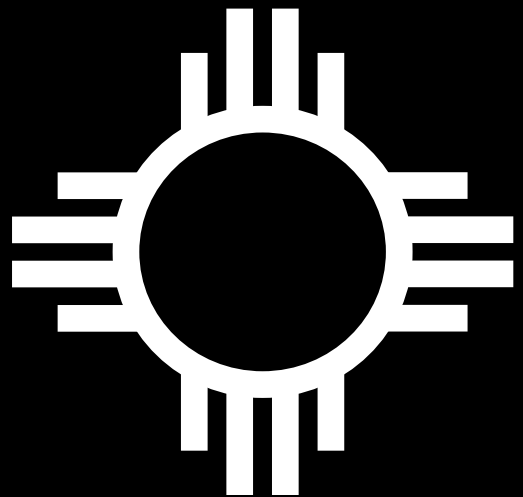


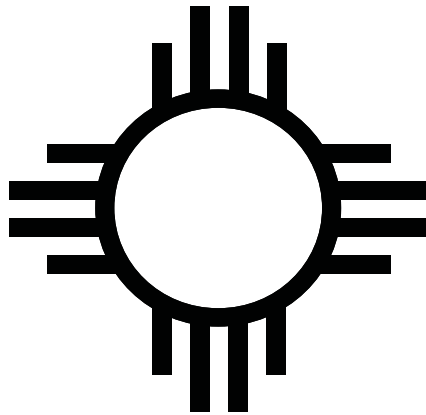
**NEW
MEXICO
REGISTER**



Volume XXV
Issue Number 13
July 15, 2014

New Mexico Register

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July 15, 2014



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

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New Mexico Register

Volume XXV, Number 13

July 15, 2014

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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.

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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Notices of Rulemaking and Proposed Rules

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

NEW MEXICO PUBLIC EDUCATION DEPARTMENT NOTICE OF PROPOSED RULEMAKING

The Public Education Department (“Department”) hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786, on Friday, August 15, 2014, from 10:00 a.m. to noon. The purpose of the public hearing will be to obtain input on the proposed amendments to 6.12.5 NMAC (Nutrition: Competitive Food Sales) and 6.12.6 NMAC (School District Wellness Policy).

Interested individuals may provide comments at the public hearing and/or submit written comments to Dean Hopper, Coordinated School Health and Wellness director via email at rule.feedback@state.nm.us, fax (505) 827-6725, or directed to Dean Hopper, Coordinated School Health and Wellness director, Public Education Department, Jerry Apodaca Public Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501. Written comments must be received no later than 5:00 p.m. on the date of the hearing. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed on the Department’s website (<http://ped.state.nm.us/>) under the “Public Notices” link, or obtained from Michael A. Chavez, staff manager, Coordinated School Health and Wellness, by calling (505) 827-1822.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Dr. Sandra Rodriguez at (505) 827-6505 as soon as possible. The NMPED requires at least ten (10) days advance notice to provide requested special accommodations.

NEW MEXICO REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

STATE OF NEW MEXICO CONSTRUCTION INDUSTRIES COMMISSION NOTICE OF PUBLIC HEARING

The Construction Industries Commission will convene a public hearing on proposed changes to Subsection D of 19.15.40.15 NMAC - License Classification, Scopes and Fees, Subsection A and B of 19.15.40.24 NMAC - Standards, before its designated hearing officer, at which any interested person is invited submit data, views or arguments on the proposed changes, either orally or in writing, and to examine witnesses testifying at the hearing. The public hearing is scheduled as follows:

9:00 a.m. – 11:00 a.m., July 31, 2014 at the NM Regulation and Licensing Department (Main Conference Room), located at 5200 Oakland Avenue NE, in Albuquerque, NM.

