LFC Requester:	Julissa Rodirguez

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to **billanalysis@dfa.nm.gov**
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL MALPRACTICEINFORMATION

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

Date Prepared: *1-21-2026*
Bill Number: *HB99*

Check all that apply:
Original *X* Correction __
Amendment __ Substitute __

Sponsor: Chandler/Armstrong/Hochman-Vigil, Silva

Agency Name and Code Number: Office of Superintendent of Insurance -440

Person Writing Stephen Thies

Short Title: MEDICALMALPRACTICE CHANGES

Phone: 505-470-7366 **Email:** Stephen.thies@osi.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	**FY27**		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	**FY27**	**FY28**		

(Parenthesis ( ) indicates revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB107.

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB99 would amend the Medical Malpractice Act ("the MMA") to limit the amounts and impose new standards for awards of punitive damages, extend hospital participation in the Patient's Compensation Fund ("PCF") to January 1, 2030, and clarify how and when medical expenses are recoverable in a medical malpractice lawsuit or settlement.

More specifically:

Section 1 would amend the definition of "occurrence" to specify that under the MMA, an "occurrence" is an injury or set of injuries caused by medical providers' acts or omissions during the course of treatment that, combined, create a malpractice claim. The amended definition specifies that a single "occurrence" is not multiplied by the number of health care providers who contribute to a single injury. However, the bill also provides that a patient's recovery is not limited to only one maximum statutory payment in the event that the patient has suffered more than one distinct injury. The language permitting multiple recoveries in the event that there are multiple distinct injuries is largely reorganized from the current language in the MMA.

Section 1 would also add a definition for the term "value of accrued medical care and related benefits," which clarifies that the costs for medical care recoverable by a plaintiff in a medical malpractice action are those costs that have actually been incurred for the patient's treatment.

Section 2 would extend hospital participation in the PCF by three years, to January 1, 2030. Section 2 also clarifies that once hospitals are no longer participating in the PCF, they will not be required to "qualify" with the Superintendent of Insurance to receive the remaining benefits of the MMA. Qualification under the MMA currently requires a hospital to establish financial liability with the Superintendent of Insurance and pay an assessed annual surcharge which is used to fund the PCF.

Section 3 would remove current language concerning how "occurrence" is to be defined, which is largely incorporated into the new definition of "occurrence" found in Section 1.

Section 4 would reintroduce the requirement that payments made by the PCF for medical care and related benefits are to be made as expenses are incurred, in effect prohibiting lump sum payments for the estimated costs of future medical care. It would also repeal an existing provision allowing parties to negotiate a settlement whereby a patient's right to receive future medical care provided by the MMA is limited by the settlement agreement. Section 4 also removed a provision requiring that punitive damages be paid by the medical provider, rather than by the PCF or most insurers, however similar language is included in the newly enacted Section 5.

Section 5 would enact a new section of the MMA specific to punitive damages. Section 5 would restrict awards of punitive damages to those cases in which a plaintiff provides "clear and

convincing evidence" of bad acts and would limit awards of punitive damages to an amount no greater than the applicable limitation on nonmedical monetary damages. As is the case with the current statute, punitive damages would not be paid by the PCF.

Section 5 would additionally restrict a plaintiff from asserting a claim for punitive damages in his or her initial claim for relief, instead requiring that a plaintiff amend the complaint after discovery had been substantially completed. To amend one's complaint to assert a claim for punitive damages would additionally require a prima facie showing of "a triable issue." Section 5 further provides for additional discovery concerning the issue of punitive damage at the discretion of the court in the event a plaintiff successfully amends a complaint to include a claim for punitive damages.

Section 6 would amend another portion of the MMA to ensure that hospitals are no longer eligible to participate in the PCF on January 1, 2030, consistent with Section 2.

Section 7 states that the provisions of the act apply to all claims for medical malpractice that arise on or after the effective date of the act.

FISCAL IMPLICATIONS

Note: major assumptions underlying the fiscal impact should be documented.

The OSI actuarial analysis of the change anticipates that medical malpractice premiums will be reduced if this bill is passed.

- The changes related to the definition of occurrence should reduce premiums. The OSI actuary estimates premiums and surcharges will be lowered by roughly **3%** based on the previous analysis from a major medical malpractice carrier.
- Medical expenses have accounted for 32% of the PCF portion of settlements over the past three years. Paid medicals are estimated to be 20% to 50% lower than billed amounts; however, the PCF has been involved in claims where billed medical expenses were as much as ten times as much as paid amounts.
- The changes related to billed vs paid should result in a **6% (32% times 20%) and 16% (32% times 50%)** decrease in primary layer premiums and PCF surcharges.

Independent Provider Specialty	Current Medical Malpractice Premium (PCF plus Primary Layer)	Post Bill Medical Malpractice Premium (PCF plus Primary Layer)
Internal Medicine	$21,110	$17,200
General Surgery	$101,521	$82,719
OB/GYN	$107,961	$87,967
Average	$76,864	$62,629

- Over time, OSI anticipates these changes could further reduce medical malpractice premiums and surcharges as changes to punitive damage standards and caps influence settlement behavior and values.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

HB99 provides that beginning January 1, 2030, hospitals and hospital-controlled outpatient facilities "shall have the benefits of the other provisions of the Medical Malpractice Act except participation in the fund." The OSI suggests that language be included to expressly define what "the benefits of the other provisions of the Medical Malpractice Act" are, such as the limitation on damages, and clarify that hospitals will continue to receive those benefits for claims that occur after January 1, 2030.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to HB 107.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS