



FIFTY-SEVENTH LEGISLATURE
SECOND SESSION

PROPOSED AMENDMENT DIRECTED TO A COMMITTEE

February 16, 2026

Mr. Chair:

I propose to the SENATE JUDICIARY COMMITTEE the following amendments to

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 99

1. On page 15, between lines 11 and 12, insert:

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

"41-5-7.1. [NEW MATERIAL] PROCEDURE FOR FUTURE MEDICAL EXPENSES PAID FROM THE FUND.--

A. In all malpractice claims tried to a jury where liability is found, the jury shall be given a special interrogatory asking if the patient is in need of future medical care and related benefits. If the jury finds that the patient is in need of future medical care and related benefits, the jury shall make a finding concerning the value of future medical care and related benefits. That figure shall not be included in any award or judgment but shall be included in the record as a separate court finding.

B. In all malpractice claims tried to the court where liability is found, the court's findings shall include a recitation that the patient is or is not in need of future medical care and related benefits. If the court finds that the patient is in need of future medical care and related benefits, the court shall make a finding concerning the value of future medical care and related

benefits. That figure shall not be included in any award or judgment but shall be included in the record as a separate court finding.

C. In all malpractice claims in which a settlement is reached between the patient and health care provider, the patient and health care provider may agree that the patient is or is not in need of future medical care and related benefits. If agreement is reached that the patient is in need of future medical care and related benefits, the patient and health care provider may agree to the value of the future medical care and related benefits. If agreement cannot be reached between the patient and health care provider on the value of future medical care and related benefits, if needed, the court in a supplemental proceeding shall make findings that the patient is or is not in need of future medical care and related benefits. If the court finds that the patient is in need of future medical care and related benefits, the court shall estimate the value of the future medical care and related benefits reasonably due the patient on the basis of evidence presented to the court. That figure shall not be included in any award or judgment but shall be included in the record as a separate court finding.

D. The value of a patient's future medical care and related benefits shall not be paid to the patient but shall be made part of the fund. Subject to Section 41-5-25 NMSA 1978, the value of a patient's future medical care and related benefits shall be held in trust, deposited in a segregated account in the state treasury and invested by the investment office and shall not become a part of or revert to the general fund or any other fund of the state.

E. Payment for medical care and related benefits shall be made from the fund as expenses are incurred. Findings of or agreements to the estimated value of future medical care and related expenses shall not limit the future medical expenses to be paid from the fund. Medical care and related expenses reasonably related to a patient's injury shall be paid from the fund for the life of the patient."".

2. Renumber the succeeding sections accordingly.

3. On page 15, line 13, strike "41-5-7.1" and insert in lieu

thereof "41-5-7.2".

4. On page 15, line 14, strike "41-5-7.1" and insert in lieu thereof "41-5-7.2".

5. On page 17, between lines 18 and 19, insert:

"B. The superintendent shall segregate a portion of the fund to be used exclusively for the payment of medical care and related benefits. The amount of money to be segregated shall be determined by the annual independent actuarial study of the fund. The superintendent shall invest all money in the fund, including the portion segregated exclusively for the payment of medical care and related benefits, that is not expected to be expended within the next twelve months."

6. Reletter the succeeding subsections accordingly.

Respectfully submitted,
