

LFC Requester:	Eric Chenier
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**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 1/22/2016
Bill No: SB -121

Sponsor: Sen. Stuart Ingle **Agency Code:** 305
 Out of state Health Care **Person Writing** Susan Sullivan AAG
Short Provider Access **Phone:** 827-6070 **Email** ssullivan@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

Synopsis:

SB 121 enacts a new section of chapter 41 NMSA 1978.

In Section 1, SB 121 states the purpose of this bill is to ensure that New Mexicans who need to seek health care outside of New Mexico will continue to have access to out of state health care providers by requiring in Subsection A, that claims for harm related to the care provided be brought where services were rendered; and in subsection B by limiting the liability of out of state health care providers to that provided by the laws of the state where the service was provided.

In Section 2, SB121 bars certain actions in New Mexico courts. Courts shall not have jurisdiction over any civil action including injury from medical care or lack of care, whether the claims sound in tort, or contract including actions based on battery or wrongful death, when: the provider is not licensed in NM, the act or omission occurred outside the state, a civil action could have been brought in the state where the act or omission occurred. The act applies to acts occurring on or after the effective date.

FISCAL IMPLICATIONS

None noted

SIGNIFICANT ISSUES

SB 121 is silent on the definition of “where services are rendered”. Because health care is comprehensive with stages of care, for example, diagnostics, consultation, treatment, surgery, prescribing. It would be beneficial to be more explicit in defining place of service. This is especially appropriate in light of expanding telehealth. See, NMSA §24-25-1-5, the New Mexico Telehealth Act.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The New Mexico Court of Appeals, Opinion Number 2015-NMCA-101 recently issued an opinion related to whether New Mexico courts could assert jurisdiction over an out of state physician. The matter was remanded to the district court for a determination as to whether personal jurisdiction over the out of state physician can be established based on the relationship of the physician with a NM Health Plan. The patients in that action were referred to the physician by the NM plan, the physician was not licensed in NM and the procedure giving rise to the action occurred in Texas. SB 121 resolves the issue going forward.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The issue will be resolved by the courts.

AMENDMENTS

See, above significant issues. A more detailed description of what is meant by where the service is rendered.