

**NEW  
MEXICO  
REGISTER**



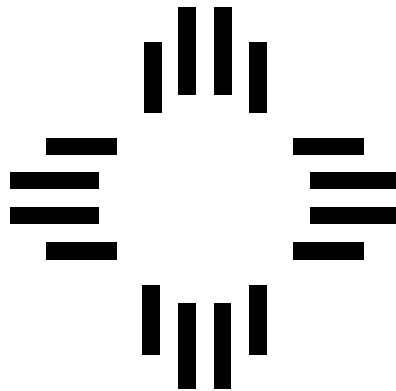
Volume XVI  
Issue Number 7  
April 14, 2005



# **New Mexico Register**

**Volume XVI, Issue Number 7**

**April 14, 2005**



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

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Administrative Law Division  
Santa Fe, New Mexico  
2005

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# New Mexico Register

Volume XVI, Number 7

April 14, 2005

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### Adopted Rules

#### Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. "No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register." Section 14-4-5 NMSA 1978.

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The *New Mexico Register* is available free at <http://www.nmcpr.state.nm.us/nmregister>

## Notices of Rulemaking and Proposed Rules

### NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

#### NOTICE

The New Mexico Human Services Department (HSD) will hold 3 separate public hearings on May 13, 2005, at the New Mexico State Library, Room 2022 (1205 Camino Carlos Rey), Santa Fe, New Mexico.

**From 9:00-10:00 a.m. the subject of the hearing will be Transportation Services.**

The Human Services Department will administer some transportation services through a transportation contractor effective July 1, 2005. The policy has been revised to include provision of transportation services by the transportation contractor. Administration services previously provided by the Income Support Division have been deleted from the proposed policy because the services will also be administered by the transportation contractor. Client Medical Transportation Services, MAD-605, will be repealed from the Medical Assistance Division Program Policy Manual. Specific policy statements have been incorporated into the proposed Transportation Services policy revisions. The proposed revisions are reflected in 8.324.7 NMAC of the Medical Assistance Program Manual.

**From 10:30-11:30 a.m. the subject of the hearing will be Home & Community-Based Waiver Services.**

The Human Services Department is proposing to include language that adds the Aging and Long Term Services Department to the list of agencies that are responsible for the development and implementation of the home and community-based waiver services program. In addition, the proposed regulations increase the number of days from sixty (60) to ninety (90) in which an eligibility determination must be made and clarifies language pertaining to benefit determination and initial benefits. The proposed revisions are reflected in 8.290.400.9 NMAC and 8.290.600.10 NMAC of the Medical Assistance Program Manual.

**From 1:30-3:00 p.m. the subject of the hearing will be Pharmacy Services.**

The New Mexico Human Services Department is proposing to revise the Medicaid program policy related to pharmacy services. The intent of the proposed regulation is to clarify that pharmacies may need to bill claims to various pharmacy benefit managers (PBMs) or coordinated service contractor

designated by the Medical Assistance Division. Specifically, beginning July 1, 2005, it is anticipated that pharmacy claims will be submitted to a single entity contracted by the Department to manage behavioral health services. Also the term "physician" is being changed to "practitioner" when appropriate to accommodate other providers authorized to prescribe under state law. The proposed revisions are reflected in 8.324.4 NMAC of the Medical Assistance Program Manual.

Interested persons may submit written comments no later than 5:00 p.m., May 13, 2005, to Pamela S. Hyde, J.D., Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the Division toll free at 1-888-997-2583 and ask for extension 7-3156. In Santa Fe call 827-3156. If you are hearing impaired, you may call the Department's TDD system at 1-800-659-8331. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review on our Website at [www.state.nm.us/hsd/mad.html](http://www.state.nm.us/hsd/mad.html) or by sending a *self-addressed stamped envelope* to Medical Assistance Division, Program Oversight & Support Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

### NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

#### NOTICE

The New Mexico Human Services Department (HSD) will hold 2 separate public hearings on May 16, 2005.

**At 9:00 a.m. a hearing on Medicaid Managed Care will be held in Mabry Hall, State Education Building (corner of West DeVargas and Don Gaspar), Santa Fe, New Mexico.**

The Medical Assistance Division is proposing amendments to the Medicaid managed care policy for the purpose of incorporating program changes related to the transitioning of the delivery of Medicaid behavioral health services from the managed care organizations to a single

statewide entity (SE), and in preparation for implementation of new Salud! managed care contracts effective July 1, 2005. The proposed revisions are reflected in 8.305 NMAC of the Medical Assistance Program Manual.

**At 1:30 p.m. a hearing on State Coverage Initiative (SCI) will be held in the Yucca Room (2022) at the New Mexico State Library (1205 Camino Carlos Rey), Santa Fe, New Mexico.**

The State Coverage Initiative (SCI) is a unique private/public partnership developed and implemented with a grant through the Robert Wood Johnson foundation and approved by the federal government through a Health Insurance Flexibility and Accountability (HIFA) waiver. This initiative endeavors to address New Mexico's high rate of uninsured and low rate of employer-sponsored health care. SCI offers affordable health care to low income-working adults through an employer based managed care system in conjunction with the state that assists small employers and their employees to purchase health care coverage with state and federal subsidies. The proposed revisions will be reflected in new Chapters, 8.306 NMAC and 8.262 NMAC. Amendments will be made to 8.200.400 NMAC, 8.200.430 NMAC, and 8.305.4 NMAC of the Medical Assistance Program Manual.

Interested persons may submit written comments no later than 5:00 p.m., May 16, 2005, to Pamela S. Hyde, J.D., Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the Division toll free at 1-888-997-2583 and ask for extension 7-3156. In Santa Fe call 827-3156. If you are hearing impaired, you may call the Department's TDD system at 1-800-659-8331. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review on our Website at [www.state.nm.us/hsd/mad.html](http://www.state.nm.us/hsd/mad.html) or by sending a *self-addressed stamped envelope* to Medical Assistance Division, Program Oversight & Support Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

**NEW MEXICO  
INFORMATION  
TECHNOLOGY  
COMMISSION**

STATE OF NEW MEXICO  
INFORMATION TECHNOLOGY COM-  
MISSION

IN THE MATTER OF ADOPTING  
1.12.11 NMAC,  
ENTERPRISE ARCHITECTURE

NOTICE OF PROPOSED RULEMAK-  
ING AND PROCEDURAL ORDER

**I. SOLICITATION OF COMMENTS**

The Information Technology Commission (Commission) issues this Notice of Proposed Rulemaking to provide an opportunity for public comment and to create a record for a decision on a proposed new rule: 1.12.11 NMAC, Enterprise Architecture. The Commission requests written comments from all interested persons and entities on the proposed new rule.

All relevant and timely comments, including data, views, or arguments, will be considered by the Commission. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, providing that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Order issued by the Commission.

**II. ORDER**

IT IS THEREFORE ORDERED that this Notice of Proposed Rulemaking and Procedural Order be issued.

IT IS FURTHER ORDERED that all interested parties may file written comments on the proposed rule on or before May 9, 2005. All relevant and timely comments, including data, views, or arguments will be considered by the Commission before final action is taken in this proceeding. Written comments must be filed prior to the deadline for receipt of comments either in hard copy with the Chief Information Officer, Office of the Chief Information Officer, 404 Montezuma, Santa Fe, NM 87501 or by electronic mail to the Chief Information Officer at [cio@state.nm.us](mailto:cio@state.nm.us). The rule number must appear on each submittal. Comments will be available for public inspection during regular business hours in the Office of the Chief Information Officer,

404 Montezuma, Santa Fe, NM 87501.

PLEASE BE ADVISED THAT the New Mexico Lobbyist Regulation Act, Sections 2-11-1 *et seq* NMSA 1978, regulates lobbying activities before state agencies, officers, boards and commissions in rulemaking and other policy-making proceedings. A person who is a lobbyist must register with the Secretary of State if the person is paid or employed to do lobbying or the person represents an interest group and attempts to influence a state agency, officer, board or commission while it is engaged in any formal process to adopt a rule, regulation, standard or policy of general application. An individual who appears for himself or herself is not a lobbyist and does not need to register. The law provides penalties for violations of its provisions. For more information and registration forms, contact the Secretary of State's Office, State Capitol Building, Room 420, Santa Fe, NM 87503, (505) 827-3600.

IT IS FURTHER ORDERED that the Commission may require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller record and a more efficient proceeding.

IT IS FURTHER ORDERED that staff of the Office of the Chief Information Officer shall cause a copy of this Notice to be published once in the *New Mexico Register*, once in the *Albuquerque Journal*, and to be posted to the Internet at <http://www.cio.state.nm.us> all on or before April 14, 2005. To obtain a copy of the proposed rule: (1) send the rule name, rule number, and a self-addressed envelope to the Office of the Chief Information Officer, 404 Montezuma, Santa Fe, NM 87501; (2) call the Office of the Chief Information Officer at 505-476-0400 with the rule name and rule number; e-mail the Chief Information Officer at [cio@state.nm.us](mailto:cio@state.nm.us) with the rule name and rule number (you will receive a copy of the rule in Microsoft WORD format by return e-mail); or download the proposed rule from the Internet at <http://www.cio.state.nm.us>. The proposed rule is also available for inspection and copying during regular business hours in the Office of the Chief Information Officer, 404 Montezuma, Santa Fe, NM 87501.

PLEASE BE ADVISED THAT individuals with a disability who are in need of summaries or other types of accessible forms of the proposed rule or comments may contact the Chief Information Officer at (505)476-0400.

DONE, this 22nd day of March, 2005.

INFORMATION TECHNOLOGY COM-  
MISSION

By: Carroll Cagle, Chair

**NEW MEXICO BOARD OF  
PSYCHOLOGIST  
EXAMINERS**

**Legal Notice**

Notice is hereby given that the New Mexico Board of Psychologist Examiners will convene a Rule Hearing to amend the following rules:

- \* Amend Part 7
- \* Amend Part 12
- \* Amend Part 13

The Rule Hearing will be held at TVI Workforce Training Center, 5600 Eagle Rock Ave. NE, Room 101 Albuquerque New Mexico at 9:00 a.m. on May 18, 2005

The Board will consider adoption of the rules and regulations after May 18, 2005. Copies of the proposed rules are available on request from the Board office, P. O. Box 25101, Santa Fe, New Mexico, 87504-5101, telephone (505) 476-4657 or 476-4607 and the Board's website at [www.rld.state.nm.us](http://www.rld.state.nm.us).

Anyone wishing to present their views on the proposed rules may appear in person at the Hearing, or may send written comments to the Board office. Written comments must be received by May 13, 2005 to allow time for distribution to the Board members.

Disabled members of the public who wish to attend the meeting or hearing and are in need of reasonable accommodations for their disabilities should contact the Board office at (505) 476-4657, no later than May 13, 2005.

**End of Notices and  
Proposed Rules Section**



## Adopted Rules

### NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT FAMILY SERVICES DIVISION

Explanatory paragraph: This is an amendment to 7.20.11 NMAC, Sections 7, 9, 17, 22 and 32, effective April 14, 2005. The purpose of the amendment is to remove certification requirements for home-based services in Subsection BF of 7.20.11.7 NMAC; Paragraph (1) of Subsection A of 7.20.11.9 NMAC; Subsection B of 7.20.11.17 NMAC and Subparagraph (b) of Paragraph (3) of Section C of 7.20.11.22 NMAC. Section 32, Home-Based Services is repealed in its entirety.

#### 7.20.11.7 DEFINITIONS:

BF. ~~[HOME BASED SERVICES (HBS) means a program, operated pursuant to these certification requirements, that provides services in family homes and/or other community settings in order to enhance mental/behavioral functioning of clients.]~~ [Reserved]  
[7.20.11.7 NMAC - Rp 7 NMAC 20.11.7, 03/29/02; A, 04/14/05]

#### 7.20.11.9 ISSUANCE OF CERTIFICATION:

A. Application for initial certification:

(1) Applications for the initial certification of a new program offering case management services, behavior management skills development services, day treatment services, group home services, ~~[home-based services,]~~ all residential treatment services, or treatment foster care services are submitted to the LCA for review and approval. The application for initial certification of a program includes, but is not limited to, the following:

(a) a letter of intent naming the service for which the agency is requesting initial certification and describing how and where the proposed service will be delivered.

(b) policies and procedures showing that the agency complies with both the general provisions and the service-specific requirements of the program for which the agency is requesting initial certification; and an index that references each policy and procedure by the applicable certification requirement that the policy is designed to meet.

(c) job descriptions, required qualifications, resumes, current licenses, proof of credentials, and criminal records clearances for professional staff;

(d) job descriptions, required

qualifications and criminal records clearances for direct service staff; and

(e) a complete set of the forms that will be used to document the services being provided.

[7.20.11.9 NMAC - Rp 7 NMAC 20.11.9, 03/29/02; A, 04/14/05]

#### 7.20.11.17 ALLEGATIONS OF ABUSE/NEGLECT, COMPLAINTS, AND SERIOUS INCIDENT REPORTING:

B. The agency reports all serious incidents to the LCA by fax within 24 hours of any staff member becoming aware of the incident or allegation of incident. Incidents involving minor illnesses or injuries not requiring emergency services do not need to be reported to the LCA. Day treatment services, ~~[home-based services,]~~ case management services, and behavioral management skills development services are not required to report serious incidents that do not occur during program hours, with the exception that all deaths must be reported.

[7.20.11.17 NMAC - N, 03/29/02; A, 04/14/05]

#### 7.20.11.22 CLIENT PARTICIPATION, PROTECTION, AND CASE REVIEW:

C. The agency explains to each client what his or her legal rights are in a manner consistent with the client's ability to understand and makes this information available to the client in writing, or in any other medium appropriate to the client's level of development. A written explanation of these rights is given to the parent/legal guardian upon admission.

(3) The agency specifies in written policies and procedures the conditions under which it serves minors without parental/legal guardian consent, and when parental/legal guardian consent is not possible, designates who is authorized to give consent to treat the minor.

(a) The client record contains all applicable consents for treatment, including consent for emergency medical treatment and informed consent for prescription medication.

(b) Exception: Day treatment services, ~~[home-based services,]~~ behavioral management skills development services and case management services programs are not required to file consents for prescription medications that are not taken during program hours unless the medications are prescribed by a program physician.

(c) Consent forms must contain the information identifying the specific treatment, prescription medication, infor-

mation release, or event for which consent is being given prior to being signed by a client or guardian.

[7.20.11.22 NMAC - Rp 7 NMAC 20.11.22, 03/29/02; A, 04/14/05]

#### 7.20.11.32 ~~[HOME BASED SERVICES:~~

~~A. Home-based services are provided to clients and their families for the purpose of strengthening and preserving families. Services are designed to provide for improved mental/behavioral functioning, to address conditions likely to lead to more restrictive care, and/or to provide a transition from a more restrictive level of care. Services are provided primarily in family homes and/or other community settings, and are delivered by a team including licensed professionals and trained paraprofessionals. Home-based services are provided in accordance with the general provisions of these certification requirements, as applicable.~~

~~B. Policies and procedures. The agency's policies and procedures include the following: a written, clinically-based model for its service interventions; a theoretical framework for the overall program; provision for interventions that include center-based, in-home, and community-based services, as indicated by client and family needs; and provision for services designed to empower clients and families to solve problems, identify and access community resources, and increase self-sufficiency.~~

~~(1) The policies and procedures establish the basis for accepting or rejecting clients, resolving communication difficulties and disagreements specific to clients, and assigning supervisory responsibilities.~~

~~(2) The policies and procedures include: a written safety plan, including specific communication practices, for personnel in the field, and provisions for addressing the special needs of employees related to the nature and intensity of the work.~~

~~(3) Policies or procedures with regard to personnel management and working hours are designed to provide for the following: 24 hour client access to the agency or to a cooperating crisis service; effective response by practitioners to client crises; practices designed to use crises as opportunities for family growth and change; availability of service resources at times that reasonably accommodate clients' and families' schedules, including on weekends and evenings; and adjustment of work hours in response to caseload demands~~

~~C. Personnel training, supervision, and caseloads: The agency~~

seeks and hires personnel who reflect the cultural characteristics of the client population, and establishes realistic expectations regarding the nature of the employees' responsibilities and working conditions. When the agency provides a team delivered service, it establishes role definitions and procedures for cooperative and efficient teamwork to support its personnel.

(1) Services are provided under the supervision of a clinical director who possesses one of the following: New Mexico licenses; physician (physicians must be board certified in psychiatry or eligible to attain such certification), psychologist, licensed independent social worker (LISW), licensed master social worker (LMSW), clinical nurse specialist in child psychiatric nursing, registered nurse (RN) with a master's degree in psychiatric nursing, licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), or licensed independent school psychologist; and who has a minimum of two years of documented experience in clinical practice with children, adolescents and families.

(2) The team includes one or more licensed practitioners who possess a master's degree in social work or a related human services field, and at least two years of experience in family and children's services, and/or a bachelor's degree in social work or a related human service field and at least three years' post degree experience in family and children's services.

(3) The team may include one or more paraprofessional practitioners who possess a high school diploma or GED and five years of direct service experience in family and children's services. Paraprofessionals may not provide services that require professional licensure.

(4) Prior to working with families without direct supervision of a fully trained practitioner, direct service providers/practitioners must receive a minimum of 30 hours of training in the following areas: the program's clinical model; family dynamics; child, adult, and family development; stress management for families and practitioners; communication and conflict resolution skills; crisis intervention; mandated reporting of suspected abuse and neglect; ethnic/cultural proficiency and responsiveness; practitioner boundaries; and the needs of children/adolescents and adults with the following conditions: mental/behavioral disorders; history of abuse, neglect, and/or exploitation; physical challenges/disabilities; developmental disabilities; and substance abuse/dependence.

(5) Each practitioner receives training in the following areas, when indicated by the needs of the client population, and when the practitioner does not possess specific related experience/training: family

systems theory; behavioral theory; behavior management; cognitive restructuring techniques; assessment of risk; assessment; treatment planning; engaging reluctant family members; defusing violent situations; family empowerment; life skills; parenting skills; community resources; family focused counseling skills; other interventions designed to address the assessed needs of the client population; roles and functions of community organizations; assessing financial and other concrete resources; applicable portions of the New Mexico Children's Code; the criminal justice system and the juvenile justice system; unemployment and employment resources; housing resources; and other community resources.

(6) The agency trains its practitioners in risk management, including personal safety measures and communication procedures, self defense, and safety for clients, including requirements for transporting persons served such as accident procedures and seat belt/car seat requirements.

(7) Agency policies and procedures provide that personnel with requisite knowledge and experience may be exempted from specific training when justification for the exemption is documented by the clinical director in the employee's personnel record.

(8) Agency policies and procedures provide for a specified amount of experiential training prior to independent delivery of service, based on a documented assessment of the individual practitioner's experience and previous training.

(9) Supervision is provided and documented by a licensed independent practitioner with two years of post master's degree experience with the treatment population, and consists of individual and/or group supervision; or is conducted and documented in self directed teams consisting of licensed staff under the guidance of the clinical director.

(10) Supervisors ensure that service delivery is performed according to and within the mission, policies, procedures, and treatment model of the agency.

(11) Practitioners who are not qualified by a master's degree receive documented supervision and support in accordance with a written supervision plan that reflects their individual experience, training, and needs; such support may include the opportunity to work in a team relationship with a more experienced practitioner for a probationary period.

(12) Practitioners who are not qualified by a master's degree receive a minimum of four hours per month of supervision; those qualified by a master's degree receive a minimum of two hours per month, except Licensed Independent Practitioners, who receive a minimum of one hour per

month. Minimum supervision times are increased when indicated by client need, symptom difficulty, employee stress, or other relevant factors.

(13) Each full time equivalent supervisor is responsible for no more than eight practitioners or teams; the supervisory load is reduced when indicated based on the number of clients supervised, experience of practitioners, geographic distances, size of teams, and/or other relevant factors. Supervisory loads are documented at least monthly.

(14) Employee supervision includes regular monitoring and measures for prevention of burn out.

(15) All supervision activities are documented in the supervisee's personnel record; documentation includes the date, time, and duration of supervision, persons present, and topics and cases discussed.

(16) Practitioner caseloads are based, in part, on the assessed needs of client and the projected duration and intensity of service, are limited to a maximum of 12 clients per direct service provider and are reduced when there are known health and safety risk(s) including, but not limited to suicide, homicide, self harm, assault, failure to thrive, severe neglect, or unusual medical risks. Practitioner caseloads are monitored by the supervisor, and are documented at least monthly.

D. Service delivery: Home based services provide flexibility with regard to length and availability of service, based on assessed client needs. The following service elements are documented in the client record.

(1) After the initial referral, the agency obtains permission from the parent/guardian to meet in the home to conduct an evaluation of risk factors to the children, family members, and practitioner; to determine whether the service is appropriate for the family; and to discuss the potential benefits of the service with the children and family members. Agency response to referrals is appropriate to the urgency of the known needs of potential clients. Initial contact occurs within two business days of the referral; exceptions justified in the record. When the agency is unable to make contact within its procedural guidelines, its efforts to do so are documented.

(2) Counseling and other services are provided to promote the safety of the child/adolescent, the family, and community members, and to prevent unnecessary out of home placement or hospitalization.

(3) A wide variety of service options is available, and are offered and planned in accordance with clients' assessed needs. These include:

(a) education, teaching and/or modeling of skills in the following areas: parenting, child care, communication,

household management, and/or other needed skills;

(b) the provision of specific services;

(c) advocacy and other networking and supportive activities on behalf of clients/families; and

(d) follow up at specified points after case closing to determine whether additional services are needed.

(4) Financial and other concrete resources are made available by the agency either directly or through arrangement with other community agencies.

(5) When indicated, the agency teaches families to advocate for themselves and to identify and use community resources.

(6) The agency monitors service delivery to make sure that the service maintains a home based focus and that families are seen in their environment of choice.

(7) In addition to the functions described below, intake, assessment, treatment planning, and discharge planning are provided in accordance with Section 23 of these requirements. All activities related to these functions are promptly documented in the client record.

(8) The organization continually assesses the risk to the child, family, and community, evaluates impediments to service, and ensures that appropriate services are being provided.

(9) Treatment planning includes a specific estimated length of service; the estimate is regularly reviewed and updated; and changes are justified in the client record.

(10) Treatment planning is conducted by means of a collaborative team approach; the treatment plan delineates the role of each team member in carrying out the plan. The team considers the input of all team members and, where appropriate, that of collaborating organizations.

(11) The agency attempts to involve external agencies and entities, such as child protective services, juvenile justice personnel, and other service providers as applicable, in treatment planning, joint case conferences, and/or other means of coordinating services; all such communication is documented and summarized in treatment plan reviews.

(12) Each client or collateral contact is documented; documentation includes the date, and time of contact, and the purpose of the contact in relation to the treatment plan. When transportation is provided by agency personnel, the agency ensures that all vehicles are registered and legally insured, and that all drivers are currently licensed in New Mexico.

E. Outcome studies: The agency uses a child focused functional assessment instrument to measure specific

indicators at or near admission and at or near the end of each episode of service, as applicable. [Reserved]  
[7.20.11.32 NMAC - N, 03/29/02; Repealed 04/14/05]

## NEW MEXICO COMMISSION OF PUBLIC RECORDS

### Notice of Repeal

1.18.305 NMAC, Executive Records Retention and Disposition Schedule for the Office of the Attorney General, is being repealed and replaced with the new 1.18.305 NMAC, Executive Records Retention and Disposition Schedule for the Office of the Attorney General, effective May 2, 2005. 1.18.404 NMAC, Executive Records Retention and Disposition Schedule for the Board of Examiners for Architects, is being repealed and replaced with the new 1.18.404 NMAC, Executive Records Retention and Disposition Schedule for the Board of Examiners for Architects, effective May 2, 2005. 1.18.460 NMAC, Executive Records Retention and Disposition Schedule for the State Fair Commission, is being repealed and replaced with the new 1.18.460 NMAC, Executive Records Retention and Disposition Schedule for the State Fair Commission, effective May 2, 2005. 1.18.479 NMAC, Executive Records Retention and Disposition Schedule for the Board of Veterinary Examiners, is being repealed and replaced with the new 1.18.479 NMAC, Executive Records Retention and Disposition Schedule for the Board of Veterinary Medicine, effective May 2, 2005. 1.18.690 NMAC, Executive Records Retention and Disposition Schedule for the Children, Youth, and Families Department, is being repealed and replaced with the new 1.18.690 NMAC, Executive Records Retention and Disposition Schedule for the Children, Youth, and Families Department, effective May 2, 2005. The New Mexico Commission of Public Records at their March 29, 2005 meeting repealed the current rules. The New Mexico Commission of Public Records at their March 29, 2005 meeting approved the new rules.

## NEW MEXICO COMMISSION OF PUBLIC RECORDS

March 29, 2005

Leo R. Lucero, Agency Analysis Bureau Chief  
NM Commission of Public Records  
1205 Camino Carlos Rey

Santa Fe, New Mexico 87505

Mr. Lucero:

You recently requested to publish a synopsis in lieu of publishing the full content of the following listed rules:

- \* 1.18.305 NMAC ERRDS, Office of the Attorney General;
- \* 1.18.404 NMAC ERRDS, Board of Examiners for Architects;
- \* 1.18.460 NMAC ERRDS, State Fair Commission;
- \* 1.18.479 NMAC ERRDS, Board of Veterinary Medicine;
- \* 1.18.505 NMAC ERRDS, Cultural Affairs Department; and
- \* 1.18.690 NMAC ERRDS, Children, Youth, and Families Department.

A review of these rules shows that their most impact is limited to the individual agencies to which they pertain, and they are "unduly cumbersome, expensive or otherwise inexpedient" to publish. Therefore, your request to publish a synopsis for each is approved.

Sincerely,

Sandra Jaramillo  
State Records Administrator

SJ/lrl

## NEW MEXICO COMMISSION OF PUBLIC RECORDS

### SYNOPSIS

#### 1.18.305 NMAC ERRDS, Office Of The Attorney General

**1. Subject matter:** 1.18.305 NMAC, Executive Records Retention and Disposition Schedule for the Office of the Attorney General. This rule is new and replaces 1.18.305 NMAC ERRDS, Office of the Attorney General, an outdated version that was filed on 6/21/2002. This records retention and disposition schedule is a timetable for the management of specific records series of the Office of the Attorney General. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention indicates the retention or length of time a record series must be maintained by the office as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the



Persons and entities normally subject to the rules and regulations of the State Fair Commission may also be directly or indirectly affected by this rule.

**3. Interests of persons affected:** Interests include the records produced and maintained by the State Fair Commission.

**4. Geographical applicability:** Geographical applicability is limited to areas within the State of New Mexico covered by the State Fair Commission. Any person or entity outside the covered geographical area that conducts business with or through the State Fair Commission may also be affected by this rule.

**5. Commercially published materials incorporated:** The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

**6. Telephone number and address of issuing agency:** New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87507. Telephone number: (505) 476-7900.

**7. Effective date of this rule:** May 2, 2005.

#### Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.460 NMAC ERRDS, State Fair Commission.

Roberta D. Joe                      Date  
Assistant Attorney General

## NEW MEXICO COMMISSION OF PUBLIC RECORDS

### SYNOPSIS

#### 1.18.479 NMAC ERRDS, Board of Veterinary Medicine

**1. Subject matter:** 1.18.479 NMAC, Executive Records Retention and Disposition Schedule for the Board of Veterinary Medicine. This rule is new and replaces 1.18.479 NMAC ERRDS, Board of Veterinary Examiners, an outdated version that was filed on 8/29/2001. This records retention and disposition schedule is a timetable for the management of specific records series of the Board of Veterinary Medicine. It describes each record series by record name, record function, record content, record filing system, record confiden-

tiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records, the Director of Board of Veterinary Medicine and the legal counsel for the Board of Veterinary Medicine.

**2. Persons affected:** The persons affected are the record producing and record keeping personnel of the Board of Veterinary Medicine. Persons and entities normally subject to the rules and regulations of the Board of Veterinary Medicine may also be directly or indirectly affected by this rule.

**3. Interests of persons affected:** Interests include the records produced and maintained by the Board of Veterinary Medicine.

**4. Geographical applicability:** Geographical applicability is limited to areas within the State of New Mexico covered by the Board of Veterinary Medicine. Any person or entity outside the covered geographical area that conducts business with or through the Board of Veterinary Medicine may also be affected by this rule.

**5. Commercially published materials incorporated:** The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

**6. Telephone number and address of issuing agency:** New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87507. Telephone number: (505) 476-7900.

**7. Effective date of this rule:** May 2, 2005.

#### Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.479 NMAC ERRDS, Board of Veterinary Medicine.

Roberta D. Joe                      Date  
Assistant Attorney General

## NEW MEXICO COMMISSION OF PUBLIC RECORDS

### SYNOPSIS

#### 1.18.690 NMAC ERRDS, Children, Youth, and Families Department

**1. Subject matter:** 1.18.690 NMAC, Executive Records Retention and Disposition Schedule for the Children, Youth, and Families Department. This rule is new and replaces 1.18.690 NMAC ERRDS, Children, Youth, and Families Department an outdated re-numbered version that was filed on 6/21/2002. This records retention and disposition schedule is a timetable for the management of specific records series of the Children, Youth, and Families Department. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records, the Children, Youth, and Families Department, and legal counsel of Children, Youth, and Families Department.

**2. Persons affected:** The persons affected are the record producing and record keeping personnel of the Children, Youth, and Families Department. Persons and entities normally subject to the rules and regulations of the Children, Youth, and Families Department may also be directly or indirectly affected by this rule.

**3. Interests of persons affected:** Interests include the records produced and maintained by the Children, Youth, and Families Department.

**4. Geographical applicability:** Geographical applicability is limited to areas within the State of New Mexico covered by the Children, Youth, and Families Department. Any person or entity outside the covered geographical area that conducts business with or through the Children, Youth, and Families Department may also be affected by this rule.

**5. Commercially published materials incorporated:** The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

**6. Telephone number and address of issuing agency:** New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

**7. Effective date of this rule:** May 02, 2005.

**Certification**

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.690 NMAC ERRDS, Children, Youth, and Families Department.

\_\_\_\_\_  
Roberta D. Joe Date  
Assistant Attorney General

**NEW MEXICO  
COMMISSION OF  
PUBLIC RECORDS**

**SYNOPSIS**

**1.18.505 NMAC ERRDS, Cultural Affairs Department**

**1. Subject matter:** 1.18.505 NMAC, Executive Records Retention and Disposition Schedule for the Cultural Affairs Department. Amendments to the Part name, Sections 1, 2, 3, 6, 7, 8, 9, 140 through 148, 161 through 166, 181 through 183, and 191 through 1.18.505.197 NMAC rules replace an outdated versions of 1.18.505 NMAC ERRDS, Office of Cultural Affairs that was filed on 8/29/2001. This records retention and disposition schedule is a timetable for the management of specific records series of the Cultural Affairs Department. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives and approved by the Cultural Affairs Department Cabinet Secretary, the

Commission of Public Records and the Legal Counsel for the Cultural Affairs Department.

**2. Persons affected:** The persons affected are the record producing and record keeping personnel of the Cultural Affairs Department. Persons and entities normally subject to the rules and regulations of the Cultural Affairs Department may also be directly or indirectly affected by this rule.

**3. Interests of persons affected:** Interests include the records produced and maintained by the Cultural Affairs Department.

**4. Geographical applicability:** Geographical applicability is limited to areas within the State of New Mexico covered by the Cultural Affairs Department. Any person or entity outside the covered geographical area that conducts business with or through the Cultural Affairs Department may also be affected by this rule.

**5. Commercially published materials incorporated:** The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

**6. Telephone number and address of issuing agency:** New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87507. Telephone number: (505) 476-7900.

