

February 16, 2026

The Honorable Mimi Stewart
President Pro Tempore
New Mexico House of Representatives
New Mexico State Capitol, Room 104
490 Old Santa Fe Trail
Santa Fe, NM 87501

The Honorable Javier Martinez
Speaker of the House
New Mexico State Senate
New Mexico State Capitol, Room 105A
490 Old Santa Fe Trail
Santa Fe, NM 87501

Re: AMA Support of HB 99

Dear Senator Stewart and Representative Martinez:

On behalf of the physician and medical student members of the American Medical Association (AMA), I appreciate the opportunity to comment on and **express our support – in the strongest possible terms – of House Bill 99 (HB 99)**. HB 99 would implement medical liability reforms desperately needed in New Mexico. Specifically, HB 99 will encourage physicians to remain in New Mexico, particularly in rural and underserved areas where patients are finding it extremely difficult to access physician services. These reforms will also draw more physicians to New Mexico, and in so doing help heal the injury that New Mexico’s medical liability climate has had on its physician supply. At the same time, HB 99 still ensures that patients harmed by acts or omissions while seeking or receiving treatment are made whole. For all of these reasons, we think the time is now to pass HB 99 and enact it into law.

HB 99 is proactive in addressing social inflation’s impact on access to care

Although we are not yet experiencing the kind of national medical liability insurance crisis that we witnessed in the early 2000s, over the last few years there has been a significant increase in the size of medical liability awards. In fact, our country has seen an increase of “nuclear verdicts” in medical liability cases, i.e., cases where the jury awarded \$10 million or more, some exceeding \$25 million. This is worrisome because such awards are often influenced by factors that have nothing to do with a physician’s alleged negligence or patient injury. Instead, they are the product of “social inflation,” such as eroding trust in the U.S. health care system and the perceived corporatization of medicine. HB 99’s reforms can help New Mexico proactively address the negative effects that social inflation is having on physicians, the New Mexico health care system, and patient access to care.

HB 99 is not an outlier; rather, it will put New Mexico in a position of strength vis-à-vis the current liability landscape

HB 99 is not an outlier when it comes to reforms enacted by other states. Rather, from our perspective, HB 99 brings New Mexico in line with most other states. For example, most, if not all, states define “occurrence” as HB 99 does. At the same time, HB 99 justly and clearly excepts cases when independent medical acts or omissions cause a separate harm to a patient. This ensures that plaintiffs are made whole when the facts of the case fall outside of the definition of “occurrence.”

Also, HB 99’s collateral source reform, which deals with the ever-growing problem of “phantom damages,” follows what other states are considering or have already enacted. No one would dispute that injured patients must be fairly compensated for medical expenses. But compensation based on billed charges vastly exceeds amounts paid in full since most physicians and health care providers accept deep discounts in exchange for participation in managed care networks. This creates what is referred to as “phantom damages,” compensating plaintiffs for medical expenses they never incurred and for financial obligations that never existed. In the end phantom damages are absorbed by New Mexico physicians and New Mexico’s overall health care system in the form of increased medical liability insurance premiums. Not addressing phantom damages does nothing more than create an incentive for physicians and other health care professionals to leave New Mexico to practice in another state. New Mexico is one of a handful of states that have yet to reform the collateral source rule, and many states have enacted “amount paid” statutes. Addressing this issue is critical for New Mexico and is an important part of the reforms contained in HB 99.

The punitive damages reforms in HB 99 will stabilize the New Mexico physician workforce

It is clear to the AMA that something must be done to redress the way punitive damages have been handled in New Mexico. In truth, New Mexico is a stark outlier with respect to the ease in which physicians and other New Mexico health care professionals can be subject to punitive damage allegations. The easy exposure to such allegations in New Mexico can place physicians and other health care professionals under great psychological stress since it is likely that their medical liability insurance does not cover punitive damages. Lacking coverage, a physician faces the prospect of being held personally liable for those damages. Just the fear of losing personal assets alone can coerce a physician to settle on unfair terms that do not reflect the merits, if any, of the alleged facts of the case in question. Knowing that one can be exposed in this manner creates an unstable environment for the health care professions in New Mexico, threatening the way health care is provided in your great state.

We are relieved to see that HB 99 tackles punitive damages in New Mexico. Specifically, the provisions in HB 99 that address this issue are vital because they provide physicians and other health care professionals with much needed protections from punitive damage claims that are routine in New Mexico today. Exposure to punitive damages must be reasonable and predictable, and HB 99 ensures that. HB 99 also ensures that punitive damage allegations must not give rise to outsized verdicts that have little, if any, relation to the facts of the medical liability action in question. Moreover, limits on punitive damages, like those in HB 99, will foster predictability by

The Honorable Mimi Stewart
The Honorable Javier Martinez
February 16, 2026
Page 3

establishing a proportional structure that aligns with the compensatory-damages caps already in statute. Finally, HB 99's other protections, e.g., a clear and convincing standard of proof and requiring a plaintiff to provide evidence, after substantial discovery, before bringing claims for punitive damages, are consistent with protections other states already have in place.

HB 99 strengthens New Mexico's Patient Compensation Fund

We know that the stability of New Mexico's Patient Compensation Fund (PCF) has been a major concern in recent years, and we are relieved to see that HB 99 will strengthen the PCF. First, HB 99 continues to include hospitals in the Medical Malpractice Act and thus continues to include their contributions to the PCF. This financial support will expand the PCF's risk pool, which in turn will help stabilize the medical liability environment in New Mexico. Second, HB 99 requires the PCF to pay for future medical expenses as they are incurred, rather than lump sum structures that are less aligned with actual patient needs and may lead to inefficiencies. Note that many state medical liability laws have successfully implemented similar periodic payment structures. We feel strongly that this approach ensures that patient care is supported over time, reduces pressure for oversized settlements, and improves the actuarial soundness of the PCF.

The reforms in HB 99 are long overdue and crucial to stabilizing the provision of health care in New Mexico

The AMA strongly urges the New Mexico Legislature to enact HB 99. This bill is the most important attempt in your great state to address medical liability reform in recent years. We are certain that by passing HB 99 you will rectify the weakening of liability protections that have taken place in New Mexico over time and most importantly, stabilize the health care environment in your state. There are great challenges facing all of us when it comes to ensuring that patients receive the highest quality health care, when they need it and where they need it. The stabilizing force of the reforms in HB 99 will go a long way to do just that in New Mexico. HB 99 represents an important opportunity to do what is right for New Mexicans.

Thank you for your ongoing commitment to the well-being of New Mexicans. Should you have any questions or if we can provide further information, please do not hesitate to reach out to me directly at 312-464-5288 or John.Whyte@ama-assn.org.

Sincerely,



John Whyte, MD, MPH

cc: New Mexico Medical Society