

**PROPOSED REVISIONS TO THE RULES OF EVIDENCE  
PROPOSAL 2026-022**

**March 6, 2026**

The Rules of Evidence Committee has recommended amendments to Rule 11-901 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's website at <https://supremecourt.nmcourts.gov/rules-forms-files/rules-forms/open-for-comment/> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court  
New Mexico Supreme Court  
P.O. Box 848  
Santa Fe, New Mexico 87504-0848  
rules.supremecourt@nmcourts.gov  
505-827-4837 (fax)

**Your comments must be received by the Clerk on or before April 5, 2026**, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

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**11-901. Requirement of authentication or identification.**

A. **In general.** To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.

B. **Examples.** The following are examples only – not a complete list – of evidence that satisfies the requirement:

(1) **Testimony of a witness with knowledge.** Testimony that an item is what it is claimed to be.

(2) **Nonexpert opinion about handwriting.** A nonexpert's opinion that handwriting is genuine, based on a familiarity with it that was not acquired for the current litigation.

(3) **Comparison by an expert witness or the trier of fact.** A comparison with an authenticated specimen by an expert witness or the trier of fact.

(4) **Distinctive characteristics and the like.** The appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, taken together with all the circumstances.

(5) **Opinion about a voice.** An opinion identifying a person's voice – whether heard firsthand or through mechanical or electronic transmission or recording – based on hearing the voice at any time under circumstances that connect it with the alleged speaker.

(6) **Evidence about a telephone conversation.** For a telephone conversation, evidence that a call was made to the number assigned at the time to:

- (a) a particular person, if circumstances, including self-identification, show that the person answering was the one called, or
- (b) a particular business, if the call was made to a business and the call related to business reasonably transacted over the telephone.

(7) **Evidence about public records.** Evidence that

- (a) a document was recorded or filed in a public office as authorized by law, or
- (b) a purported public record or statement is from the office where items of this kind are kept.

(8) **Evidence about ancient documents or data compilations.** For a document or data compilation, evidence that it

- (a) is in a condition that creates no suspicion about its authenticity,
- (b) was in a place where, if authentic, it would likely be, and
- (c) is at least twenty (20) years old when offered.

(9) **Evidence about a process or system.** Evidence describing a process or system and showing that it produces an accurate result.

(10) **Methods provided by a statute or rule.** Any method of authentication or identification allowed by a statute or a rule prescribed by the Supreme Court.

**C. Authenticity and reasonableness of medical bills; necessity of medical services rendered; presumption.**

(1) For the purposes of this rule, “Medical Bill” means any statement of charges, an invoice, or any other form prepared by a health care provider or its agent, or third-party agent, identifying the amounts charged for health care goods and services provided to a person.

(2) In any civil action, the authenticity of a Medical Bill, and the reasonable and customary nature of the amounts charged, shall be rebuttably presumed upon identification by the plaintiff of the original Medical Bill, or a copy of the original Medical Bill. The presumption herein shall not apply unless the opposing party has been provided such Medical Bill at least thirty (30) days prior to the trial.

(3) In any civil action, the necessity of health care goods and services provided to a person shall be rebuttably presumed upon testimony:

- (a) identifying the health care provider who provided the health care goods and services, and
- (b) describing the health care goods and services rendered.

[As amended by Supreme Court Order No. 12-8300-015, effective for all cases pending or filed on or after June 16, 2012; amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

**Committee commentary.** — The language of Rule 11-901 NMRA was amended in 2012 to be consistent with the restyling of the Federal Rules of Evidence, effective December 1, 2011, to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on admissibility.

[As amended by Supreme Court Order No. 12-8300-015, effective for all cases pending or filed on or after June 16, 2012.]



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Fri, Mar 6, 2026 at 12:29 PM

Reply-To: noreply@nmcourts.gov

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**Proposal Number** 2026-022

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**Comment** Parties utilize superior economic power to discourage less affluent litigants. Lately, i have experienced this when asking opposing counsel to stipulate to the authenticity of medical bills and records and they have refused. The process of authenticating medical bills and records then become costly and further delays justice. The proposed changes help eliminate those issues and will serve the interests of judicial economy. Accordingly, I urge the Supreme Court to adopt the proposed Rule changes.

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New Mexico  
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Fri, Mar 6, 2026 at 3:34 PM

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**Proposal Number** 2026-022

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**Comment** Needing an expert to testify to reasonable, necessary, and causally related medical billing as determined by Segura v. K-Mart Corp., 2003-NMCA-013, ¶ 26, 133 N.M. 192 should be a requirement. In practice, medical billing is not always reasonable, necessary, and causally related and the Court must keep the requirement that an expert is required to provide such testimony. Changing this rule will increase costs of litigation and insurance if all medical billing is to be believed.

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New Mexico Courts

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1 message

**Supreme Court** <noreply@nmcourts.gov>

Mon, Mar 9, 2026 at 4:23 PM

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**Proposal Number** Proposal 2026-022

**Comment** Plaintiff bears the burden of proof on all issues of liability and damages. Proposal 2026-022 shifts the burden on medical damages to Defendants and establishes Plaintiff's alleged damages without proof of same. The rule improperly favors Plaintiffs and shifts the burden of proof on medical damages. As an example, a rule that medical expenses are deemed unreasonable and unnecessary would likewise be improper. The Court should not burden shift using rules and instead require all evidence of reasonableness and necessity established at the time of trial in accordance with the Plaintiff's ordinary burden of proof.



New Mexico Courts

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1 message

Supreme Court <noreply@nmcourts.gov>

Fri, Mar 13, 2026 at 12:41 PM

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Proposal Number 2026-022 Medical Billing

Comment The rules are finally catching up with reality. In Scott v. Transwestern Tankers. Inc., the New Mexico Supreme Court considered an argument regarding how a plaintiff can prove the reasonableness of a medical bill for which recovery is sought. Scott v. Transwestern Tankers, Inc., 1963-NMSC-205, ¶8, 73 N.M. 219, 387 P. 2d 327. The defense argued that the plaintiff did not offer "proof of the reasonableness of the medical services" reflected in a medial bill presented at trial. Id. And while Transwestern is a workers compensation case, the New Mexico Supreme court stated "[w]hile there is respectable authority to the effect that the burden is on a claimant to show the reasonableness of the services of a doctor,... we note even in personal injury actions in some jurisdictions proof of a bill from a doctor for services rendered is considered sufficient as prima facie proof of reasonableness." Id ¶8. The rebuttable presumption is a good compromise. If someone thinks they are not reasonable or necessary then they can certainly put on evidence to dispute them. Bravo New Mexico and its hard working committees for decreasing unnecessary litigation.