

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 99

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO MEDICAL MALPRACTICE; CLARIFYING DEFINITIONS IN THE
MEDICAL MALPRACTICE ACT; LIMITING PUNITIVE DAMAGES IN MEDICAL
MALPRACTICE CASES; REQUIRING PAYMENTS FROM THE PATIENT'S
COMPENSATION FUND TO BE MADE AS EXPENSES ARE INCURRED.

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

SECTION 1. Section 41-5-3 NMSA 1978 (being Laws 1976,
Chapter 2, Section 3, as amended) is amended to read:

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

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

B. "control" means equity ownership in a business
entity that:

(1) represents more than fifty percent of the

.233721.5

underscored material = new
[bracketed material] = delete

1 total voting power of the business entity; or

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

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

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

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

1 "Hospital" includes a hospital's parent corporation, subsidiary
2 corporations or affiliates if incorporated or registered in New
3 Mexico; employees and locum tenens providing services at the
4 hospital; and agency nurses providing services at the hospital.

5 "Hospital" does not mean a person or an entity protected
6 pursuant to the Tort Claims Act or the Federal Tort Claims Act;

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

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

.233721.5

provider" includes:

(1) a health care facility that is:

(a) licensed pursuant to the ~~[Public Health Act]~~ Health Care Code as an outpatient facility;

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

(c) not hospital-controlled; and

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

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

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

1 wrongful death. "Malpractice claim" does not include a cause
 2 of 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]~~ a
 13 health care provider's or health care providers' acts or
 14 omissions in the course of medical treatment that created or
 15 combined to create an injury or injuries to a patient,
 16 regardless of the number of health care providers whose acts or
 17 omissions contributed to the injury or injuries; provided that
 18 "occurrence" shall not be construed to limit recovery to only
 19 one maximum statutory payment when independent medical acts or
 20 omissions cause separate injury or injuries to a patient in a
 21 course of medical treatment;

22 L. "outpatient health care facility" means an
 23 entity that is hospital-controlled and is licensed pursuant to
 24 the ~~[Public Health Act]~~ Health Care Code as an outpatient
 25 facility, including ambulatory surgical centers, free-standing

1 emergency rooms, urgent care clinics, acute care centers and
2 intermediate care facilities and includes a facility's
3 employees, locum tenens providers and agency nurses providing
4 services at the facility. "Outpatient health care facility"
5 does not include:

- 6 (1) independent providers;
- 7 (2) independent outpatient health care
8 facilities; or
- 9 (3) individuals or entities protected pursuant
10 to the Tort Claims Act or the Federal Tort Claims Act;

11 M. "patient" means a natural person who received or
12 should have received health care from a health care provider,
13 under a contract, express or implied; ~~and~~

14 N. "superintendent" means the superintendent of
15 insurance; and

16 O. "value of accrued medical care and related
17 benefits" means the actual amount paid or owed by a patient, or
18 a third party on behalf of a patient, for medical care and
19 related benefits. "Value of accrued medical care and related
20 benefits" does not include any costs waived, written off or
21 lowered by a health care provider."

22 SECTION 2. Section 41-5-5 NMSA 1978 (being Laws 1992,
23 Chapter 33, Section 2, as amended) is amended to read:

24 "41-5-5. QUALIFICATIONS.--

25 A. To be qualified under the provisions of the

1 Medical Malpractice Act, a health care provider, except an
2 independent outpatient health care facility, shall:

3 (1) establish its financial responsibility by
4 filing proof with the superintendent that the health care
5 provider is insured by a policy of malpractice liability
6 insurance issued by an authorized insurer in the amount of at
7 least two hundred fifty thousand dollars (\$250,000) per
8 occurrence or by having continuously on deposit the sum of
9 seven hundred fifty thousand dollars (\$750,000) in cash with
10 the superintendent or such other like deposit as the
11 superintendent may allow by rule; provided that hospitals and
12 hospital-controlled outpatient health care facilities that
13 establish financial responsibility through a policy of
14 malpractice liability insurance may use any form of malpractice
15 insurance; and provided further that for independent providers,
16 in the absence of an additional deposit or policy as required
17 by this subsection, the deposit or policy shall provide
18 coverage for not more than three separate occurrences; and

19 (2) pay the surcharge assessed on health care
20 providers by the superintendent pursuant to Section 41-5-25
21 NMSA 1978.

22 B. To be qualified under the provisions of the
23 Medical Malpractice Act, an independent outpatient health care
24 facility shall:

25 (1) establish its financial responsibility by

.233721.5

1 filing proof with the superintendent that the health care
2 provider is insured by a policy of malpractice liability
3 insurance issued by an authorized insurer in the amount of at
4 least five hundred thousand dollars (\$500,000) per occurrence
5 or by having continuously on deposit the sum of one million
6 five hundred thousand dollars (\$1,500,000) in cash with the
7 superintendent or other like deposit as the superintendent may
8 allow by rule; provided that for independent outpatient health
9 care facilities, in the absence of an additional deposit or
10 policy as required by this subsection, the deposit or policy
11 shall provide coverage for not more than three separate
12 occurrences; and

13 (2) pay the surcharge assessed on independent
14 outpatient health care facilities by the superintendent
15 pursuant to Section 41-5-25 NMSA 1978.

16 C. For hospitals or hospital-controlled outpatient
17 health care facilities electing to be covered under the Medical
18 Malpractice Act, the superintendent shall determine, based on a
19 risk assessment of each hospital or hospital-controlled
20 outpatient health care facility, each hospital's or hospital-
21 controlled outpatient health care facility's base coverage or
22 deposit and additional charges for the fund. The
23 superintendent shall arrange for an actuarial study before
24 determining base coverage or deposit and surcharges.

25 D. A health care provider not qualifying under this

1 section shall not have the benefit of any of the provisions of
 2 the Medical Malpractice Act in the event of a malpractice claim
 3 against it; provided that beginning:

4 (1) July 1, 2021, hospitals and hospital-
 5 controlled outpatient health care facilities shall not
 6 participate in the medical review process; ~~[and beginning]~~

7 (2) January 1, 2027, hospitals and hospital-
 8 controlled outpatient health care facilities shall have the
 9 benefits of the other provisions of the Medical Malpractice Act
 10 except participation in the fund; and

11 (3) January 1, 2027, the qualification
 12 requirements under Subsection A of this section shall no longer
 13 apply to hospitals and hospital-controlled outpatient health
 14 care facilities."

15 SECTION 3. Section 41-5-6 NMSA 1978 (being Laws 1992,
 16 Chapter 33, Section 4, as amended) is amended to read:

17 "41-5-6. LIMITATION OF RECOVERY.--

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

.233721.5

1 with this limitation.

2 B. Except for punitive damages and past and future
3 medical care and related benefits, the aggregate dollar amount
4 recoverable by all persons for or arising from any injury or
5 death to a patient as a result of malpractice shall not exceed
6 seven hundred fifty thousand dollars (\$750,000) per occurrence
7 for malpractice claims against independent providers; provided
8 that, beginning January 1, 2023, the per occurrence limit on
9 recovery shall be adjusted annually by the consumer price index
10 for all urban consumers.

11 C. The aggregate dollar amount recoverable by all
12 persons for or arising from any injury or death to a patient as
13 a result of malpractice, except for punitive damages and past
14 and future medical care and related benefits, shall not exceed
15 seven hundred fifty thousand dollars (\$750,000) for claims
16 brought against an independent outpatient health care facility;
17 for an injury or death that occurred in calendar years 2022 and
18 2023.

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

.233721.5

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

4 (2) for an injury or death that occurred in
5 calendar year 2025 and thereafter, the amount provided in
6 Paragraph (1) of this subsection, adjusted annually by the
7 prior three-year average consumer price index for all urban
8 consumers, per occurrence.

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

16 (1) for an injury or death that occurred in
17 calendar year 2022, four million dollars (\$4,000,000) per
18 occurrence;

19 (2) for an injury or death that occurred in
20 calendar year 2023, four million five hundred thousand dollars
21 (\$4,500,000) per occurrence;

22 (3) for an injury or death that occurred in
23 calendar year 2024, five million dollars (\$5,000,000) per
24 occurrence;

25 (4) for an injury or death that occurred in

.233721.5

1 calendar year 2025, five million five hundred thousand dollars
2 (\$5,500,000) per occurrence;

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

6 (6) for an injury or death that occurred in
7 calendar year 2027 and each calendar year thereafter, the
8 amount provided in Paragraph (5) of this subsection, adjusted
9 annually by the consumer price index for all urban consumers,
10 per occurrence.

11 F. The aggregate dollar amounts provided in
12 Subsections B through E of this section include payment to any
13 person for any number of loss of consortium claims or other
14 claims per occurrence that arise solely because of the injuries
15 or death of the patient.

16 G. In jury cases, the jury shall not be given any
17 instructions dealing with the limitations provided in this
18 section.

19 H. The value of accrued medical care and related
20 benefits shall not be subject to any limitation.

21 I. Except for an independent outpatient health care
22 facility, a health care provider's personal liability is
23 limited to two hundred fifty thousand dollars (\$250,000) for
24 monetary damages and medical care and related benefits as
25 provided in Section 41-5-7 NMSA 1978. Any amount due from a

.233721.5

1 judgment or settlement in excess of two hundred fifty thousand
2 dollars (\$250,000) shall be paid from the fund, except as
3 provided in Subsections J and K of this section.

4 J. An independent outpatient health care facility's
5 personal liability is limited to five hundred thousand dollars
6 (\$500,000) for monetary damages and medical care and related
7 benefits as provided in Section 41-5-7 NMSA 1978. Any amount
8 due from a judgment or settlement in excess of five hundred
9 thousand dollars (\$500,000) shall be paid from the fund.

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

20 ~~[L. The term "occurrence" shall not be construed in~~
21 ~~such a way as to limit recovery to only one maximum statutory~~
22 ~~payment if separate acts or omissions cause additional or~~
23 ~~enhanced injury or harm as a result of the separate acts or~~
24 ~~omissions. A patient who suffers two or more distinct injuries~~
25 ~~as a result of two or more different acts or omissions that~~

.233721.5

1 ~~occur at different times by one or more health care providers~~
2 ~~is entitled to up to the maximum statutory recovery for each~~
3 ~~injury.]"~~

4 SECTION 4. Section 41-5-7 NMSA 1978 (being Laws 1992,
5 Chapter 33, Section 5, as amended) is amended to read:

6 "41-5-7. MEDICAL EXPENSES ~~[AND PUNITIVE DAMAGES]~~.--

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

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

17 C. Payments made from the fund for the cost of
18 medical care and related benefits shall be made as expenses are
19 incurred.

20 ~~[G.]~~ D. Beginning January 1, 2027, any amounts due
21 from a judgment or settlement against a hospital or hospital-
22 controlled outpatient health care facility shall not be paid
23 from the fund if the injury or death occurred after December
24 31, 2026.

25 ~~[D. This section shall not be construed to prevent~~

1 ~~a patient and a health care provider from entering into a~~
2 ~~settlement agreement whereby medical care and related benefits~~
3 ~~shall be provided for a limited period of time only or to a~~
4 ~~limited degree.~~

5 ~~E. A judgment of punitive damages against a health~~
6 ~~care provider shall be the personal liability of the health~~
7 ~~care provider. Punitive damages shall not be paid from the~~
8 ~~fund or from the proceeds of the health care provider's~~
9 ~~insurance contract unless the contract expressly provides~~
10 ~~coverage. Nothing in Section 41-5-6 NMSA 1978 precludes the~~
11 ~~award of punitive damages to a patient. Nothing in this~~
12 ~~subsection authorizes the imposition of liability for punitive~~
13 ~~damages where that imposition would not be otherwise authorized~~
14 ~~by law.]"~~

15 SECTION 5. A new section of the Medical Malpractice Act,
16 Section 41-5-7.1 NMSA 1978, is enacted to read:

17 "41-5-7.1. [NEW MATERIAL] PUNITIVE DAMAGES.--

18 A. Punitive damages may only be awarded in a
19 malpractice claim if the prevailing party provides clear and
20 convincing evidence demonstrating that the acts of the health
21 care provider were malicious, willful, wanton, reckless,
22 fraudulent or in bad faith.

23 B. A judgment of punitive damages against a health
24 care provider shall:

25 (1) not be in an amount greater than the

.233721.5

1 applicable limitation on monetary damages provided in Section
2 41-5-6 NMSA 1978; and

3 (2) not be paid from the fund.

4 C. The initial claim for relief in a malpractice
5 claim shall not include punitive damages. A claim for punitive
6 damages may be asserted by amendment to the pleadings only
7 after the court has determined that discovery has been
8 substantially completed and the plaintiff has established prima
9 facie proof of a triable issue. If the court allows amendment
10 to the complaint pursuant to this subsection, the court, in its
11 discretion, may permit additional discovery on the question of
12 punitive damages."

13 SECTION 6. Section 41-5-25 NMSA 1978 (being Laws 1992,
14 Chapter 33, Section 9, as amended) is amended to read:

15 "41-5-25. PATIENT'S COMPENSATION FUND--THIRD-PARTY
16 ADMINISTRATOR--ACTUARIAL STUDIES--SURCHARGES--CLAIMS--
17 PRORATION--PROOFS OF AUTHENTICITY.--

18 A. The "patient's compensation fund" is created as
19 a nonreverting fund in the state treasury. The fund consists
20 of money from surcharges, income from investment of the fund
21 and any other money deposited to the credit of the fund. The
22 fund shall be held in trust, deposited in a segregated account
23 in the state treasury and invested by the [state] investment
24 office and shall not become a part of or revert to the general
25 fund or any other fund of the state. Money from the fund shall

.233721.5

1 be expended only for the purposes of and to the extent provided
2 in the Medical Malpractice Act. All approved expenses of
3 collecting, protecting and administering the fund, including
4 purchasing insurance for the fund, shall be paid from the fund.

5 B. The superintendent shall contract for the
6 administration and operation of the fund with a qualified,
7 licensed third-party administrator, selected in consultation
8 with the advisory board, no later than January 1, 2022. The
9 third-party administrator shall provide an annual audit of the
10 fund to the superintendent.

11 C. The superintendent, as custodian of the fund,
12 and the third-party administrator shall be notified by the
13 health care provider or the health care provider's insurer
14 within thirty days of service on the health care provider of a
15 complaint asserting a malpractice claim brought in a court in
16 this state against the health care provider.

17 D. The superintendent shall levy an annual
18 surcharge on all New Mexico health care providers qualifying
19 under Section 41-5-5 NMSA 1978. The surcharge ~~[shall be~~
20 ~~determined by the superintendent with the advice of the~~
21 ~~advisory board and based on the annual independent actuarial~~
22 ~~study of the fund. The surcharges for health care providers,~~
23 ~~including hospitals and outpatient health care facilities whose~~
24 ~~qualifications for the fund end on January 1, 2027, shall be~~
25 ~~based on sound actuarial principles, using data obtained from~~

