

Proposed

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 593

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

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
INCREASING THE RURAL HEALTH CARE PRACTITIONER TAX CREDIT;
CREATING THE PHYSICIAN INCOME TAX CREDIT; EXPANDING THE RURAL
HEALTH CARE PRACTITIONER TAX CREDIT TO INCLUDE ADDITIONAL
ELIGIBLE HEALTH CARE PRACTITIONERS; ENACTING THE MEDICAL
RESIDENCY LOAN REPAYMENT ACT; GRANTING LOAN REPAYMENT AWARDS TO
CERTAIN MEDICAL RESIDENTS AND MEDICAL FELLOWS; PROVIDING FOR
CONTRACTS, CONTRACT CANCELLATIONS AND CONTRACT ENFORCEMENT;
CREATING A FUND; AMENDING DEFINITIONS IN THE MEDICAL
MALPRACTICE ACT; LIMITING THE AMOUNT OF DAMAGES THAT CAN BE
AWARDED DUE TO A MEDICAL MALPRACTICE CLAIM; REQUIRING PAYMENTS
FROM THE PATIENT'S COMPENSATION FUND TO BE MADE AS EXPENSES ARE
INCURRED; LIMITING THE AVAILABILITY OF PUNITIVE DAMAGES IN
MEDICAL MALPRACTICE CLAIMS; REQUIRING THE HEALTH CARE AUTHORITY
TO CONDUCT COST STUDIES FOR EACH TYPE OF HEALTH CARE PROVIDER

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1 THAT IS REIMBURSED BY MEDICAID; AMENDING AND ENACTING SECTIONS
2 OF THE PRIOR AUTHORIZATION ACT TO PROHIBIT THE IMPOSITION OF
3 PRIOR AUTHORIZATION REQUIREMENTS FOR CERTAIN COVERED SERVICES
4 AND PRESCRIPTION MEDICATION; MAKING AN APPROPRIATION.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 SECTION 1. Section 7-2-18.22 NMSA 1978 (being Laws 2007,
8 Chapter 361, Section 2, as amended) is amended to read:

9 "7-2-18.22. RURAL HEALTH CARE PRACTITIONER TAX CREDIT.--

10 A. A taxpayer who files an individual New Mexico
11 tax return, who is not a dependent of another individual, who
12 is an eligible health care practitioner and who has provided
13 health care services in New Mexico in a rural health care
14 underserved area in a taxable year may claim a credit against
15 the tax liability imposed by the Income Tax Act. The credit
16 provided in this section may be referred to as the "rural
17 health care practitioner tax credit".

18 B. The rural health care practitioner tax credit
19 may be claimed and allowed in an amount that shall not exceed:

20 (1) [~~five thousand dollars (\$5,000)~~] fifteen
21 thousand dollars (\$15,000) for all physicians, osteopathic
22 physicians, dentists, psychologists, podiatric physicians and
23 optometrists who qualify pursuant to the provisions of this
24 section and have provided health care during a taxable year for
25 at least one thousand five hundred eighty-four hours at a

.231739.2

1 practice site located in an approved rural health care
2 underserved area. Eligible health care practitioners listed in
3 this paragraph who provided health care services for at least
4 seven hundred ninety-two hours but less than one thousand five
5 hundred eighty-four hours at a practice site located in an
6 approved rural health care underserved area during a taxable
7 year are eligible for one-half of the tax credit amount; and

8 (2) [~~three thousand dollars (\$3,000)~~] nine
9 thousand dollars (\$9,000) for all pharmacists, dental
10 hygienists, physician assistants, certified registered nurse
11 anesthetists, certified nurse practitioners, clinical nurse
12 specialists, registered nurses, midwives, licensed clinical
13 social workers, licensed independent social workers,
14 professional mental health counselors, professional clinical
15 mental health counselors, marriage and family therapists,
16 professional art therapists, alcohol and drug abuse counselors,
17 licensed practical nurses, emergency medical technicians,
18 paramedics, speech-language pathologists, occupational
19 therapists, chiropractic physicians and physical therapists who
20 qualify pursuant to the provisions of this section and have
21 provided health care during a taxable year for at least one
22 thousand five hundred eighty-four hours at a practice site
23 located in an approved rural health care underserved area.
24 Eligible health care practitioners listed in this paragraph who
25 provided health care services for at least seven hundred

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1 ninety-two hours but less than one thousand five hundred
2 eighty-four hours at a practice site located in an approved
3 rural health care underserved area during a taxable year are
4 eligible for one-half of the tax credit amount.

5 C. Before an eligible health care practitioner may
6 claim the rural health care practitioner tax credit, the
7 practitioner shall submit an application to the department of
8 health that describes the practitioner's clinical practice and
9 contains additional information that the department of health
10 may require. The department of health shall determine whether
11 an eligible health care practitioner qualifies for the rural
12 health care practitioner tax credit and shall issue a
13 certificate to each qualifying eligible health care
14 practitioner. The department of health shall provide the
15 taxation and revenue department appropriate information for all
16 eligible health care practitioners to whom certificates are
17 issued in a secure manner on regular intervals agreed upon by
18 both the taxation and revenue department and the department of
19 health.

