

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

## FISCAL IMPACT REPORT

SPONSOR Woods LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 3/10/2025  
SHORT TITLE Medical Malpractice Damage BILL \_\_\_\_\_  
Determination NUMBER Senate Bill 444  
ANALYST Hernandez

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From

Department of Health (DOH)

Administrative Office of the Courts (AOC)

New Mexico Hospital Association (NMHA)

## SUMMARY

### Synopsis of Senate Bill 444

Senate Bill 444 (SB444) amends medical malpractice statute to say that “the amount of punitive damages against a health care provider awarded to a plaintiff shall be determined by a judge.”

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## FISCAL IMPLICATIONS

SB444 would have no fiscal impact as the patient’s compensation fund does not make payments for punitive damages.

## SIGNIFICANT ISSUES

The National Conference of State Legislatures (NCSL) recently released a brief highlighting that numerous states require judicial review of punitive damage awards. This can include imposing a cap or determining whether punitive damages are excessive as a matter of law.

The Administrative Office of the Courts notes:

There may be a question as to the constitutionality of requiring a judge to determine the amount of punitive damages to be awarded against a health care provider rather than the jury, under both the New Mexico and United States Constitutions. 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. Additionally, the NM Supreme Court has ruled that a defendant has a right to a jury determination of the facts. See *State v. King*, 2007-NMCA-130, 142 N.M. 699, 168 P.3d 1123, cert. quashed, 2007-NMCERT-001, 143 N.M. 157, 173 P.3d 764. See also Section 45-1-306 NMSA 1978 and N.M. R. Civ. P. Dist. Ct. 1-038. The U.S. Supreme Court, in *Cooper Industries Inc. v. Leatherman Tool Group Inc.*, 532 U.S. 424, at 437, 440, 443 (2001), concluded that the determination as to the amount of punitive damages is "not a finding of fact."

Finally, the New Mexico Hospital Association supports SB444, as introduced.

AEH/hj/SL2