**7. Effective date of this rule:** May 2, 2005.

**Certification**

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.505 NMAC ERRDS, Cultural Affairs Department.

\_\_\_\_\_  
Roberta D. Joe Date  
Assistant Attorney General

**NEW MEXICO PUBLIC  
REGULATION  
COMMISSION  
UTILITY DIVISION**

This is an amendment to 17.9.572 NMAC, Sections 6 and 10, effective April 15, 2005.

**17.9.572.6 OBJECTIVE:** The purpose of this rule is to implement the Renewable Energy Act, NMSA 1978 Section 62-16-1 et seq, and to bring signifi-

cant economic development and environmental benefits to New Mexico.

**17.9.572.10 RENEWABLE PORTFOLIO STANDARD:**

**A.** Each public utility must develop a reasonable cost renewable energy portfolio. In developing its renewable energy portfolio, a public utility shall take into consideration the potential for environmental and economic benefits to New Mexico. The portfolio shall be diversified as to type of renewable resource, taking into consideration the overall reliability, availability, dispatch flexibility and cost of the various renewable resources made available by providers and generators. Renewable energy resources that are in a public utility's electric energy supply portfolio on July 1, 2004 shall be counted in determining compliance with this rule. However, renewable energy sold to customers through a premium-priced renewable energy tariff shall not be counted in determining compliance with this rule. Other factors being equal, preference shall be given to renewable energy generated in New Mexico.

**B.** By January 1, 2006, the renewable portfolio standard shall be no less than five percent (5%) of annual retail jurisdictional energy sales for calendar year 2006, except as modified by Subsection C of this section. Thereafter, the renewable portfolio standard will increase by one percent (1%) per year for each year until the renewable portfolio standard of ten percent (10%) is attained for the calendar year 2011. Upon and after January 1, 2011, the renewable portfolio standard will remain fixed at ten percent (10%) of all retail jurisdictional energy sales.

**C.** The renewable portfolio standard will be reduced, as necessary, to limit the kilowatt-hours of renewable energy procured by a public utility for non-governmental customers at a single location or facility, regardless of the number of meters, with consumption exceeding ten million kilowatt-hours per year. A public utility shall limit the amount of its renewable portfolio standard so that the additional cost of the standard, inclusive of all interconnection and transmission costs, to each customer on and after January 1, 2006, does not exceed the lower of one percent of that customer's annual electric charges or forty-nine thousand dollars (\$49,000). This procurement limit will increase by one-fifth percent or ten thousand dollars (\$10,000) per year until January 1, 2011, when the procurement limit will remain fixed at the lower of two percent of that customer's annual electric charges or ninety-nine thousand dollars (\$99,000). After January 1, 2012, the commission may adjust the ninety-nine thousand dollar (\$99,000) limit for inflation.

**D.** In determining the amount of the reduction specified in ~~Paragraph~~ Subsection C of this section, a public utility shall assume that electric rates in effect on the day of the procurement plan filing will be in effect for the year during which the procurement reduction will apply. A public utility with a fuel and purchased power cost adjustment clause (FPPCAC) shall also assume that FPPCAC charges to the customer during the year immediately preceding its procurement plan filing will be in effect, in identical amounts, during the year for which the procurement reduction will apply.

**E.** A public utility that, as of July 1, 2004, has an all-requirements contract which would not reasonably permit it to procure renewable energy for purposes of meeting the renewable portfolio standard, may apply to be exempted from the renewable portfolio standard until the earlier of the date of their next contract forward or the first date on which the all-requirements contract is amended or renegotiated, at which time such public utility shall be subject to the renewable portfolio standard. A public utility seeking such exemption shall file with the commission a petition for exemption no later than January 31, 2005. The petition shall include a copy of the public utility's all-requirements contract as well as testimony and exhibits demonstrating that the public utility is unable, with due diligence, to procure renewable resources needed to meet the renewable portfolio standard. The public utility shall serve a copy of the petition on staff, the attorney general, and all parties to the public utility's last general rate case.

## NEW MEXICO RACING COMMISSION

Explanatory paragraph: This is an amendment to Subsections F, G and O of 15.2.7.12 NMAC, amending the calculation of payouts and distribution of the Pick Three Pools, the Pick (n) Pools and the Tri-Superfecta Pools and adjusting the numbering accordingly. Effective 04/14/2005.

### 15.2.7.12 CALCULATION OF PAYOUTS AND DISTRIBUTION OF POOLS:

#### **F. PICK THREE POOLS:**

(1) The pick three requires selections of the first-place finisher in each of three specified contests.

(2) The net pick three pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) as a single price pool to those whose selection finished first in each of the three contests; but if there are no such

wagers, then

(b) as a single price pool to those who selected the first-place finisher in any two of the three contests; but if there are no such wagers, then

(c) as a single price pool to those who selected the first-place finisher in any one of the three contest; but if there are no such wagers, then

(d) the entire pool shall be refunded on pick three wagers for those contests.

(3) If there is a dead heat for first in any of the three contests involving:

(a) contestants representing the same betting interest, the pick three pool shall be distributed as if no dead heat occurred;

(b) contestants representing two or more betting interests, the pick three pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

~~[(4) Should a betting interest in any of the three pick three contests be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.]~~

**(4) Where late scratches occur in the first leg, refund all monies for the combinations that include the scratched horse(s).**

**(5) Where late scratches occur in the middle and final legs, provide consolation payoffs to the bettors that have combined the scratched horse(s) with the winners in the other legs, similar to traditional procedures applied to late scratches in daily doubles.**

~~[(5)]~~ (6) If all three pick three contests are cancelled or declared "no contest"; the entire pool shall be refunded on pick three wagers for those contests.

~~[(6)]~~ (7) If one or two of the pick three contests are cancelled or declared "no contest", the pick three pool will remain valid and shall be distributed in accordance with Subsection F Paragraph (2) of 15.2.7 NMAC.

#### **G. PICK (n) POOLS:**

(1) The pick (n) requires selection of the first-place finisher in each of a designated number of contests. The association must obtain written approval from the commission concerning the scheduling of pick (n) contests, the designation of one of the

methods prescribed in Subsection G, Paragraph (2) of 15.2.7 NMAC, and the amount of any cap to be set on the carryover. Any changes to the approved pick (n) format require prior approval from the commission.