20 D. A taxpayer claiming the credit provided by this
21 section shall submit a copy of the certificate issued by the
22 department of health with the taxpayer's New Mexico income tax
23 return for the taxable year. If the amount of the credit
24 claimed exceeds a taxpayer's tax liability for the taxable year
25 in which the credit is being claimed, the excess may be carried

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1 forward for three consecutive taxable years.

2 E. A taxpayer allowed a tax credit pursuant to this
3 section shall report the amount of the credit to the department
4 in a manner required by the department.

5 ~~[F. The department shall compile an annual report
6 on the tax credit provided by this section that shall include
7 the number of taxpayers approved by the department to receive
8 the credit, the aggregate amount of credits approved and any
9 other information necessary to evaluate the credit. The
10 department shall present the report to the revenue
11 stabilization and tax policy committee and the legislative
12 finance committee with an analysis of the cost of the tax
13 credit]~~

14 F. The credit provided by this section shall be
15 included in the tax expenditure budget pursuant to Section
16 7-1-84 NMSA 1978, including the total annual aggregate cost of
17 the credit.

18 G. As used in this section:

19 (1) "eligible health care practitioner" means:

20 (a) a dentist or dental hygienist
21 licensed pursuant to the Dental Health Care Act;

22 (b) a midwife that is a: 1) certified
23 nurse-midwife licensed by the board of nursing as a registered
24 nurse and licensed by the public health division of the
25 department of health to practice nurse-midwifery as a certified

.231739.2

1 nurse-midwife; or 2) licensed midwife licensed by the public
2 health division of the department of health to practice
3 licensed midwifery;

4 (c) an optometrist licensed pursuant to
5 the provisions of the Optometry Act;

6 (d) an osteopathic physician licensed
7 pursuant to the provisions of the Medical Practice Act;

8 (e) a physician licensed pursuant to the
9 provisions of the Medical Practice Act or a physician assistant
10 licensed pursuant to the provisions of the Physician Assistant
11 Act;

12 (f) a podiatric physician licensed
13 pursuant to the provisions of the Podiatry Act;

14 (g) a psychologist licensed pursuant to
15 the provisions of the Professional Psychologist Act;

16 (h) a registered nurse or a licensed
17 practical nurse licensed pursuant to the provisions of the
18 Nursing Practice Act;

19 (i) a pharmacist licensed pursuant to
20 the provisions of the Pharmacy Act;

21 (j) a licensed clinical social worker or
22 a licensed independent social worker licensed pursuant to the
23 provisions of the Social Work Practice Act;

24 (k) a professional mental health
25 counselor, a professional clinical mental health counselor, a

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1 marriage and family therapist, an alcohol and drug abuse
2 counselor or a professional art therapist licensed pursuant to
3 the provisions of the Counseling and Therapy Practice Act;

4 [~~and~~]

5 (1) a physical therapist licensed
6 pursuant to the provisions of the Physical Therapy Act;

7 (m) an emergency medical technician or
8 paramedic licensed pursuant to the Emergency Medical Services
9 Act;

10 (n) a speech-language pathologist
11 licensed pursuant to the Speech-Language Pathology, Audiology
12 and Hearing Aid Dispensing Practices Act;

13 (o) an occupational therapist licensed
14 pursuant to the Occupational Therapy Act; and

15 (p) a chiropractic physician licensed
16 pursuant to the Chiropractic Physician Practice Act;

17 (2) "health care underserved area" means a
18 geographic area or practice location in which it has been
19 determined by the department of health, through the use of
20 indices and other standards set by the department of health,
21 that sufficient health care services are not being provided;

22 (3) "practice site" means a private practice,
23 public health clinic, hospital, public or private nonprofit
24 primary care clinic or other health care service location in a
25 health care underserved area; and

.231739.2

1 (4) "rural" means a rural county or an
2 unincorporated area of a partially rural county, as designated
3 by the health resources and services administration of the
4 United States department of health and human services."

5 SECTION 2. A new section of the Income Tax Act is enacted
6 to read:

7 "[NEW MATERIAL] CREDIT--PHYSICIAN INCOME TAX CREDIT.--

8 A. A taxpayer who is a physician and has completed
9 a medical residency may claim a credit against the taxpayer's
10 tax liability imposed pursuant to the Income Tax Act for up to
11 five consecutive taxable years in which the taxpayer practices
12 medicine full-time in New Mexico and has an outstanding balance
13 of a student loan taken to defray the expenses of a medical
14 education. The credit authorized pursuant to this section may
15 be referred to as the "physician income tax credit".

16 B. The amount of the tax credit shall be in an
17 amount equal to fifty thousand dollars (\$50,000) for the
18 taxable year the taxpayer meets the requirements of this
19 section.

