

HOUSE BILL 379

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Rod Montoya and Gail Armstrong

AN ACT

RELATING TO MEDICAL MALPRACTICE; LIMITING THE AVAILABILITY OF
PUNITIVE DAMAGES IN MEDICAL MALPRACTICE CLAIMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 41-5-7 NMSA 1978 (being Laws 1992,
Chapter 33, Section 5, as amended) is amended to read:

"41-5-7. MEDICAL EXPENSES AND PUNITIVE DAMAGES.--

A. Awards of past and future medical care and
related benefits shall not be subject to the limitations of
recovery imposed in Section 41-5-6 NMSA 1978.

B. The health care provider shall be liable for all
medical care and related benefit payments until the total
payments made by or on behalf of it for monetary damages and
medical care and related benefits combined equals the health
care provider's personal liability limit as provided in

.229963.2

underscored material = new
~~[bracketed material] = delete~~

underscoring material = new
~~[bracketed material] = delete~~

1 Subsection I of Section 41-5-6 NMSA 1978, after which the
2 payments shall be made by the fund.

3 C. Beginning January 1, 2027, any amounts due from
4 a judgment or settlement against a hospital or outpatient
5 health care facility shall not be paid from the fund if the
6 injury or death occurred after December 31, 2026.

7 D. This section shall not be construed to prevent a
8 patient and a health care provider from entering into a
9 settlement agreement whereby medical care and related benefits
10 shall be provided for a limited period of time only or to a
11 limited degree.

12 E. A judgment of punitive damages against a health
13 care provider shall be the personal liability of the health
14 care provider. Punitive damages may only be awarded if the
15 prevailing party provides clear and convincing evidence
16 demonstrating that the acts of the health care provider were
17 made with deliberate disregard for the rights or safety of
18 others. Punitive damages shall not be paid from the fund or
19 from the proceeds of the health care provider's insurance
20 contract unless the contract expressly provides coverage.
21 Nothing in Section 41-5-6 NMSA 1978 precludes the award of
22 punitive damages to a patient. Nothing in this subsection
23 authorizes the imposition of liability for punitive damages
24 where that imposition would not be otherwise authorized by law.

25 F. The amount of a punitive damage award shall not

.229963.2

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

be greater than thirty times the state median annual household
income at the time the award is made."

- 3 -