(2) The pick (n) pool shall be apportioned under one of the following methods:

(a) Method 1, pick (n) with carryover: The net pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order or finish; if there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; and the remainder shall be added to the carryover;

(b) Method 2, pick (n) with minor pool and carryover: The major share of the net pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish; the minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish; if there are no wagers selecting the first-place finisher of all pick (n) contests, the minor share of the net pick (n) pool shall be distributed as a single price pool to those who selected the first place finisher in the greatest number of pick (n) contests; and the major share shall be added to the carryover;

(c) Method 3, pick (n) with no minor pool and no carryover: The net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests, based upon the official order of finish; if there are no winning wagers, the pool is refunded;

(d) Method 4, pick (n) with minor pool and no carryover: The major share of the net pick (n) pool shall be distributed to those who selected the first place finisher in the greatest number of pick (n) contests, based upon the official order of finish; the minor share of the net pick (n) pool shall be distributed to those who selected the first place finisher in the second greatest number of pick (n) contests, based upon the official order of finish; if there are no wagers selecting the first-place finisher in a second greatest number of pick (n) contests, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; if the greatest number of first-place finishers selected is one (1), the major and minor shares are com-

bined for distribution as a single price pool; if there are no winning wagers, the pool is refunded;

(e) Method 5, pick (n) with minor pool and no carryover: The major share of net pick (n) pool shall be distributed to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish; the minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish; if there are no wagers selecting the first-place finisher in all pick (n) contests, the entire net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; if there are no wagers selecting the first-place finisher in a second greatest number of pick (n) contests, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the pick (n) contests; if there are no winning wagers, the pool is refunded.

(3) If there is a dead heat for first in any of the pick (n) contests involving:

(a) contestants representing the same betting interest, the pick (n) pool shall be distributed as if no dead heat occurred;

(b) contestants representing two or more betting interests, the pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

~~[(4) Should a betting interest in any of the pick (n) contest be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combinations.]~~

**(4) Where late scratches occur in the first leg, refund all monies for the combinations that include the scratched horse(s).**

**(5) Where late scratches occur after the running of the first leg, provide consolation payoffs to the bettors that have combined the scratched horse(s) with the winners in the other legs, similar to traditional procedures applied to late scratches in daily doubles.**

~~[(5)]~~ (6) The pick (n) pool shall be cancelled and all pick (n) wagers for the individual performance shall be refunded if:

(a) at least two contests included as part of a pick 3 are cancelled or declared "no contest";

(b) at least three contests included as part of a pick 4, pick 5 or pick 6 are cancelled or declared "no contest";

(c) at least four contests included as part of a pick 7, pick 8 or pick 9 are cancelled or declared "no contest";

(d) at least five contests included as part of a pick 10 are cancelled or declared "no contest".

~~[(6)]~~ (7) If at least one contest included as part of a pick (n) is cancelled or declared "no contest", but not more than the number specified in Subsection G Paragraph (5) of 15.2.7 NMAC, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the pick (n) carryover but not the carryover from previous performances.

~~[(7)]~~ (8) The pick (n) carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the pick (n) carryover equals or exceeds the designated cap, the pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of pick (n) contests for that performance.

~~[(8)]~~ (9) A written request for permission to distribute the pick (n) carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

~~[(9)]~~ (10) Should the pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) contests. The pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(a) upon written approval from the commission as provided in Subsection G Paragraph (8) of 15.2.7 NMAC of this section;

(b) upon written approval from the commission when there is a change in the carryover cap, a change from one type of pick (n) wagering to another, or when the pick (n) is discontinued;

(c) on the closing performance of the meet or split meet.

~~[(10)]~~ (11) If, for any reason, the pick (n) carryover must be held over to the corresponding pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The pick (n) carryover plus accrued interest shall then be added to the net pick (n) pool of the following meet on a date and performance so designated by the commission.

~~[(11)]~~ (12) With the written approval of the commission, the association may contribute to the pick (n) carryover a sum of money up to the amount of any designated cap.

~~[(12)]~~ (13) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalisator and parimutuel department employees for processing of pool data.

~~[(13)]~~ (14) The association may suspend previously approved pick (n) wagering with the prior approval of the commission. Any carryover shall be held until the suspended pick (n) wagering is reinstated. An association may request approval of a pick (n) wager or separate wagering pool for specific performances.

#### O. TRI-SUPERFECTA POOLS:

(1) The tri-superfecta requires selection of the first three finishers, in their exact order, in the first of two designated contests and the first four finishers, in exact order, in the second of the two designated contests. Each winning ticket for the first tri-superfecta contest must be ~~exchanged for a free~~ **cashed for an exchange** ticket on the second tri-superfecta contest in order to remain eligible for the second-half tri-superfecta pool. **The number of exchanges to be determined by the association with written approval of the commission.** Such tickets may be exchanged only at attended ticket windows prior to the second tri-superfecta contest. Winning first-half tri-superfecta tickets will receive both an exchange and a monetary payout. Both of the designated tri-superfecta contests shall be included in only one tri-superfecta pool.

(2) After wagering closes for the first half of the tri-superfecta and commissions have been deducted from the pool, the net pool shall then be divided into two separate pools; the first-half tri-superfecta pool and the second-half tri-superfecta pool.

(3) In the first tri-superfecta contest only, winning tickets shall be determined using the following precedence, based upon the official order of finish for



the first tri-superfecta contest:

(a) as a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) the following sequence, based on the official order of finish shall be used to determine the winning combination: first, second, and fourth; first, third, and fourth; second, third, and fourth; first, second, and fifth; first, third, and fifth; and sequentially thereafter;

(c) where only two horses finish in the race on which tri-superfecta wagering is conducted, the pool shall be calculated so that the net pool should be divided by the value of tickets sold in the pool on horses selected to finish first and second in the exact order of the official result coupled with any other horse that started in the race;

(d) where only one horse finishes in a race on which tri-superfecta wagering is conducted, the pool shall be calculated so that the net pool shall be divided by the value of the tickets sold in the tri-superfecta pool selecting that horse to finish first, coupled with any two other horses started in the race.

(4) If no first-half tri-superfecta ticket selects the first three finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half tri-superfecta pool. In such case, the second-half tri-superfecta pool shall be retained and added to any existing tri-superfecta carryover pool.

(5) Winning tickets from the first half of the tri-superfecta shall be exchanged for tickets selecting the first four finishers of the second half of the tri-superfecta. The second-half tri-superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second tri-superfecta contest:

(a) as a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first four betting interests; but if there are no such tickets, then

(b) the entire second-half tri-superfecta pool for that contest shall be added to any existing carryover monies and retained for the corresponding second-half tri-superfecta pool of the next performance.

(6) If a winning first-half tri-superfecta ticket is not presented for cashing and exchange prior to the second-half tri-superfecta contest, the ticket holder may still collect the monetary value associated with the first-half tri-superfecta pool but forfeits all rights to any distribution of the second-half tri-superfecta pool.

(7) Coupled entries and mutuel fields may be permitted in tri-superfecta contests with the prior written approval of the commission.

(8) Should a betting interest in the

first half of the tri-superfecta be scratched, those tri-superfecta tickets including the scratched betting interest shall be refunded.

(9) Should a betting interest in the second half of the tri-superfecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second tri-superfecta contest, the ticket holder forfeits all rights to the second-half tri-superfecta pool.

(10) If, due to a late scratch, the number of betting interests in the second-half of the tri-superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half tri-superfecta pool for that contest as a single price pool, but not the tri-superfecta carryover.

(11) If there is a dead heat or multiple dead heats in either the first or second-half of the tri-superfecta, all tri-superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:

(a) the first half of the tri-superfecta, the payout shall be calculated as a profit split;

(b) the second half of the tri-superfecta, the payout shall be calculated as a single price pool.

(12) If either of the tri-superfecta contests are cancelled prior to the first tri-superfecta contest, or the first tri-superfecta contest is declared "no contest", the entire tri-superfecta pool shall be refunded on tri-superfecta wagers for that contest and the second-half shall be cancelled.

(13) If the second-half tri-superfecta contest is cancelled or declared "no contest", all exchange tickets and outstanding first-half winning tri-superfecta tickets shall be entitled to the net tri-superfecta pool for that contest as a single price pool, but not the tri-superfecta carryover. If there are no such tickets, the net tri-superfecta pool shall be distributed as described in Subsection O Paragraph (3) of 15.2.7 NMAC.

(14) The tri-superfecta carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the tri-superfecta carryover equals or exceeds the designated cap, the tri-superfecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the second-half tri-superfecta carryover is frozen, 100 percent of the net tri-superfecta pool for each individual contest shall be distributed to winners of the first half of the tri-superfecta pool.

(15) A written request for permission to distribute the tri-superfecta carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(16) Should the tri-superfecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second half of the tri-superfecta after completion of the first half of the tri-superfecta:

(a) as a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(b) as a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(c) as a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(d) as a single price pool to those whose combination included, in correct sequence, the first-place betting interest only; but if there are no such wagers, then

(e) as a single price pool to holders of valid exchange tickets.

(f) as a single price pool to holders of outstanding first half-winning tickets.

(17) Contrary to Subsection O Paragraph (4) of 15.2.7 NMAC, during a performance designated to distribute the tri-superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the tri-superfecta. If there are no wagers correctly selecting the first, second, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first and second-place betting interests. If there are no wagers correctly selecting the first and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first half of the tri-superfecta, all first-half tickets will become winners and will receive 100 percent of that day's net tri-superfecta pool and any existing tri-superfecta carryover as a single price pool.

(18) The tri-superfecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(a) upon written approval from the commission as provided in Subsection O Paragraph (15) of 15.2.7 NMAC;

(b) upon written approval from the commission when there is a change in the carryover cap or when the tri-superfecta is discontinued;

(c) on the closing performance of the meet or split meet.

(19) If, for any reason, the tri-superfecta carryover must be held over to the corresponding tri-superfecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The tri-superfecta carryover plus accrued interest shall then be added to the second-half tri-superfecta pool of the following meet on a date and performance so designated by the commission.

(20) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.

(21) The association must obtain written approval from the commission concerning the scheduling of tri-superfecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved tri-superfecta format require prior approval from the commission.

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**End of Adopted Rules Section**

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## Other Material Related to Administrative Law

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**NEW MEXICO CHILDREN,  
YOUTH AND FAMILIES  
DEPARTMENT  
PROTECTIVE SERVICES DIVISION**

**NEW MEXICO  
CHILDREN, YOUTH AND FAMILIES  
DEPARTMENT**

**PROTECTIVE SERVICES**

**NOTICE OF PUBLIC HEARING**

CYFD - Protective Services will hold a public hearing in Santa Fe on Monday May 16, 2005 from 1:00 p.m. to 2:00 p.m. in the Public Employees Retirement Association (P.E.R.A.) Building, 1120 Paseo de Peralta, 2nd floor conference room, number 227, to take comments regarding the proposed Title XX Annual Pre-expenditure Report for Social Services.

The PERA building is accessible to people with disabilities. Written comments are provided the same weight as comments received during the public hearings. Documents are available in different formats to accommodate a particular disability. Anyone seeking such assistance must provide two weeks notice to receive any written material in an alternative format by calling 505-827-8400. If assistance is required to attend the hearing, please call 505-827-8400 to arrange accommodation.

The annual report may be reviewed at any Protective Services Division county office. County office locations may be determined by calling 505-827-8400 for location information. Copies of the annual report may be purchased (for the cost of copying) by contacting Mark Ruttkey, Foster Care and Adoptions Manager, CYFD-PSD, P.O. Drawer 5160, Santa Fe, NM 87502-5160, or by calling 505-827-8445. Copies can be requested through the use of the New Mexico relay system by calling 505-827-7586.

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**NEW MEXICO  
COMMISSION OF  
PUBLIC RECORDS  
HISTORICAL RECORDS  
ADVISORY BOARD**

**NOTICE OF REGULAR MEETING**

A regular meeting of the New Mexico Historical Records Advisory Board has been scheduled for Friday, April 22, 2005 at 9:00 A.M. The meeting will be held at the Golden Spread Coalition, 110 Walnut Street, Clayton, New Mexico. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact William De La O at the State Records Center and Archives at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact William De La O at the State Records Center and Archives if a summary or other type of accessible format is needed.

A copy of the proposed agenda may be obtained at the State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505.

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**End of Other Related  
Material Section**

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## 2005

## SUBMITTAL DEADLINES AND PUBLICATION DATES

<b>Volume XVI</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
Issue Number 1	January 3	January 14
Issue Number 2	January 18	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 31
Issue Number 7	April 1	April 14
Issue Number 8	April 15	April 29
Issue Number 9	May 2	May 13
Issue Number 10	May 16	May 31
Issue Number 11	June 1	June 15
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 18	July 29
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 31
Issue Number 17	September 1	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 3	October 17
Issue Number 20	October 18	October 31
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rule making, proposed rules, adopted rules, emergency rules, and other similar material. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. For further subscription information, call 505-476-7907.