.233721.5

~~New Mexico claims and loss experience]~~ for health care providers, including hospitals and outpatient health care facilities whose qualifications for the fund end on January 1, 2027, shall be based on sound actuarial principles, using data obtained from New Mexico claims and loss experience. The surcharges for independent providers and independent outpatient health care facilities shall be determined by the superintendent with the advice of the advisory board and based on the annual independent actuarial study of the fund. The surcharge for hospitals and outpatient health care facilities shall be no less than the actuary's recommended surcharges based on an expected value basis to fully fund the current and projected claims obligations of the hospitals and outpatient health care facilities. A hospital or outpatient health care facility seeking participation in the fund during the remaining qualifying years shall provide, at a minimum, the hospital's or outpatient health care facility's direct and indirect cost information as reported to the federal centers for medicare and medicaid services for all self-insured malpractice claims, including claims and paid loss detail, and the claims and paid loss detail from any professional liability insurance carriers for each hospital or outpatient health care facility and each employed health care provider for the past eight years to the third-party actuary. The same information shall be available to the advisory board for review, including financial

1 information and data, and excluding individually identifying
2 case information, which information shall not be subject to the
3 Inspection of Public Records Act. The superintendent, the
4 third-party actuary or the advisory board shall not use or
5 disclose the information for any purpose other than to fulfill
6 the duties pursuant to this subsection.

7 E. The surcharge shall be collected on the same
8 basis as premiums by each insurer from the health care
9 provider. The surcharge shall be due and payable within thirty
10 days after the premiums for malpractice liability insurance
11 have been received by the insurer from the health care provider
12 in New Mexico. If the surcharge is collected but not paid
13 timely, the superintendent may suspend the certificate of
14 authority of the insurer until the annual premium surcharge is
15 paid.

16 F. Surcharges shall be set by October 31 of each
17 year for the next calendar year. Beginning in 2021, the
18 surcharges shall be set with the intention of bringing the fund
19 to solvency with no projected deficit by December 31, 2026.
20 All qualified and participating hospitals and outpatient health
21 care facilities shall cure any fund deficit attributable to
22 hospitals and outpatient health care facilities by December 31,
23 2026.

24 G. If the fund would be exhausted by payment of all
25 claims allowed during a particular calendar year, then the

.233721.5

1 amounts paid to each patient and other parties obtaining
2 judgments shall be prorated, with each such party receiving an
3 amount equal to the percentage the party's own payment schedule
4 bears to the total of payment schedules outstanding and payable
5 by the fund. Any amounts due and unpaid as a result of such
6 proration shall be paid in the following calendar years.

7 H. Upon receipt of one of the proofs of
8 authenticity listed in this subsection, reflecting a judgment
9 for damages rendered pursuant to the Medical Malpractice Act,
10 the superintendent shall issue or have issued warrants in
11 accordance with the payment schedule constructed by the court
12 and made a part of its final judgment. The only claim against
13 the fund shall be a voucher or other appropriate request by the
14 superintendent after the superintendent receives:

15 (1) until January 1, 2022, a certified copy of
16 a final judgment in excess of two hundred thousand dollars
17 (\$200,000) against a health care provider;

18 (2) until January 1, 2022, a certified copy of
19 a court-approved settlement or certification of settlement made
20 prior to initiating suit, signed by both parties, in excess of
21 two hundred thousand dollars (\$200,000) against a health care
22 provider; or

23 (3) until January 1, 2022, a certified copy of
24 a final judgment less than two hundred thousand dollars
25 (\$200,000) and an affidavit of a health care provider or its

insurer attesting that payments made pursuant to Subsection B of Section 41-5-7 NMSA 1978, combined with the monetary recovery, exceed two hundred thousand dollars (\$200,000).

I. On or after January 1, 2022, the amounts specified in Paragraphs (1) through (3) of Subsection H of this section shall be two hundred fifty thousand dollars (\$250,000)."

SECTION 7. SEVERABILITY.--If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 8. APPLICABILITY.--The provisions of this act apply to all claims for medical malpractice that arise on or after the effective date of this act.