20 C. A taxpayer shall apply for certification of
21 eligibility for the tax credit from the higher education
22 department on forms and in the manner prescribed by that
23 department. If the higher education department determines that
24 the taxpayer meets the requirements of this section, that
25 department shall issue a dated certificate of eligibility to

.231739.2

1 the taxpayer providing the amount of tax credit for which the
2 taxpayer is eligible and the taxable years in which the credit
3 may be claimed. The higher education department shall provide
4 the department with the certificates of eligibility issued
5 pursuant to this subsection in an electronic format at
6 regularly agreed upon intervals.

7 D. That portion of the tax credit that exceeds a
8 taxpayer's income tax liability in the taxable year in which
9 the credit is claimed shall be refunded to the taxpayer.

10 E. A taxpayer allowed to claim a tax credit
11 pursuant to this section shall claim the tax credit in a manner
12 required by the department. The credit shall be claimed within
13 three taxable years of the end of the year in which the higher
14 education department certifies the credit.

15 F. The credit provided by this section shall be
16 included in the tax expenditure budget pursuant to Section
17 7-1-84 NMSA 1978, including the annual aggregate cost of the
18 credit.

19 G. As used in this section:

20 (1) "physician" means a physician licensed
21 pursuant to the provisions of the Medical Practice Act, an
22 osteopathic physician licensed pursuant to the provisions of
23 the Medical Practice Act or a dentist licensed pursuant to the
24 Dental Health Care Act; and

25 (2) "practices medicine full-time" means

.231739.2

1 providing health care within the scope of a physician's
2 practice for at least one thousand five hundred eighty-four
3 hours during the taxable year."

4 SECTION 3. A new section of Chapter 21 NMSA 1978 is
5 enacted to read:

6 "[NEW MATERIAL] SHORT TITLE.--Sections 3 through 9 of this
7 act may be cited as the "Medical Residency Loan Repayment
8 Act"."

9 SECTION 4. A new section of Chapter 21 NMSA 1978 is
10 enacted to read:

11 "[NEW MATERIAL] DEFINITIONS.--As used in the Medical
12 Residency Loan Repayment Act:

- 13 A. "applicant" means a person applying for an
14 award;
- 15 B. "award" means the grant of money to repay loans;
- 16 C. "department" means the higher education
17 department;
- 18 D. "fund" means the medical residency loan
19 repayment fund;
- 20 E. "loan" means a grant of money pursuant to a
21 contract between a medical resident or a medical fellow and the
22 federal government, the state government or a commercial lender
23 to defray the costs incidental to an undergraduate or medical
24 education and that requires either repayment of principal and
25 interest or repayment in services;

1 F. "medical fellow" means an individual who has
2 completed a medical fellowship in an institution of higher
3 education in New Mexico;

4 G. "medical resident" means an individual who has
5 completed a medical residency in an institution of higher
6 education in New Mexico; and

7 H. "program" means the medical residency loan
8 repayment program, which provides money to repay undergraduate
9 education student loans and loans for medical training."

10 SECTION 5. A new section of Chapter 21 NMSA 1978 is
11 enacted to read:

12 "[NEW MATERIAL] POWERS AND DUTIES.--The department may:

13 A. grant an award to repay loans obtained for
14 undergraduate education and medical training obtained by a
15 medical resident or medical fellow upon such terms and
16 conditions as may be imposed by rule of the department; and

17 B. delegate to other agencies or contract for the
18 performance of services required by the program."

19 SECTION 6. A new section of Chapter 21 NMSA 1978 is
20 enacted to read:

21 "[NEW MATERIAL] AWARDS--CRITERIA--CONTRACT TERMS.--

22 A. An applicant shall have completed a medical
23 residency or medical fellowship program before applying for an
24 award and agreed to work as a physician in New Mexico for five
25 consecutive years upon receiving an award.

.231739.2

1 B. Prior to receiving an award, a medical resident
2 or medical fellow shall file an application with the department
3 that meets the criteria established by rule of the department.

4 C. An award recipient shall certify on at least an
5 annual basis the recipient's continued employment as a
6 physician practicing medicine in New Mexico.

7 D. The following debts are not eligible for
8 repayment pursuant to the Medical Residency Loan Repayment Act:

9 (1) amounts incurred as a result of
10 participation in state loan-for-service programs or other
11 state programs the purposes of which state that service be
12 provided in exchange for financial assistance;

13 (2) scholarships that have a service component
14 or obligation;

15 (3) personal loans from friends or relatives;

16 (4) loans that exceed individual standard
17 school expense levels; and

18 (5) loans that are eligible for another state
19 or federal loan repayment program.

20 E. Award criteria shall provide that:

21 (1) the applicant shall have graduated from a
22 medical school accredited by the liaison committee on medical
23 education or the commission on osteopathic college
24 accreditation;

25 (2) the applicant shall be licensed to

1 practice in New Mexico as a licensed physician;

2 (3) the applicant shall have completed a
3 medical residency or post-residency fellowship program offered
4 by a New Mexico medical school within the year prior to
5 submitting the application;

6 (4) the applicant agrees to practice medicine
7 in New Mexico for a minimum of five consecutive years upon
8 receiving an award;

9 (5) award amounts may be modified based on
10 available funding or other special circumstances; and

11 (6) an award for an approved applicant shall
12 be in an annual amount to repay the applicant's loan
13 indebtedness within three years.

14 F. Every loan repayment award shall be evidenced by
15 a contract between the medical resident or medical fellow and
16 the department on behalf of the state. The contract shall
17 provide for the payment by the state of a stated sum to the
18 medical resident's or medical fellow's federal government
19 lender, state government lender or commercial lender and shall
20 state the obligations of the medical resident or medical fellow
21 under the program as established by the department.

22 G. A contract between a medical resident or medical
23 fellow and the department shall provide that if the medical
24 resident or medical fellow does not comply with the terms of
25 the contract, the medical resident or medical fellow shall

.231739.2

1 reimburse the department for all loan payments made on the
2 medical resident's or medical fellow's behalf plus
3 reasonable interest at a rate to be determined by the
4 department unless the department finds acceptable extenuating
5 circumstances for why the medical resident or medical fellow
6 cannot serve or comply with the terms of the contract.

7 H. Awards shall be in the form of payments from the
8 fund directly to the federal government lender, state
9 government lender or commercial lender for a medical resident
10 or medical fellow who has received the award and shall be
11 considered a payment on behalf of the medical resident or
12 medical fellow pursuant to the contract between the department
13 and the medical resident or medical fellow. An award shall not
14 obligate the state or the department to a medical resident's or
15 medical fellow's lender for any other payment and shall not be
16 considered to create any privity of contract between the state
17 or the department and the lender.

18 I. The department shall adopt rules to implement
19 the provisions of the Medical Residency Loan Repayment Act.

20 The rules:

21 (1) shall provide a procedure for determining
22 the amount of the loan that will be repaid; and

23 (2) may provide for the disbursement of awards
24 to the lender in annual or other periodic installments."

25 SECTION 7. A new section of Chapter 21 NMSA 1978 is

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1 enacted to read:

2 "[NEW MATERIAL] CONTRACTS--ENFORCEMENT--CANCELLATION.--

3 A. The general form of a contract required pursuant
4 to the Medical Residency Loan Repayment Act shall be
5 prepared and approved by the department's general counsel, and
6 each contract shall be signed by the medical resident or
7 medical fellow and the secretary of higher education or the
8 secretary's authorized representative on behalf of the state.
9 The department is vested with full and complete authority and
10 power to sue in its own name for any balance due to the state
11 from a medical resident or medical fellow under a loan
12 repayment contract.

13 B. The department may cancel a contract made
14 between the department and a medical resident or medical fellow
15 pursuant to the Medical Residency Loan Repayment Act for any
16 reasonable cause deemed sufficient by the department."

17 SECTION 8. A new section of Chapter 21 NMSA 1978 is
18 enacted to read:

19 "[NEW MATERIAL] MEDICAL RESIDENCY LOAN REPAYMENT
20 FUND CREATED.--The "medical residency loan repayment fund" is
21 created in the state treasury. The fund consists of
22 appropriations, repayment of awards and interest received by
23 the department, income from investment of the fund, gifts,
24 grants and donations. The fund shall be administered by the
25 department, and money in the fund is appropriated to the

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1 department to make awards pursuant to the Medical Residency
2 Loan Repayment Act. Money in the fund at the end of a fiscal
3 year shall not revert to any other fund. All payments for
4 awards shall be made on warrants of the secretary of finance
5 and administration pursuant to vouchers signed by the secretary
6 of higher education or the secretary's authorized
7 representative."

8 SECTION 9. A new section of Chapter 21 NMSA 1978 is
9 enacted to read:

10 "[NEW MATERIAL] REPORTS.--The department shall submit
11 annual reports to the governor and the legislature prior to
12 each regular legislative session of the department's
13 activities, the awards granted and the job title and duties of
14 each loan recipient. The report shall also include any
15 contract cancellations and enforcement actions the department
16 has taken."

17 SECTION 10. A new section of the Public Assistance Act is
18 enacted to read:

19 "[NEW MATERIAL] COST STUDIES REQUIRED.--

20 A. At least every three years, the authority shall
21 conduct cost studies for the purposes of determining the cost
22 of providing health care services for each type of health care
23 provider that is reimbursed by medicaid for providing services
24 to recipients. The cost studies shall include recommendations
25 for adequate reimbursement rates for each type of health care

1 provider reimbursed by medicaid based on:

2 (1) the cost to provide competitive
3 compensation to health care providers; and

4 (2) recent and projected changes in costs due
5 to factors that include inflation and rising wages.

6 B. When the authority submits a budget request to
7 the legislature, the authority shall include the most recent
8 cost study performed for each type of health care provider that
9 is reimbursed by medicaid.

10 C. The authority shall not be required to perform
11 cost studies for every type of health care provider that is
12 reimbursed by medicaid in the same year, so long as a cost
13 study is conducted for each type of health care provider at
14 least every three years.

15 D. For the purposes of this section, "medicaid"
16 means the federal-state program administered by the authority
17 pursuant to Title 19 or Title 21 of the federal Social Security
18 Act."

