



Administrative Office of the Courts

FOR IMMEDIATE RELEASE

June 8, 2026

Supreme Court clarifies scope of New Mexico's malpractice law

SANTA FE – The state Supreme Court ruled today that New Mexico's medical malpractice law applies to Lovelace Health System for vicarious liability claims seeking to hold it responsible for the alleged malpractice of nurse employees in caring for a woman who died after surgery.

The Court unanimously concluded that Lovelace was entitled to the benefits of the Medical Malpractice Act for vicarious liability claims based on malpractice under the MMA because it was a qualified health care provider (QHP) under the statute. The MMA includes a cap on certain types of damages.

“We hold that the plain language of the MMA demonstrates that the Act covers vicarious liability claims against QHPs based on the acts of a nurse employee who commits malpractice under the Act,” the Court stated in an opinion written by Justice David K. Thomson.

Today's opinion came in a malpractice lawsuit in which a trial is on hold pending the outcome of Lovelace's appeal over whether the MMA's provisions apply to claims against QHP hospitals for the alleged negligence of its employees and agents.

The case stemmed from the death of Pamela Smith in April 2021, after undergoing surgery at Lovelace Medical Center in Albuquerque. Her estate brought direct negligence claims against Lovelace and vicarious liability claims based on the alleged malpractice of the hospital's registered nurses who provided care for Smith. Under the legal principle of vicarious liability, an employer can be held responsible for the negligence of its employees.

The district court in Santa Fe County concluded that the MMA did not apply to the vicarious liability claims for malpractice brought against Lovelace for its employed registered nurses because they could not become QHPs under the law. Lovelace appealed.

The parties in the case did not dispute that the MMA explicitly limited its benefits, including the damages cap, to a list of health care providers – ranging from doctors of medicine to chiropractors, nurse anesthetists, and physician's assistants – who take steps to become qualified providers. At the time of Smith's death, the malpractice law did not expressly include registered nurses as “health care providers.” Lovelace argued that the law's definition of a “malpractice claim” entitled it to the MMA's benefits for the conduct of its non-QHP registered nurses.

The Court agreed, reasoning that the law “is quite broad in its definition of malpractice claims covered under the Act and encompasses vicarious liability claims where the agent’s actions fall within the scope of that definition.”

Section 41-5-3(C) of the MMA defines a malpractice claim as “any cause of action arising in this state against a health care provider for medical treatment, lack of medical treatment or other claimed departure from accepted standards of health care which proximately results in injury to the patient, whether the patient’s claim or cause of action sounds in tort or contract, and includes but is not limited to actions based on battery or wrongful death.”

The Court rejected arguments by Smith’s estate that only actions of a QHP could be considered a malpractice claim under the MMA. The justices reasoned that although “malpractice claims must be brought *against* a QHP, nothing in the language of the statute indicates that *only* those providers” listed in the law’s definitions can commit malpractice under the MMA.

“While vicarious liability is a form of derivative liability rooted in the actions of an agent, who might not be a QHP, if the agent’s actions constitute the kinds of malfeasance covered under Section 41-5-3(C) *and* the claim is against a principal that is a QHP, the QHP principal is entitled to the MMA’s protections,” the Court wrote.

###

To read the decision in *Ferlic v. Lovelace Health Sys., LLC.*, No. S-1-SC-40580, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/538304/index.do>