assigned

tasks.

## **ADMINISTRATIVE IMPLICATIONS**

As above.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Although other bills introduced in the current legislative session address health care in none appear to duplicate or conflict with SB450. Additionally, no companion or related bills appear to have been introduced in the current legislative session.

## **TECHNICAL ISSUES**

The CPMA is directed at health care entities that interfere with the professional judgment of health care providers regarding patient care. Given the CPMA is directed at health care entities, it may be advisable to substitute the term “health care entity or its employees or agents” for the term “person” in Section 4B.

With that substitution, the first sentence of Section 4B would then read: “Whenever the attorney general has reasonable belief that a *health care entity, its employees, or its agents* are engaging in or about to engage in an act or practice in violation of the [CPMA] and enforcement proceedings would be in the public interest, the [NMAG} may bring an action in the name of the state alleging violations of the [CPMA].”

With that substitution, the second sentence of Section 4B could be amended to read: An enforcement action by the attorney general may be brought in the district court of the county in which the healthcare entity or its employees or agents are allegedly engaging in or about to engage in an act or practice in violation of the Corporate Practice of Medicine Act or in the district court in the county where the healthcare entity has its principal place of business.

## **OTHER SUBSTANTIVE ISSUES**

None

## **ALTERNATIVES**

None.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo

## **AMENDMENTS**

As noted above.