19 **SECTION 11.** Section 41-5-3 NMSA 1978 (being Laws 1976,
20 Chapter 2, Section 3, as amended) is amended to read:

21 "41-5-3. DEFINITIONS.--As used in the Medical Malpractice
22 Act:

23 A. "advisory board" means the patient's
24 compensation fund advisory board;

25 B. "control" means equity ownership in a business

.231739.2

1 entity that:

2 (1) represents more than fifty percent of the
3 total voting power of the business entity; or

4 (2) has a value of more than fifty percent of
5 that business entity;

6 C. "fund" means the patient's compensation fund;

7 D. "health care provider" means a person,
8 corporation, organization, facility or institution licensed or
9 certified by this state to provide health care or professional
10 services as a doctor of medicine, hospital, outpatient health
11 care facility, doctor of osteopathy, chiropractor, [~~podiatrist~~]
12 podiatric physician, nurse anesthetist, physician's assistant,
13 certified nurse practitioner, clinical nurse specialist or
14 certified nurse-midwife or a business entity that is organized,
15 incorporated or formed pursuant to the laws of New Mexico that
16 provides health care services primarily through natural persons
17 identified in this subsection. "Health care provider" does not
18 mean a person or entity protected pursuant to the Tort Claims
19 Act or the Federal Tort Claims Act;

20 E. "hospital" means a facility licensed as a
21 hospital in this state that offers in-patient services, nursing
22 or overnight care on a twenty-four-hour basis for diagnosing,
23 treating and providing medical, psychological or surgical care
24 for three or more separate persons who have a physical or
25 mental illness, disease, injury or rehabilitative condition or

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1 are pregnant and may offer emergency services. "Hospital"
2 includes a hospital's parent corporation, subsidiary
3 corporations or affiliates if incorporated or registered in New
4 Mexico; employees and locum tenens providing services at the
5 hospital; and agency nurses providing services at the hospital.
6 "Hospital" does not mean a person or entity protected pursuant
7 to the Tort Claims Act or the Federal Tort Claims Act;

8 F. "independent outpatient health care facility"
9 means a health care facility that is an ambulatory surgical
10 center, urgent care facility or free-standing emergency room
11 that is not, directly or indirectly through one or more
12 intermediaries, controlled or under common control with a
13 hospital. "Independent outpatient health care facility"
14 includes a facility's employees, locum tenens providers and
15 agency nurses providing services at the facility. "Independent
16 outpatient health care facility" does not mean a person or
17 entity protected pursuant to the Tort Claims Act or the Federal
18 Tort Claims Act;

19 G. "independent provider" means a doctor of
20 medicine, doctor of osteopathy, chiropractor, [~~podiatrist~~]
21 podiatric physician, nurse anesthetist, physician's assistant,
22 certified nurse practitioner, clinical nurse specialist or
23 certified nurse-midwife who is not an employee of a hospital or
24 outpatient health care facility. "Independent provider" does
25 not mean a person or entity protected pursuant to the Tort

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1 Claims Act or the Federal Tort Claims Act. "Independent
2 provider" includes:

3 (1) a health care facility that is:

4 (a) licensed pursuant to the Public
5 Health Act as an outpatient facility;

6 (b) not an ambulatory surgical center,
7 urgent care facility or free-standing emergency room; and

8 (c) not hospital-controlled; and

9 (2) a business entity that is not a hospital
10 or outpatient health care facility that employs or consists of
11 members who are licensed or certified as doctors of medicine,
12 doctors of osteopathy, chiropractors, [~~podiatrists~~] podiatric
13 physicians, nurse anesthetists, physician's assistants,
14 certified nurse practitioners, clinical nurse specialists or
15 certified nurse-midwives and the business entity's employees;

16 H. "insurer" means an insurance company engaged in
17 writing health care provider malpractice liability insurance in
18 this state;

19 I. "malpractice claim" includes any cause of action
20 arising in this state against a health care provider for
21 medical treatment, lack of medical treatment or other claimed
22 departure from accepted standards of health care that
23 proximately results in injury to the patient, whether the
24 patient's claim or cause of action sounds in tort or contract,
25 and includes but is not limited to actions based on battery or

.231739.2

1 wrongful death; "malpractice claim" does not include a cause of
2 action arising out of the driving, flying or nonmedical acts
3 involved in the operation, use or maintenance of a vehicular or
4 aircraft ambulance;

5 J. "medical care and related benefits" means all
6 reasonable medical, surgical, physical rehabilitation and
7 custodial services and includes drugs, prosthetic devices and
8 other similar materials reasonably necessary in the provision
9 of such services;

10 K. "occurrence" means all ~~[injuries to a patient~~
11 ~~caused by health care providers' successive acts or omissions~~
12 ~~that combined concurrently to create a malpractice claim]~~
13 claims for damages from all persons arising from harm to a
14 single patient, no matter how many health care providers,
15 errors or omissions contributed to the harm;

16 L. "outpatient health care facility" means an
17 entity that is hospital-controlled and is licensed pursuant to
18 the Public Health Act as an outpatient facility, including
19 ambulatory surgical centers, free-standing emergency rooms,
20 urgent care clinics, acute care centers and intermediate care
21 facilities and includes a facility's employees, locum tenens
22 providers and agency nurses providing services at the facility.

23 "Outpatient health care facility" does not include:

- 24 (1) independent providers;
25 (2) independent outpatient health care

.231739.2

1 facilities; or

2 (3) individuals or entities protected pursuant
3 to the Tort Claims Act or the Federal Tort Claims Act;

4 M. "patient" means a natural person who received or
5 should have received health care from a health care provider,
6 under a contract, express or implied; and

7 N. "superintendent" means the superintendent of
8 insurance."

9 SECTION 12. Section 41-5-6 NMSA 1978 (being Laws 1992,
10 Chapter 33, Section 4, as amended) is amended to read:

11 "41-5-6. LIMITATION OF RECOVERY.--

12 A. Except for punitive damages and past and future
13 medical care and related benefits, the aggregate dollar amount
14 recoverable by all persons for or arising from any injury or
15 death to a patient as a result of malpractice shall not exceed
16 six hundred thousand dollars (\$600,000) per occurrence. [~~for~~
17 ~~malpractice claims brought against health care providers if the~~
18 ~~injury or death occurred prior to January 1, 2022. In jury~~
19 ~~cases, the jury shall not be given any instructions dealing~~
20 ~~with this limitation.~~

21 ~~B. Except for punitive damages and past and future~~
22 ~~medical care and related benefits, the aggregate dollar amount~~
23 ~~recoverable by all persons for or arising from any injury or~~
24 ~~death to a patient as a result of malpractice shall not exceed~~
25 ~~seven hundred fifty thousand dollars (\$750,000) per occurrence~~

.231739.2

1 ~~for malpractice claims against independent providers; provided~~
 2 ~~that, beginning January 1, 2023, the per occurrence limit on~~
 3 ~~recovery shall be adjusted annually by the consumer price index~~
 4 ~~for all urban consumers.~~

5 ~~G. The aggregate dollar amount recoverable by all~~
 6 ~~persons for or arising from any injury or death to a patient as~~
 7 ~~a result of malpractice, except for punitive damages and past~~
 8 ~~and future medical care and related benefits, shall not exceed~~
 9 ~~seven hundred fifty thousand dollars (\$750,000) for claims~~
 10 ~~brought against an independent outpatient health care facility~~
 11 ~~for an injury or death that occurred in calendar years 2022 and~~
 12 ~~2023.~~

13 ~~D. In calendar year 2024 and subsequent years, the~~
 14 ~~aggregate dollar amount recoverable by all persons for or~~
 15 ~~arising from an injury or death to a patient as a result of~~
 16 ~~malpractice, except for punitive damages and past and future~~
 17 ~~medical care and related benefits, shall not exceed the~~
 18 ~~following amounts for claims brought against an independent~~
 19 ~~outpatient health care facility:~~

20 ~~(1) for an injury or death that occurred in~~
 21 ~~calendar year 2024, one million dollars (\$1,000,000) per~~
 22 ~~occurrence; and~~

23 ~~(2) for an injury or death that occurred in~~
 24 ~~calendar year 2025 and thereafter, the amount provided in~~
 25 ~~Paragraph (1) of this subsection, adjusted annually by the~~

.231739.2

1 ~~prior three-year average consumer price index for all urban~~
2 ~~consumers, per occurrence.~~

3 ~~E. In calendar year 2022 and subsequent calendar~~
4 ~~years, the aggregate dollar amount recoverable by all persons~~
5 ~~for or arising from any injury or death to a patient as a~~
6 ~~result of malpractice, except for punitive damages and past and~~
7 ~~future medical care and related benefits, shall not exceed the~~
8 ~~following amounts for claims brought against a hospital or a~~
9 ~~hospital-controlled outpatient health care facility:~~

10 ~~(1) for an injury or death that occurred in~~
11 ~~calendar year 2022, four million dollars (\$4,000,000) per~~
12 ~~occurrence;~~

13 ~~(2) for an injury or death that occurred in~~
14 ~~calendar year 2023, four million five hundred thousand dollars~~
15 ~~(\$4,500,000) per occurrence;~~

16 ~~(3) for an injury or death that occurred in~~
17 ~~calendar year 2024, five million dollars (\$5,000,000) per~~
18 ~~occurrence;~~

19 ~~(4) for an injury or death that occurred in~~
20 ~~calendar year 2025, five million five hundred thousand dollars~~
21 ~~(\$5,500,000) per occurrence;~~

22 ~~(5) for an injury or death that occurred in~~
23 ~~calendar year 2026, six million dollars (\$6,000,000) per~~
24 ~~occurrence; and~~

25 ~~(6) for an injury or death that occurred in~~

1 ~~calendar year 2027 and each calendar year thereafter, the~~
 2 ~~amount provided in Paragraph (5) of this subsection, adjusted~~
 3 ~~annually by the consumer price index for all urban consumers,~~
 4 ~~per occurrence.~~

5 ~~F. The aggregate dollar amounts provided in~~
 6 ~~Subsections B through E of this section include payment to any~~
 7 ~~person for any number of loss of consortium claims or other~~
 8 ~~claims per occurrence that arise solely because of the injuries~~
 9 ~~or death of the patient.~~

10 ~~G.] B.~~ In jury cases, the jury shall not be given
 11 any instructions dealing with the limitations provided in this
 12 section.

13 ~~[H.] C.~~ The value of accrued medical care and
 14 related benefits shall not be subject to any limitation.

15 ~~[I.] D.~~ Except for an independent outpatient health
 16 care facility, a health care provider's personal liability is
 17 limited to [~~two hundred fifty thousand dollars (\$250,000)~~] two
 18 hundred thousand dollars (\$200,000) for monetary damages and
 19 medical care and related benefits as provided in Section 41-5-7
 20 NMSA 1978. Any amount due from a judgment or settlement in
 21 excess of [~~two hundred fifty thousand dollars (\$250,000)~~] two
 22 hundred thousand dollars (\$200,000) shall be paid from the fund
 23 [~~except as provided in Subsections J and K of this section.~~

24 ~~J. An independent outpatient health care facility's~~
 25 ~~personal liability is limited to five hundred thousand dollars~~

.231739.2

1 ~~(\$500,000) for monetary damages and medical care and related~~
2 ~~benefits as provided in Section 41-5-7 NMSA 1978. Any amount~~
3 ~~due from a judgment or settlement in excess of five hundred~~
4 ~~thousand dollars (\$500,000) shall be paid from the fund.~~

5 ~~K. Until January 1, 2027, amounts due from a~~
6 ~~judgment or settlement against a hospital or hospital-~~
7 ~~controlled outpatient health care facility in excess of seven~~
8 ~~hundred fifty thousand dollars (\$750,000), excluding past and~~
9 ~~future medical expenses, shall be paid by the hospital or~~
10 ~~hospital-controlled outpatient health care facility and not by~~
11 ~~the fund. Beginning January 1, 2027, amounts due from a~~
12 ~~judgment or settlement against a hospital or hospital-~~
13 ~~controlled outpatient health care facility shall not be paid~~
14 ~~from the fund.~~

15 ~~L. The term "occurrence" shall not be construed in~~
16 ~~such a way as to limit recovery to only one maximum statutory~~
17 ~~payment if separate acts or omissions cause additional or~~
18 ~~enhanced injury or harm as a result of the separate acts or~~
19 ~~omissions. A patient who suffers two or more distinct injuries~~
20 ~~as a result of two or more different acts or omissions that~~
21 ~~occur at different times by one or more health care providers~~
22 ~~is entitled to up to the maximum statutory recovery for each~~
23 ~~injury]."~~

24 **SECTION 13.** Section 41-5-7 NMSA 1978 (being Laws 1992,
25 Chapter 33, Section 5, as amended) is amended to read:

.231739.2

1 "41-5-7. MEDICAL EXPENSES AND PUNITIVE DAMAGES.--

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

5 B. The health care provider shall be liable for all
6 medical care and related benefit payments until the total
7 payments made by or on behalf of it for monetary damages and
8 medical care and related benefits combined equals the health
9 care provider's personal liability limit as provided in
10 Subsection [~~F~~] D of Section 41-5-6 NMSA 1978, after which the
11 payments shall be made by the fund.

12 C. Payments made from the fund for medical care and
13 related benefits shall be made as expenses are incurred.

14 [~~G~~] D. Beginning January 1, 2027, any amounts due
15 from a judgment or settlement against a hospital or outpatient
16 health care facility shall not be paid from the fund if the
17 injury or death occurred after December 31, 2026.

18 [~~D~~] E. This section shall not be construed to
19 prevent a patient and a health care provider from entering into
20 a settlement agreement whereby medical care and related
21 benefits shall be provided for a limited period of time only or
22 to a limited degree.

23 [~~E~~] F. A judgment of punitive damages against a
24 health care provider shall be the personal liability of the
25 health care provider. Punitive damages may only be awarded if

.231739.2

1 the prevailing party provides clear and convincing evidence
2 demonstrating that the acts of the health care provider were
3 made with deliberate disregard for the rights or safety of
4 others. Punitive damages shall not be paid from the fund or
5 from the proceeds of the health care provider's insurance
6 contract unless the contract expressly provides coverage.
7 Nothing in Section 41-5-6 NMSA 1978 precludes the award of
8 punitive damages to a patient. Nothing in this subsection
9 authorizes the imposition of liability for punitive damages
10 where that imposition would not be otherwise authorized by law.

11 G. The amount of a punitive damage award shall not
12 be greater than thirty times the state median annual household
13 income at the time the award is made."

14 SECTION 14. Section 59A-22B-1 NMSA 1978 (being Laws 2019,
15 Chapter 187, Section 3) is amended to read:

16 "59A-22B-1. SHORT TITLE.--~~[Sections 3 through 7 of this~~
17 ~~act]~~ Chapter 59A, Article 22B NMSA 1978 may be cited as the
18 "Prior Authorization Act"."

19 SECTION 15. A new section of the Prior Authorization Act
20 is enacted to read:

21 "[NEW MATERIAL] PRIOR AUTHORIZATION FOR CHEMOTHERAPY
22 SERVICES PROHIBITED.--

23 A. A health insurer shall not require prior
24 authorization for covered chemotherapy services.

25 B. A health insurer may require a health care

1 provider to provide notification to the health insurer after
2 the initiation of chemotherapy services.

3 C. A health insurer may require a health care
4 provider to develop and submit a treatment plan for a covered
5 person receiving chemotherapy services in a manner that is
6 compliant with federal law."

7 SECTION 16. A new section of the Prior Authorization Act
8 is enacted to read:

9 "[NEW MATERIAL] PRIOR AUTHORIZATION FOR DIALYSIS SERVICES
10 PROHIBITED.--

11 A. A health insurer shall not require prior
12 authorization for covered dialysis services.

13 B. A health insurer may require a health care
14 provider to provide notification to the health insurer after
15 the initiation of dialysis services.

16 C. A health insurer may require a health care
17 provider to develop and submit a treatment plan for a covered
18 person receiving dialysis services in a manner that is
19 compliant with federal law."

20 SECTION 17. A new section of the Prior Authorization Act
21 is enacted to read:

22 "[NEW MATERIAL] PRIOR AUTHORIZATION FOR ELDER CARE
23 SERVICES PROHIBITED.--

24 A. A health insurer shall not require prior
25 authorization for covered elder care services.

.231739.2

1 B. A health insurer may require a health care
2 provider to provide notification to the health insurer after
3 the initiation of elder care services.

4 C. A health insurer may require a health care
5 provider to develop and submit a treatment plan for a covered
6 person receiving elder care services in a manner that is
7 compliant with federal law."

8 **SECTION 18.** A new section of the Prior Authorization Act
9 is enacted to read:

10 "[NEW MATERIAL] PRIOR AUTHORIZATION FOR HOME HEALTH CARE
11 SERVICES PROHIBITED.--

12 A. A health insurer shall not require prior
13 authorization for covered home health care services.

14 B. A health insurer may require a health care
15 provider to provide notification to the health insurer after
16 the initiation of home health care services.

17 C. A health insurer may require a health care
18 provider to develop and submit a treatment plan for a covered
19 person receiving home health care services in a manner that is
20 compliant with federal law."

21 **SECTION 19.** Section 59A-22B-8 NMSA 1978 (being Laws 2023,
22 Chapter 114, Section 13, as amended) is amended to read:

23 "59A-22B-8. PRIOR AUTHORIZATION FOR PRESCRIPTION DRUGS OR
24 STEP THERAPY FOR CERTAIN CONDITIONS PROHIBITED.--

25 A. Coverage for medication approved by the federal

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

1 food and drug administration that is prescribed for the
 2 treatment of an autoimmune disorder, cancer, diabetes, high
 3 blood pressure or a substance use disorder, pursuant to a
 4 medical necessity determination, shall not be subject to prior
 5 authorization, except in cases in which a biosimilar,
 6 interchangeable biologic or generic version is available.

7 B. A health insurer shall not impose step therapy
 8 requirements before authorizing coverage for medication
 9 approved by the federal food and drug administration that is
 10 prescribed for the treatment of an autoimmune disorder, cancer,
 11 diabetes, high blood pressure or a substance use disorder,
 12 pursuant to a medical necessity determination, except in cases
 13 in which a biosimilar, interchangeable biologic or generic
 14 version is available."

15 SECTION 20. APPROPRIATION.--Three million dollars
 16 (\$3,000,000) is appropriated from the general fund to the
 17 medical residency loan repayment fund for expenditure in fiscal
 18 year 2026 and subsequent fiscal years for the purposes of the
 19 medical residency loan repayment fund. Any unexpended or
 20 unencumbered balance remaining at the end of a fiscal year
 21 shall not revert to the general fund.

22 SECTION 21. APPLICABILITY.--

23 A. The provisions of Sections 1 and 2 of this act
 24 apply to taxable years beginning on or after January 1, 2025.

25 B. The provisions of Sections 11 through 13 of this

.231739.2

1 act apply to all claims for medical malpractice that arise on
2 or after the effective date of this act.

3 C. The provisions of Sections 14 through 19 of this
4 act apply to an individual or group policy, contract,
5 certificate or agreement to provide, deliver, arrange for, pay
6 for or reimburse any of the costs of medical care,
7 pharmaceutical benefits or related benefits that is entered
8 into, offered or issued by a health insurer on or after July 1,
9 2025, pursuant to any of the following:

- 10 (1) Chapter 59A, Article 22 NMSA 1978;
- 11 (2) Chapter 59A, Article 23 NMSA 1978;
- 12 (3) the Health Maintenance Organization Law;
- 13 (4) the Nonprofit Health Care Plan Law; or
- 14 (5) the Health Care Purchasing Act.

underscoring material = new
~~bracketed material~~ = delete