Please Note: All persons wishing to participate in the public hearing remotely may do so telephonically dialing into:

Dial-in Number: (712) 432-1212
Meeting ID: 177-696-132

Interested persons may secure copies of the proposed changes by accessing the CID website (www.rld.state.nm.us/construction) or by request from the Santa Fe CID office - Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM 87505. If you cannot attend the hearing, you may send your written comments to: Construction Industries Division, 2550 Cerrillos Road, Santa Fe, New Mexico 87505, Attention: Public Comments. Written comments may also be faxed to (505) 476-4702. All comments must be received no later than 5:00 p.m., on August 1, 2014. If you require special accommodations to attend the hearing, please notify CID by phone, email, or fax, of such needs no later than July 30, 2014. Telephone: 505-476-4700 (option “0”). Email: clay.bailey@state.nm.us; Fax No. (505) 476-4702.

NEW MEXICO REGULATION AND LICENSING DEPARTMENT PHYSICAL THERAPY BOARD

LEGAL NOTICE

Public Rule Hearing and Regular Board Meeting

The New Mexico Board of Physical Therapy Examiners will hold a Rule Hearing on Thursday, August 28, 2014. Following the Rule Hearing the New Mexico Board of Physical Therapy will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Physical Therapy Rule Hearing will begin at 12:00 p.m. and the Regular Meeting will convene following the rule hearing. The meetings will be held at the Regulation and Licensing Department, 5200 Oakland Ave. NE Suite A, Albuquerque, NM 87113.

The purpose of the rule hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 16.20.1 NMAC: General Provisions, 16.20.2 NMAC: Examinations, 16.20.3 NMAC: Issuance of Licenses, 16.20.4 NMAC: Temporary Licenses, 16.20.6 NMAC: Physical Therapist Assistants, 16.20.7 NMAC: Supervision, 16.20.8 NMAC: Renewal Requirements and Continuing Education, 16.20.9 NMAC: Education Criteria for Foreign-Educated Applicants, 16.20.11 NMAC: Disciplinary Proceedings, 16.20.12 NMAC: Licensure for Military Service Members, Spouses and Veterans.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Toney Anaya Building located at the West Capitol Complex, 2550 Cerrillos Road in Santa Fe, New Mexico 87505, or call (505) 476-4880 after March 13, 2014. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comment regarding the proposed rules must present them to the Board office in writing August 1, 2014. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need

a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4880 at least two weeks prior to the meeting or as soon as possible.

Teresa Ortega, Board Administrator
PO Box 25101-
Santa Fe, New Mexico 87504

**End of Notices and Proposed
Rules Section**

Adopted Rules

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT

This is an amendment to 8.15.2 NMAC, Sections 7 and 17, effective July 15, 2014.

8.15.2.7 DEFINITIONS:

A. "Attending a job training or educational program" means being physically present and actively participating in a job training or educational program.

B. "Child with special needs" means a child with a medically documented condition, which results in physical or mental incapacity requiring care and supervision by an adult.

C. "Child support enforcement division" means the child support enforcement program administered by New Mexico's human services department, which collects child support from non-custodial parents.

D. "Closure" means the child care case is closed due to the client no longer having a need for child care assistance in accordance with program policy, being determined ineligible due to receipt of income in excess of the income guideline, moving out of state, failing to recertify in accordance with program procedures, completing or withdrawing from an educational or training program or being disqualified from participation in the program.

E. "Co-payment" means the portion of the approved and agreed upon monthly child care cost for clients receiving child care assistance that the client is required to pay to the child care provider. The department's payment to the provider is reduced by the co-payment amount.

F. "Department" means the New Mexico children, youth and families department (CYFD).

G. "Earned income" means income received as wages from employment or as profit from self-employment.

H. "Homeless" means an individual who lacks a fixed, regular, and adequate nighttime residence; and an individual who has a primary nighttime residence that is:

(1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(2) an institution that provides a temporary residence for individuals

intended to be institutionalized; or

(3) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

I. "Incidental money" means earnings of a minor child for occasional work performed such as baby-sitting, cutting lawns, and other similar activities.

