

State of New Mexico
Senate

FIFTY-SEVENTH LEGISLATURE
SECOND SESSION

February 17, 2026

SENATE FLOOR AMENDMENT number 2 to HOUSE JUDICIARY COMMITTEE
SUBSTITUTE FOR HOUSE BILL
99, as amended

Amendment sponsored by Senator Martin Hickey

1. On page 15, line 16, after "the", strike the remainder of the line and strike lines 17 through 19 and insert in lieu thereof:

"plaintiff proves by clear and convincing evidence that the defendant's conduct was reprehensible and that the defendant acted with an evil mind."

2. On page 16, strike lines 18 through 25 and on page 17, strike line 1 and insert in lieu thereof:

"E. The initial claim for relief in a malpractice claim shall not include punitive damages. A claim for punitive damages may be asserted by amendment to the pleadings only after the court has determined that the claimant has established by clear and convincing evidence that the defendant's conduct was reprehensible and that the defendant acted with an evil mind. The court shall make this determination in an evidentiary hearing after permitting the parties to conduct discovery limited to the issues of whether the defendant's conduct was reprehensible and whether the defendant acted with an evil mind. To establish by clear and convincing evidence that the defendant's conduct was reprehensible and that the defendant acted with an evil mind, the claimant shall present the testimony of one or more medical experts who are health professionals licensed in New Mexico. The evidentiary hearing required by this subsection shall occur at least one hundred eighty days before a trial for a malpractice claim is scheduled to begin.

F. As used in this section, "acted with an evil mind" means an action taken by a person that:

.234165.1

State of New Mexico
Senate

FIFTY-SEVENTH LEGISLATURE
SECOND SESSION

SF1/HJC/HB 99, aa

Page 2

(1) is intended to cause harm;
(2) is motivated by spite; or
(3) creates a substantial risk of tremendous harm to
others."".

Martin Hickey
Martin Hickey

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date 2/17/26