

LFC Requester:	
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment** _____
Correction _____ **Substitute** _____

Date Prepared: 1/19/2024

Bill No: SB 53

Sponsor: Sen. Pat Woods

Short Title: Medical Malpractice
Changes

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

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

T	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(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:

Senate Bill (“SB”) 53 would amend NMSA 1978, Section 41-5-6(E) of the Medical Malpractice Act. If passed, the bill would reduce the aggregate dollar amount recoverable by all persons for any medical malpractice claims brought against a hospital or a hospital-controlled outpatient facility by between approximately four million five hundred dollars to five million dollars (\$4,500,000 to \$5,000,000), depending on the year.

The table below compares the total amount recoverable against hospitals and hospital-controlled outpatient facilities (excluding punitive damages and past and future medical care and related benefits) for any injury or death to a patient as a result of malpractice under the current statutory limits compared to this bill:

Year	Limit Under Current Section 41-5-6(E)	Limit Under SB 53	Limit Reduction under HB107
2025	\$5,500,000	\$1,000,000	\$4,500,000
2026	\$6,000,000	\$1,000,000 adjusted annually by the prior three-year average consumer price index	~ \$5,000,000
2027 and each year thereafter	\$6,000,000 adjusted annually by the prior three-year average consumer price index	\$1,000,000 adjusted annually by the prior three-year average consumer price index	\$5,000,000

SB 53 only makes changes to subsection (E) and so leaves the aggregate limits to recovery at existing levels for malpractice claims against independent providers (NMSA Sec. 41-5-6(B)) and independent outpatient health care facilities (NMSA Sec. 41-5-6(D)). SB 53 would effectively repeal the 2023 amendments to Section 41-5-6, which increased malpractice claim limits against hospitals from \$600,000 for claims arising in calendar year 2022 and beyond.

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.

SIGNIFICANT ISSUES

The new language in SB 53 applies solely to claims against hospitals and hospital-controlled outpatient facilities for injuries and deaths that occurred in calendar year 2025 and thereafter. However, the bill would also delete the limits for injuries and deaths that occurred in 2022 through 2024. This deletion could create ambiguity regarding limits for claims against hospitals and hospital-controlled outpatient facilities for injuries and deaths that occurred in 2022 through 2024. Clarity could be provided regarding whether the previous limits found in Sec. 41-5-6(E) will apply to existing and future medical malpractice claims related to those years or whether this change to the statute will abolish the caps against hospitals and hospital-controlled outpatient facilities for injuries and deaths that occurred in 2022 through 2024.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicate of HB 107

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS