

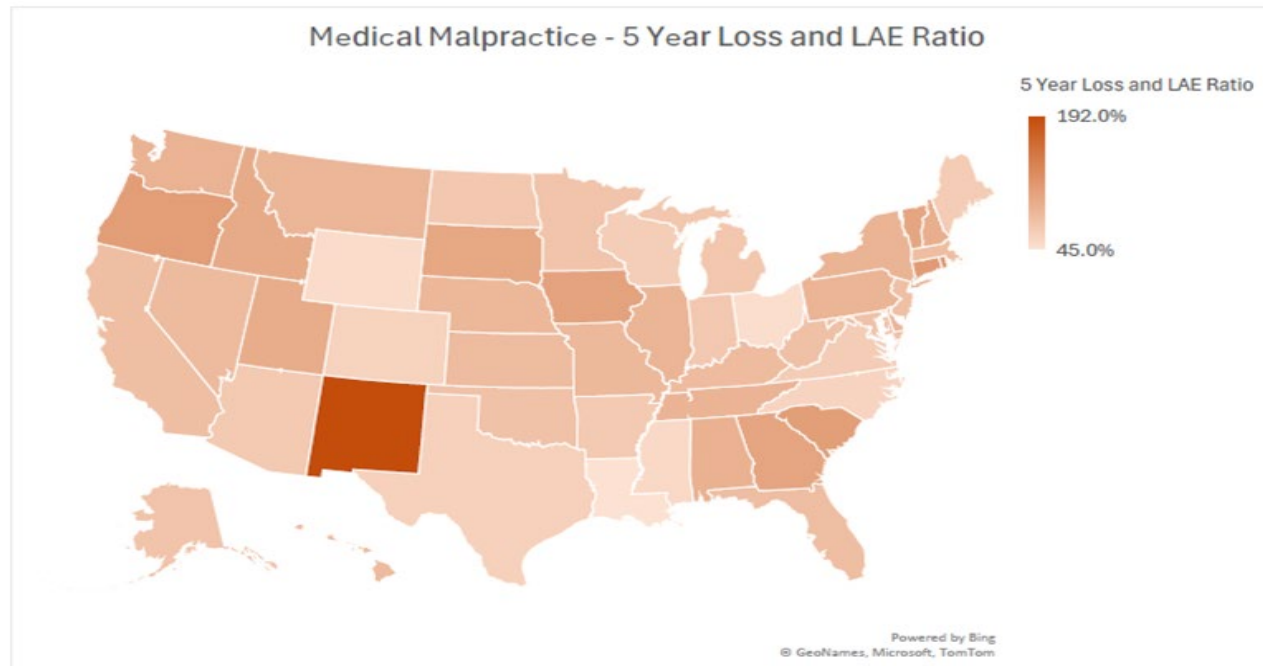
Medical Malpractice  
Insurance and the  
Patient's  
Compensation Fund



Presented by Alice T Kane, Superintendent  
of Insurance and Christian Myers, Chief  
Actuary  
November 6, 2025

# Medical Malpractice: Carriers and Operating Performance

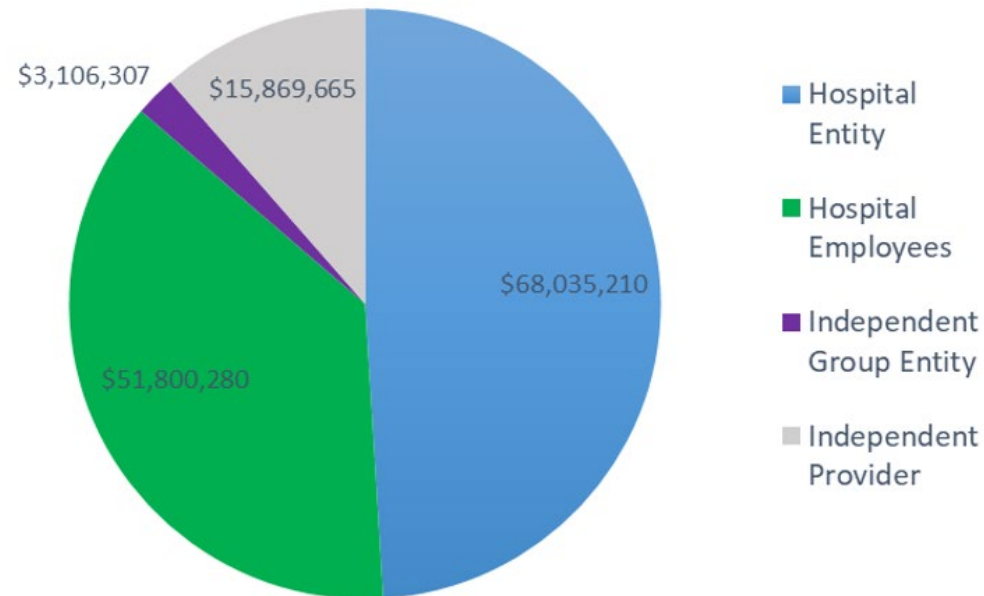
- The New Mexico Medical Malpractice market is highly concentrated with five carriers writing nearly 70% of the market. There have been no recent companies entering or exiting the market.
- New Mexico has the highest Medical Malpractice Loss Ratio in the country. The industry pays \$1.92 in losses for every \$1.00



# Medical Malpractice: The Patients Compensation Fund (PCF)

- PCF was established by the NM Professional Liability Fund Act of 1976 for independent providers.
- The primary insurance market provides the first \$250K in coverage and the PCF provides the next \$650K for a total of \$900K independent providers and increases every year by the CPI.
- Hospitals joined the PCF in 2016. They are scheduled to exit the PCF on 12/31/2026.
- The PCF participants currently include 14 hospitals, 417 independent group entities, and 5,013 individual providers and hospital employees.

➤ Annual surcharge:



is below:

# Medical Malpractice: Rate Increases and Premium Comparisons

Premiums have increased by roughly 40% since 1/1/2022. A large driver of the increase was the 2021 Medical Malpractice Act. Specifically, The Doctors Company, which is the largest provider for independent providers, increased the premium by 20% the following year.

- New Mexico Medical Malpractice Premiums for the primary layer and the PCF surcharge are roughly 2 times neighboring states

Independent Providers By Specialty	New Mexico (PCF plus Primary Layer)	Arizona	Colorado	Texas	New Mexico/ Neighb or Average
Internal Medicine	\$ 21,110	\$ 11,118	\$ 12,064	\$ 15,797	162%
General Surgery	\$ 101,521	\$ 39,433	\$ 42,699	\$ 53,046	225%
OB/GYN	\$ 107,961	\$ 59,133	\$ 48,966	\$ 60,707	192%
Average	\$ 76,864	\$ 35,566	\$ 42,577	\$ 43,183	202%

- Primary carriers have made pricing changes for hospitals, but have not taken overall rate increases since 1/1/2022. The PCF has taken 240% for hospitals, with a majority being attributable to the deficit surcharge.

# Medical Malpractice: PCF 2026 Surcharges

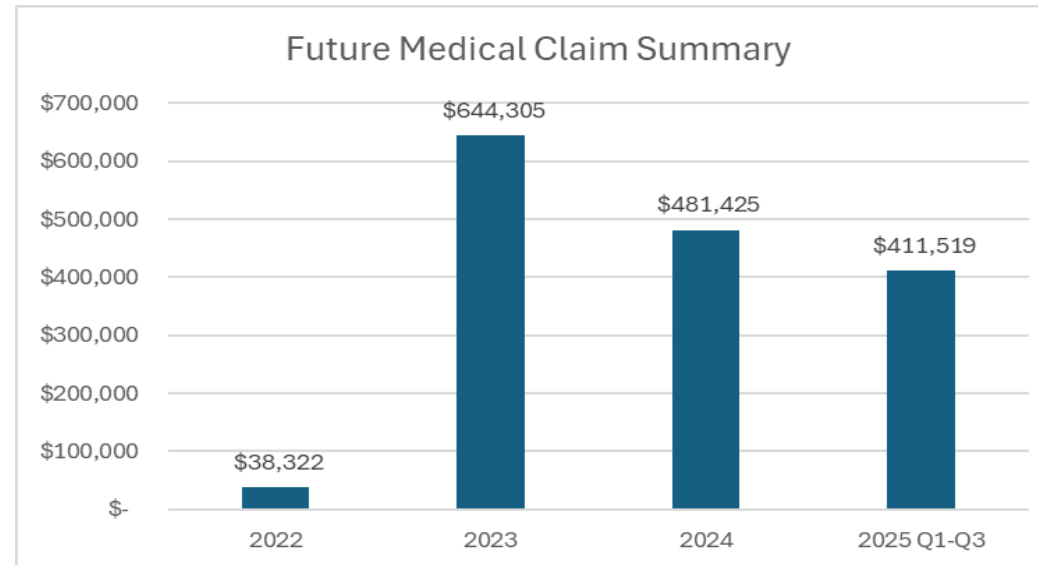
- A third-party actuarial firm (Pinnacle) reviews claim history each year to estimate the liability, surplus or deficit position, and surcharges each year.
- Until recently, the PCF has operated with a deficit for both independent providers and hospitals.
  - The independent provider deficit has been eliminated as a result of legislative infusions of \$30M in 2022 and \$32.5M in 2023.
  - The hospital deficit remains at \$34M and will be eliminated with a deficit surcharge paid by hospitals in 2026. There were no legislative infusions to reduce the hospital deficit.

	<b>Assessment Increase</b>	<b>Deficit Surcharge</b>	<b>Total</b>
<b>Independent Provider*</b>	10.0%	0.0%	10.0%
<b>Hospital</b>	2.6%	22.5%	25.7%

\* The independent actuarial recommendation was 16.0%. The Superintendent approved a 10.0% rate increase to ease the burden on independent providers in the state. Former Superintendents have taken similar action to address the health care provider shortage.

# Medical Malpractice: Future Medicals

- ▶ The OSI made a decision to eliminate lump sum payments in 2022. There were two concerns:
  - ▶ When medical care is needed, the funds would not be available for patients.
  - ▶ Attorney fees were being paid from the lump sum payments.
- ▶ There has been an increase in future medical claims since 2022.



- ▶ There are a total of 62 open future medical claims with 17 patients currently undergoing treatment. Future medical claim count is low, and the claims are immature.
- ▶ In the 2025 rate hearing, the independent actuary was questioned about the financial impact of these claims on the fund by members of the advisory committee. The actuary's response was that in his professional opinion, the current impact is immaterial, but he will monitor the situation. Adjustments will be recommended if these claims continue to increase.

# Wisconsin Patient's Compensation Fund Governance and Operation

- ▶ Along the lines of the financially successful Wisconsin PCF, New Mexico's governance and operation could be restructured to allow the PCF to operate similar to a traditional insurance company.
  - ▶ Wisconsin has
    - ▶ The Superintendent is the chair, and the board has directors with financial and actuarial backgrounds
    - ▶ A formal investment committee
    - ▶ Financial statements structured like an insurance company with reserves, assets, investments, etc.
  - ▶ Currently, the New Mexico PCF has no formal corporate structure and an advisory board. The financials are an OSI budget item with an annual actuarial report and rate recommendation and no formal investment policy.

## New Mexico PCF TPA Update

- ▶ The 2021 MMA required a Third-Party Administrator to administer the fund. The 2025 annual fee was \$1.6M.
- ▶ In early 2025, OSI engaged Deloitte to conduct an operations audit to exercise OSI's oversight responsibility. Deloitte reported that the TPA was performing adequately with regards to its operational functions.
- ▶ In addition, the audit assisted the OSI in developing the scope of work for the required RFP TPA process.
- ▶ The current TPA contract expires 12/31/2025. The RFP process produced no applicants and the OSI is reaching out to three interested parties and conferring with the PCF Advisory Board.