

All NM Members (USPS mail and email)

Address

Policy Number

Policy Effective Date

Date

Dear [Title. Last Name],

The amendments made to the New Mexico Medical Malpractice Act (MMA) by House Bill (HB) 75 will change the practice of medicine in New Mexico. It is imperative that all providers review the impacts of HB 75 on their practice with their personal counsel and insurance professional.

**Your Medical Professional Liability Insurance Rates and State-Mandated Patient Compensation Fund Assessments Will Increase Beginning January 1, 2022**

Effective January 1, 2022, the underlying limit of professional liability carried by qualified healthcare providers (QHPs) enrolled in the Patient Compensation Fund (PCF) will increase from \$200,000 to \$250,000, and the cap on non-medical damages for individual providers will increase from \$600,000 to \$750,000. In addition, modified PCF surcharges will be charged to QHPs participating in the PCF. We are currently waiting for the Office of the Superintendent of Insurance (OSI) to advise us on the amount of the PCF surcharge the OSI requires us to collect from you. HB 75 requires the PCF surcharge not only be adequate to pay current claims, but it must also collect funds to retire the PCF's deficit, reported to be in excess of \$65 million, by the end of 2026.

One of the most dramatic changes made by HB 75 is to increase the damage cap for hospitals and out-patient care facilities (OCFs). Also beginning January 1, 2022, the damage cap for those OCFs will increase to \$4,000,000 and reach \$6,000,000 in January 2027 when OCFs will no longer be fund eligible. Agents of these facilities may also be subject to the higher cap. Affected facilities include: "[A]n outpatient facility, including ambulatory surgical centers, free-standing emergency urgent care clinics, acute care centers and intermediate care facilities and includes a facility's employees, locum tenens providers and agency nurses providing services at the facility."

If your practice includes any listed facility as defined by the bill, HB 75 has expanded potential liability significantly. The customary \$200,000, now going to \$250,000, may be millions short of the dramatically raised liability cap for hospitals and OCFs (and the providers who work there), which begins at \$4,000,000 in January 2022 and then annually escalates to \$6,000,000 in 2026.

It is absolutely critical you review your liability exposure under HB 75 with your personal counsel and consult with your insurance professional to see how to best protect yourself, your employees, and facilities. **The Doctors Company will continue to offer member QHPs the traditional \$200,000, soon to be \$250,000 limit, but will not be offering the \$4,000,000 that goes into effect on January 1, 2022, and annual escalations thereafter, reaching \$6,000,000 at the end of 2026.**



**ALBUQUERQUE, NEW MEXICO**

**Mailing Address** PO Box 2970, Napa, CA 94558 | **Local Address** 7770 Jefferson St. NE, Ste. 410, Albuquerque, NM 87109  
**P** 800.421.2368 | **F** 866.823.8360 | [thedoctors.com](http://thedoctors.com)

## **The Doctors Company is Rewriting All New Mexico Policies Effective January 1, 2022**

To comply with HB 75, increasing the limit to \$250,000 and collecting all PCF surcharges at the new PCF charges published by the PCF administration this fall, The Doctors Company will cancel your current policy and issue a new policy effective January 1, 2022. Please consider this as notice of this change.

### **Advocacy Efforts by The Doctors Company and Our Allies**

The Doctors Company advocated strongly against the New Mexico Trial Lawyers Association's efforts over the last several years to amend the MMA. We provided the Superintendent of Insurance, state and local medical societies, hospital representatives, public officials, lawmakers, and others with key information, including an independent actuarial analysis, to ensure that decision makers and stakeholders understood the potential impacts of the changes to the MMA.

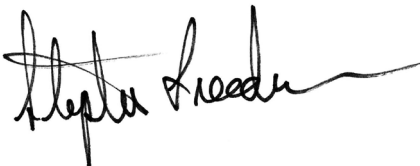
Faced with a legislative session in which the trial lawyers' favored legislation would have the votes to pass and the backing of the governor, the coalition of organizations representing healthcare providers had no other choice than to negotiate from a position of weakness. If the coalition had not participated in the negotiations, nothing would have stopped the trial lawyers' allies in the legislature from stripping every single existing protection from healthcare providers. These negotiations allowed the coalition to salvage some meager protections, but the resulting legislation is devastating to medical professionals.

In the future, The Doctors Company will advocate for legislation to address the disastrous changes to the MMA that the passage of HB 75 caused. Please consider contacting your state legislators and the governor if you would like to comment on the changes they made to the MMA at the behest of the New Mexico Trial Lawyers Association. If you would like advocacy assistance with drafting and submitting your comments, please contact us at [NewMexicoHB75@thedoctors.com](mailto:NewMexicoHB75@thedoctors.com).

### **Learn More About HB 75 and Its Potential Effects on Your Practice**

For additional Information about HB 75 and its impacts on the medical profession in New Mexico, please visit our comprehensive webpage at [thedoctors.com/HB75Updates](http://thedoctors.com/HB75Updates).

Sincerely,



Stephen Freedman  
Senior Vice President  
Regional Operating Officer  
[thedoctors.com/HB75Updates](http://thedoctors.com/HB75Updates)