



Title: Malpractice bill gains bipartisan support

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# Malpractice bill gains bipartisan support

## El Rito Media News Services

Senate Bill 176, which proposes three patient-centered reforms to New Mexico's medical malpractice law, continues to gather momentum and has now picked up 20 bipartisan sponsors:

Democratic Sponsors of SB 176

Senator Martin Hickey (D-Abq)

Senator George Muñoz (D-Gallup)

Senator Bobby Gonzales (D-Taos)

Senator Liz Stefanics (D-Santa Fe)

Rep. Anita Gonzales (D-Las Vegas)

Rep. D. Wonda Johnson (D-Rehoboth)

Rep. Patricia Lundstrom (D-Gallup)

Rep. Marian Matthews (D-Abq)

Rep. Joseph Sanchez (D-Alcalde)

Representative Sarah Silva (D-Las Cruces)

Republican Sponsors of SB 176

Senator Pat Woods (R-Broadview)

Senator Jay Block

(R-Rio Rancho)

Senator Crystal Brantley (R-T or C)

Senator Craig Brandt (R-Rio Rancho)

Senator Ant Thornton (R-Sandia Park)

Rep. Gail Armstrong (R-Magdalena)

Rep. Nicole Chavez (R-Abq)

Rep. Jenifer Jones (R-Deming)

Rep. Alan Martinez (R-Rio Rancho)

Rep. Andrea Reeb (R-Clovis)

Senate Bill 176 would reform New Mexico's medical malpractice system by:

- capping attorney's fees in medical malpractice attorney lawsuits;
- restoring the requirement that the Patient Compensation Fund (PCF) must pay medical expenses as they are incurred by a patient; and
- sending 75% of any punitive damages awarded in a medical malpractice cases to a new public fund designed to improve patient safety and reduce the future incidence of malpractice, such as by improving

medical staffing ratios and training.

The bill was drafted by the nonpartisan think tank Think

New Mexico, which published a 2024 report, How to Solve New Mexico's Health Care Worker Shortage, which identified New Mexico's malpractice laws as a major cause of doctors retiring early or leaving the state.

In its report, Think New Mexico noted that New Mexico currently has the second highest rate of medical malpractice lawsuits of any state in the nation, according to data collected by the U.S. Department of Health and Human Services. Medical malpractice insurance premiums are about twice as high in New Mexico as in other states in our region, and they continue to rise rapidly. The high cost of malpractice insurance and the high likelihood of being sued discourage doctors and other health care providers from practicing in New Mexico.

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The cap on attorney's fees in Senate Bill 176 follows the California model, which caps attorney's fees at 25% of the money awarded if a case is settled, and 33% if a case goes to trial. A total of 20 states cap attorney's fees, including California, Connecticut, Delaware, Hawaii, Illinois, Massachusetts, New York, and Oregon. New Mexico currently has no limits on attorney's fees. Every dollar that goes to the attorney is a dollar that fails to reach the injured patient.

Senate Bill 176 would also restore the longstanding requirement that the Patient Compensation Fund (PCF) must pay out medical costs as they are incurred by a patient injured by malpractice, for as long as needed. The PCF was created to make sure that patients who have ongoing injuries due to malpractice will have all of their medical needs paid for. Up until 2021, payments were made from the PCF as a patient incurred medical expenses; however, that year the malpractice law was changed to allow lump-sum payouts from the Patient Compensation

## Bill,

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Fund (PCF). An up-front lump-sum payout is meant to cover a patient's medical costs for the rest of their life, but it is based on an estimate, which may or may not be accurate (for example, a patient may live longer than expected or may have greater medical needs than anticipated). As a result, a patient that receives a lump-sum payout may run out of money for their medical care. The lump-sum payout is better for attorneys, however, as they

receive their percentage of the funds up front rather than over time.

Senate Bill 176 would send 75% of any punitive damages to a new fund earmarked for improving patient safety and reducing the incidence of medical malpractice. Punitive damages are meant to be an extraordinary remedy, awarded in rare instances where it is necessary to punish someone for committing gross negligence or intentional harm. They are separate from compensatory damages, which are meant to compensate the patient. New

Mexico's unlimited damages are a windfall for the attorneys bringing the cases, but they undermine medical care across the state. Three states, Alaska, Oregon, and Pennsylvania, have decided that a significant portion of any punitive damage award should be used to benefit

the public instead. Senate Bill 176 adopts that model.

Governor Lujan Grisham acknowledged the link between New Mexico's medical malpractice system and its growing shortage of health care workers in her 2025 State of the State

address, when she said: "We're making a better health care system in New Mexico. But talk to any New Mexican in a doctor's office, or frankly, anyone in this room, and they'll tell you it's not enough. There's still a long wait for appointments. Patients are still driving long distances to see a specialist. And health care leaders are clear that the high cost of medical malpractice insurance is the barrier to recruiting and retaining the providers we need."

"A fair medical malpractice system should make injured patients whole, provide reasonable

compensation for their attorneys, and treat doctors and other health care providers fairly. Unfortunately New Mexico's system fails to protect the interests of patients and health care workers," says Senator Martin Hickey, lead sponsor of SB 176.

"Senate Bill 176 shifts New Mexico's medical malpractice system from a lawyer-centered system to a patient-centered system, while reducing the likelihood of malpractice in the future," says Fred Nathan, Jr., Executive Director of Think New Mexico.

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