Access to Health Care in New Mexico

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Financial Conflict of Interest Slide

I have no financial conflicts of interest (as generally defined).

Bias is more potent than financial conflict of interest.
Conflicts of interest and bias are closely related.

I often don’t agree with myself.

Sources of Information

NM Healthcare Workforce Committee
Physicians Advocacy Institute
Think New Mexico
Becker's
AAMC (American Association of Medical Colleges)
Medscape
CDC
MSN

Three areas of review

1. General Characteristics of New Mexico
2. General State of Medicine in the US and New Mexico
3. Details and impact of Medical Malpractice Law

New Mexico's Characteristics – General Low Ranking in Many Measures

Poverty/Income
Child Welfare
Education
Crime
Business/Employment Opportunities
Infrastructure

General Health in New Mexico

Hard to measure… and as much due to genetics, behavioral choices, education as to access to medical care

NM is near the bottom in all categories

Longevity
Obesity
Suicide rate
Alcohol use
Cannabis use
Accidents/Violence

Health Care Providers: National Perspective

AAMC: predicts an up to 86K national shortfall in MDs by 2036. Present shortfall is ~ 50K. Will be worse if Graduate Medical Education funding does not continue to increase (at 1%/year). ((Shortfall did not consider recent immigration))

Fewer MDs/1000 population than most industrialized countries
Aging physician population – age range much older than general population
Alternative lifestyle and career paths for physicians
Employed physicians work less hard than independents
Burnout

Changing spectrum of physician employment - National

Only about 20% of MDs are in an independent practice
55% are employees of health care systems
25% are corporate employees (Optum)

New Mexico is identical – with similar trends

Drivers of employment

Ability of Hospitals to charge more than outpatient facilities

Cost/reimbursement crunch for independent entities: CMS continues to cut physician reimbursement (but not hospitals) and costs of practice continue to increase (medical supplies up 82% since start of pandemic)

Inflation and cuts result in a 50-60% decrease in independents' reimbursement.

Administrative burdens: (especially prior authorization, denials, and payment delays)

How Do We Measure Health Care Professional Availability?

Demand from employers (online ads)

Comparison of Health Care Professional Numbers with Benchmarks

We don’t have good survey info on the patient perspective!

MDs in NM

Almost no data since 2021 from NM Healthcare Workforce Committee (and no data until 2026 !!)

PAI: MD is counted by submitting bills for care

2019 practicing MDs: 3,039
2024 practicing MDs: 2,791

A decrease of 248 – NM is the only state with a decrease !

PCPs: 5.04/10,000 (national benchmark – 9.3)
NM ranks #1 nationally for % of people without a PCP

General Barriers to Prospective Health Care Professionals coming to NM

Rural Barriers: Rural Hospitals are multiply stressed

Educational opportunities for children
Employment for spouse
Workforce quality
Crime
Business environment
State gross receipts and income tax
Social markers: last on most lists

MDs in New Mexico – Southwest Gastroenterology Perspective

We have 2,000 pending referrals !
We cannot recruit effectively
There are many ads for gastroenterologists to work in NM
I get lots of inquiries from headhunters recruiting me to work in other states (and for more money!)
About 1/10 of my patients have been out of state for care
About 1/5 of my patients do not have a PCP (many who do have a PA or NP as PCP)

Medically Specific Barriers

Licensing, Credentialing, payment delays
Gross receipts tax on medical activities
Medicaid (nearly 50% of patients – hospitals and clinics lose money)
Medical supplies: distribution centers
Malpractice environment and costs
Incentives wrt loan forgiveness (NM is low)
Reputation

Medical School characteristics (< 40% MGMA); limited centers of excellence

Malpractice Specific Issues

High cost of medical malpractice insurance
High risk of being a defendant
Inconvenience of venue
Risk of punitive damage claims.

Features of Malpractice Law in NM

We are #2 in the nation in number of malpractice lawsuits per capita, #1 in loss ratio (no other state is close): 183% (US average is 73%)
Care in NM is not worse than other states (Board action data)

Average premium for independent practitioner = $ 43K (CO $ 28K, AZ $ 22K, TX $ 28K, UT $ 28K)
Gogel's 2024 premium is $ 31K, despite no judgements (was $18K in 2020). Increase is in response to 2021 NM legislation increasing caps and defining occurrence.
Hospital premiums have increased over 100% in the past several yrs.

Attorney fees are unregulated and are 30-40% of award (fees are limited in 20 states)

More features on NM malpractice law

Punitive damages: not covered by insurance, and claimed in nearly all NM cases – which drives defendants to higher settlements

Burden of proof for punitives is low: “preponderance of the evidence” vs “clear and convincing” vs “beyond a reasonable doubt” (highest): all neighboring states have higher burdens

5 states ban punitives

22 states limit punitives

Venue shopping (Gallup hospital case tried in Santa Fe)

Even more features on NM malpractice law !

Cap on non-economic damages = $750K in 2021 adjusted for inflation (highest cap nationally)
Hospital cap: soon to be $ 6M

Cap is lower for UNM, but there is interest in increasing it !

Definition of occurrence (nearly unique in NM) – multiplies the cap!

Confidential settlements (nationally common, but ? a bad idea)

Actual cost of future medical care vs. lump sum settlement amounts

What the NM Legislature has done

2021: HB 75 increased the malpractice caps and opened up the definition of occurrence, resulting in substantial negative changes in the malpractice environment

2024: Improved funding for Medicaid
Improved funding for loan forgiveness
Supported rural health clinics
Partial funding of the Patient Compensation Fund deficit

The 2024 changes are steps in the right directions, but are not enough, do not make up for HB75, and will take years to have impact

What to do? Ask your legislators (personally) to do what needs to be done to attract medical professionals

Loan forgiveness enhancement, Medicaid reimbursement improvement, improved funding for medical schools and residency training, reforms of medical malpractice law, rural incentives, credentialing relief, prior authorization relief

This requires persistent, informed engagement, political will, and money.

Thanks