

<b>LFC Requester:</b>	
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

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

*Check all that apply:*

**Original**      X      **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_    **Substitute**    \_\_\_\_\_

**Date Prepared:**      1/19/2024  

**Bill No:**      HB 107  

**Sponsor:**      Rep. Jack Chatfield and  
                  Rep. Harlan Vincent  

**Short Title:**      Medical Malpractice Limit  
                  of Recovery  

**Agency Name and Code Number:**      305 – New Mexico  
  Department of Justice  

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

T	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

House Bill (“HB”) 107 would amend NMSA 1978, Section 41-5-6(E) of the Medical Malpractice Act. If passed, the bill would reduce the aggregate dollar amount recoverable by all persons for any medical malpractice claims brought against a hospital or a hospital-controlled outpatient facility by between approximately four million five hundred dollars to five million dollars (\$4,500,000 to \$5,000,000), depending on the year.

The table below compares the total amount recoverable against hospitals and hospital-controlled outpatient facilities (excluding punitive damages and past and future medical care and related benefits) for any injury or death to a patient as a result of malpractice under the current statutory limits compared to this bill:

Year	Limit Under Current Section 41-5-6(E)	Limit Under HB 107	Limit Reduction under HB107
2025	\$5,500,000	\$1,000,000	\$4,500,000
2026	\$6,000,000	\$1,000,000 adjusted annually by the prior three-year average consumer price index	~ \$5,000,000
2027 and each year thereafter	\$6,000,000 adjusted annually by the prior three-year average consumer price index	\$1,000,000 adjusted annually by the prior three-year average consumer price index	\$5,000,000

HB 107 only makes changes to subsection (E) and so leaves the aggregate limits to recovery at existing levels for malpractice claims against independent providers (NMSA Sec. 41-5-6(B)) and independent outpatient health care facilities (NMSA Sec. 41-5-6(D)). HB 107 would effectively repeal the 2023 amendments to Section 41-5-6, which increased malpractice claim limits against hospitals from \$600,000 for claims arising in calendar year 2022 and beyond.

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

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

### **SIGNIFICANT ISSUES**

The new language in HB 107 applies solely to claims against hospitals and hospital-controlled outpatient facilities for injuries and deaths that occurred in calendar year 2025 and thereafter. However, the bill would also delete the limits for injuries and deaths that occurred in 2022 through 2024. This deletion could create ambiguity regarding limits for claims against hospitals and hospital-controlled outpatient facilities for injuries and deaths that occurred in 2022 through 2024. Clarity could be provided regarding whether the previous limits found in Sec. 41-5-6(E) will apply to existing and future medical malpractice claims related to those years or whether this change to the statute will abolish the caps against hospitals and hospital-controlled outpatient facilities for injuries and deaths that occurred in 2022 through 2024.

### **PERFORMANCE IMPLICATIONS**

None.

### **ADMINISTRATIVE IMPLICATIONS**

None.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Duplicate of SB 53

### **TECHNICAL ISSUES**

None.

### **OTHER SUBSTANTIVE ISSUES**

None.

### **ALTERNATIVES**

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

### **AMENDMENTS**