



## Stabilize the Practice of Medicine in New Mexico

### Amend the Medical Practice Act: Support HB 188 and SB 213

#### Background

In late 2009, the NM Division of Insurance issued a memorandum stating concerns over medical corporations qualifying for coverage under the Medical Malpractice Act. In this memorandum, the Division of Insurance stated that it would no longer accept contributions to the Patient Compensation Fund submitted on behalf of corporations after December 31, 2009, effectively eliminating coverage for those corporations after that date.

In light of this memorandum, several legal actions were filed on behalf of physicians, including a temporary restraining order (TRO), in an effort to preserve the medical malpractice coverage environment available to physicians and their corporations for the past 34 years.

The Division of Insurance's primary reason for taking this action is its recent interpretation of the long-standing language in the New Mexico Medical Malpractice Act that there is a lack of proper licensure or certification for physician corporations.

To address all concerns raised by the Division of Insurance, House Bill 188 and Senate Bill 213 seek to grant physician corporation licensure and regulation to the NM Medical Board, the same body charged with the licensure and regulation of individual physicians.

#### Situation Now

HB 188 and SB 213 add licensure and regulation to medical corporations, protect physicians and maintain access to medical care.

Failure to pass HB 188 and SB 213 would adversely impact both the cost of and access to health care in New Mexico. Denying physician corporations the ability to participate under the Medical Malpractice Act would result in an environment where corporations are subject to uncapped damages, causing significant and exponential expense and risk to physicians and their corporations.

#### Desired Outcome

A vote FOR HB 188 and SB 213 this session is a vote FOR affordable and available health care in New Mexico.

## Key Facts

- Almost 80 percent of all physicians in New Mexico operate their medical practices as a medical corporation.
- Resolving this issue immediately is essential to give practicing physicians peace of mind that the current practice environment will remain unchanged, allowing them to focus on patient care, not business problems.
- The Medical Practice Act gives the sole licensing authority for physicians to the New Mexico Medical Board; this licensing authority would be extended to medical corporations with the passage of these bills.
- Inferior claims-made insurance policies would replace occurrence policies, which are required under the Medical Malpractice Act. Occurrence policies benefit physicians in the long term, whereas claims-made policies offer less long-term physician protection and are more favored by insurance companies.
- Uncapped corporate malpractice liability will make New Mexico an unattractive environment to practice medicine, further hampering the State's efforts to recruit and retain qualified physicians.

