

LFC Requester:

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 INFORMATION

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

Date Prepared: 1/19/26 **Check all that apply:**
Bill Number: HB 107 Original Correction
 Amendment Substitute

Sponsor: <u>Rep. Jenifer Jones</u> Short Title: <u>Medical Malpractice Claim Changes</u>	Agency Name and Code Number: <u>AOC 218</u>	Person Writing <u>Kathleen Sabo</u> Phone: <u>505-470-3214</u> Email: <u>aoccaj@nmcourts.gov</u>
---	---	--

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with HB 99 (also amending Sections 41-5-3, 41-5-6 and 41-5-7 NMSA 1978).

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 107 amends Section 41-5-3 NMSA 1978, within the Medical Malpractice Act (MMA), Section 41-5-1 NMSA 1978 et. seq., to amend the definition of occurrence to mean all claims for damages from all persons arising from harm to a single patient, not matter how many health care providers, errors or omissions contributed to the harm.

HB 107 also amends Section 41-5-6 NMSA 1978 to limit the amount of damages that can be awarded due to a medical malpractice claim. Specifically, the bill limits the aggregate dollar amount recoverable by all persons for or arising from any injury or death to a patient as a result of malpractice to \$600,000 per occurrence, except for punitive damages and past and future medical care and related benefits. The HB 107 amendment provides that the value of medical care and related benefits shall not be subject to any limitation, except as provided in Section 41-5-7 NMSA 1978. Under the amendment to Section 41-5-6(D) NMSA 1978, a health care provider's personal liability is limited to \$200,000, rather than \$250,000, for monetary damages and medical care and related benefits as provided in Section 41-5-7 NMSA 1978. HB 107 provides that any amount due from a judgement or settlement in excess of \$200,000 shall be paid from the Patient's Compensation Fund (hereinafter "fund").

Finally, HB 107 also amends Section 41-5-7(C) NMSA 1978 to provide that payments made from the fund for medical care and related benefits shall be made as expenses are incurred, rather than in a lump sum. The HB 107 amendment to Subsection E provides that punitive damages may only be awarded if the prevailing party demonstrates beyond a reasonable doubt that the health care provider acted with malice, willful intent to harm or wanton disregard for the rights or safety of others. Subsection F provides that a punitive damage award against:

(1) a hospital or a hospital-controlled outpatient health care facility shall not be in an amount that exceeds three times the applicable limitation on compensatory damages provided in Section 41-5-6 NMSA 1978; or

(2) any other health care provider shall not be in an amount that exceeds the applicable limitation on compensatory damages provided in Section 41-5-6 NMSA 1978.

HB 107, Section 4, enacts a new statutory provision within the Medical Malpractice Act, limiting attorney fees. The law provides that any amount recovered pursuant to a settlement agreement, an arbitration award or a judgment for a malpractice claim that is covered by the fund shall not contribute to an attorney's contingency fee.

HB 107 provides 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

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the

enforcement of this law and commenced medical malpractice actions and appeals of damage awards, as well as constitutional challenges to the law. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) According to Source NM, New Mexico has among the highest rates of medical malpractice lawsuits in the country and doesn't limit punitive damages or attorneys' fees, and notes that advocacy groups and some lawmakers point to the high costs of medical malpractice insurance as a major factor driving doctors away from the state. According to the NM Medical Association, 248 doctors left the between 2021 and 2024. See [NM lawmakers offer preview of next year's medical malpractice legislation](#), Source NM, October 13, 2025. See also [The dark money group fighting medical malpractice reform](#), Searchlight New Mexico, February 25, 2025, for an explanation of the dynamic at play today, including thoughts from attorneys who say that focusing on malpractice suits as a driver of runaway insurance costs misses the real cause of the crisis: the growing number of hospitals and clinics owned by private equity firms, a type of investment group that acquires controlling stakes in companies in order to later sell them at a profit. Seventeen of New Mexico's more than 40 hospitals are owned by private equity, the highest proportion in the country. Kathy Love, an Albuquerque-based attorney who formerly served as president of the NM Trial Lawyers Association has stated that, "Capping or limiting a jury's ability to give justice to patients who are harmed by corporate medicine is a bad strategy." Love says that capping the fees attorneys receive for these suits, which can take years of work and only result in a payout for lawyers if the case is settled or succeeds in court, could disincentivize lawyers from taking on malpractice cases. *Id.*
- 2) For a 2025 chart detailing state laws presenting medical malpractice liability reforms, including limiting attorney fees, see *State Laws Chart I: Liability Reforms*, Advocacy Resource Center, American Medical Association, 2025, <https://www.ama-assn.org/system/files/mlr-state-laws-chart-I.pdf>. See also *Medical Liability/Medical Malpractice Laws*, National Conference of State Legislatures (NCSL), February 17, 2025, <https://www.ncsl.org/financial-services/medical-liability-medical-malpractice-laws>.
- 3) There will be challenges to the law as to the constitutionality of a cap on punitive damages, as infringing upon the right to trial by jury under Article II, Section 12 of the New Mexico Constitution, the separation of powers clause in Article II, Section 1 of the New Mexico Constitution, the equal protection clause of the United States Constitution, and the due process clause of the United States Constitution. New Mexico courts have held that the MMA's nonmedical, nonpunitive cap does not invade upon the province of the jury in violation of NM Constitution, Art. II, Sec. 12. See *Siebert v. Okun*, 2021-NMSC-016, overruling in part *Salopek v. Friedman*, 2013-NMCA-087, 308 P.3d 139.

Courts in other states have ruled that a cap on punitive damages is constitutional. In March of 2023, the Georgia Supreme Court in *Taylor v. Devereux Found., Inc.*, Nos. S22A1060, S22X1061, 2023 Ga. LEXIS 63 (Mar. 15, 2023) held that, pursuant to OCGA Section 51-12-5.1, a \$250,000 cap in punitive damages is constitutional, upholding the trial court's decision to substantially reduce a \$50 million verdict to \$250,000. The Georgia Supreme Court also ruled that the cap imposed by the law did not infringe on the right to a fair trial by jury, separation of powers, or the guarantee of equal protection.

While court decisions in other states are in no way binding upon NM courts, the arguments made in challenging the Georgia law and the legal reasoning used to counter and defeat those challenges as set out in Taylor, are instructive as to how court challenges might proceed in New Mexico.

See also, *Are Medical Malpractice Damages Caps Constitutional?*, Medical Malpractice: U.S. and International Perspectives, Fall 2005, https://law.stanford.edu/wp-content/uploads/sites/default/files/publication/684155/doc/slspublic/Mello_Are%20Medical%20Malpractice%20Damages%20Caps%20Constitutional%20An%20Overview%20of%20State%20Litigation.pdf and *Punitive Damage Caps: Constitutional?*, <https://trial.com/wp-content/uploads/2020/03/Punitive-Damage-Caps-Constitutional-NY2012.pdf>

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB 99 (also amending Sections 41-5-3, 41-5-6 and 41-5-7 NMSA 1978).

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS