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FISCAL IMPACT REPORT

ORIGINAL DATE 02/15/07
 LAST UPDATED 2/20/07 HM 25/a HJC

SPONSOR Barela

SHORT TITLE Study Revision of Medical Malpractice Act SB _____

ANALYST Hanika Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1 see narrative			Recurring	General fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 1063

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee Amendment removes the Insurance Division of the Public Regulation Commission from the title of the bill and the requirement that the Department include the study in the next planned actuarial study of the patient's compensation fund scheduled during 2007. The memorial requests a liaison committee consisting of three members of the NM medical society, three members of the NM trial lawyers association, the superintendent of insurance and a House of Representatives member conduct the study and removes a time line for completion. The memorial further requests that the liaison committee's report of its findings and recommendations be presented to the legislative courts, corrections and justice committee as well as others as defined in the memorial.

Significant Issues

Under the proposed HJC Amendment, there is no required completion date by which the liaison committee is expected to report its findings and recommendations. In addition, it is assumed that the "House of Representatives member" will be excluded from the professions of law and medicine and be counted as a member of the public.

Synopsis of Original Bill

House Memorial 25 asks the Insurance Division of the PRC to study the merits and impact of revising the cap on malpractice claims against physicians and other health care providers who are covered under the Medical Malpractice Act.

FISCAL IMPLICATIONS

PRC reports the current cap of \$600,000 applying to all economic and non-economic damages other than medical bills has not been revised since 1995.

SIGNIFICANT ISSUES

The memorial provides for the following:

- The Medical Malpractice Act, in order to promote the health and welfare of the people of New Mexico by making available professional liability insurance for health care providers in New Mexico, provides for a limitation of the recovery available to persons that have been harmed by the negligence of health care providers qualifying under that act;
- The limitation of recovery has not been revised since 1995;
- The purchasing power of the limitation of recovery has steadily declined since 1995;
- The existence, size and structure of the limitation of recovery have an effect on medically injured patients and on health care providers covered under the Medical Malpractice Act;
- New Mexico needs to balance the goal of providing full and fair compensation to medically injured patients with the goal of attracting and retaining skilled health care providers in New Mexico;
- Improvements in the safe delivery of health care to New Mexicans is of paramount importance;
- The superintendent of insurance is required by the Medical Malpractice Act to periodically perform an actuarial study of the patient's compensation fund, the next such study is due to be performed during 2007, and the scope of such study may be expanded to include review and analysis of various scenarios with regard to adjustment to the limitation of recovery under the Medical Malpractice Act.

PERFORMANCE IMPLICATIONS

The PRC is directed to report its findings and recommendations by November 1, 2007 to the Legislative Health and Human Services Committee, the Legislative Finance Committee, the Department of Health and the Office of the Governor.

ADMINISTRATIVE IMPLICATIONS

The Insurance Division will need to expand the scope of its upcoming scheduled actuarial study to address the issue of revising the cap. The PRC is also encouraged to include the advice of any parties that may be affected by or be knowledgeable of the consequences of a revision.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 1063; doubles the cap on malpractice claims.

OTHER SUBSTANTIVE ISSUES

PRC recommends that among other issues, the study should estimate the increases in Patient's Compensation Fund surcharges under various caps and compare the resulting total malpractice premiums for physicians currently in the Fund with the other marketplace options in order to determine which cap levels might cause a critical exodus of physicians from the Fund.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

PRC reports the effective compensation of medically injured patients will continue to erode over time.

AHO/mt