J. "Infant, toddler, preschool, school age" means the age categories used for assigning child care provider reimbursement rates, defined as follows:

- (1) infant: 0-23 months;
- (2) toddler: 24 -35 months;
- (3) preschool: three to five year olds; and
- (4) school age: six year olds and older.

K. "Job training and educational program" means participation in a short or long term educational or training program which provides specific job skills which allow the participant to enter the workforce and directly relates to enhancing job skills, including but not limited to the acquisition of a general equivalency diploma (GED), English as a second language, literacy training, vocational education training, secondary education including adult basic education and accredited high school programs, and post-secondary institutions.

L. [~~"National accreditation status" means the achievement and maintenance of accreditation status by an accrediting body that has been approved by CYFD. Approval of an applicant accrediting body by CYFD is pursuant to procedures established by CYFD and requires, at a minimum, that the applicant accrediting body meets the following criteria: 1) is national in scope and practice; 2) has a process to ensure that interim quality is maintained by the accredited entity; 3) meets or exceeds the standards of one of the following national accrediting bodies: the national association for the education of young children (NAEYC) academy for early childhood program accreditation; the national early childhood program accreditation (NECPA); the national association of family child care (NAFCC); the council of accreditation (COA); the national accreditation commission for early care and education programs (NAC); the international Christian accrediting association (ICAA); or the association of Christian schools international (ACSI); and 4) promotes indicators of quality which address, at a minimum, the following: staff training, director and staff qualifications,~~

~~curriculum and environment, program administration, and staff/child ratios:] "National accreditation status" means the achievement and maintenance of accreditation status by an accrediting body that has been approved by CYFD. To determine approval of national accrediting bodies, the following standards are used: for center based programs, CYFD uses the 2007 national association for the education of young children (NAEYC) program standards and accreditation criteria as well as NAEYC's 2007 accreditation process criteria; for family child care, CYFD uses the CYFD family child care accreditation standards; for before and after school care, CYFD uses the CYFD before and after school accreditation standards.~~

~~(1) As of July 15, 2014 the following are the only national accrediting bodies that are approved by CYFD:~~

~~(a) the association of Christian schools international (ACSI);~~

~~(b) the council on accreditation (COA) for early childhood education and after school programs;~~

~~(c) the international Christian accrediting association (ICAA);~~

~~(d) the national association for the education of young children (NAEYC) academy for early childhood program accreditation; or~~

~~(e) the national association of family child care (NAFCC).~~

~~(2) Effective July 15, 2014 accrediting bodies that have been previously approved by CYFD that are not on the above list will no longer be CYFD approved national accrediting bodies.~~

M. "Non-traditional hours of care" means care provided between the afterhours of 7:00 p.m. and 7:00 a.m. Monday through Friday or care provided during weekend hours between 12:00 a.m. Saturday morning and 12:00 a.m. Monday morning.

N. "Open case" means a case that has not been closed as a result of a failure to recertify, or that has not been closed due to becoming otherwise ineligible for child care assistance benefits.

O. "Overpayment" means a payment of child care assistance benefits received by a client or provider for which they are ineligible based on incomplete or inaccurate information provided by either the client or the provider, or agency error.

P. "Protective services child care" means child care services for children placed in the custody of the protective services of the department.

Q. "Provider types" means the characteristics of child care providers, which determine their approved

reimbursement rate, capacity, staffing levels etc. as follows:

(1) "In-home" care means care provided in the child's own home.

(2) "Registered home" means child care provided in the home of a provider who is registered with the department's child and adult care food program to care for up to four children. All registered homes receiving child care assistance subsidies must be enrolled and participate in the child and adult care food program (CACFP), unless they are ineligible.

(3) "Licensed family child care home" means child care provided in the home of a provider who is licensed by the department to care for up to six children.

(4) "Licensed group child care home" means child care provided in the home of a provider who is licensed by the department to care for up to 12 children.

(5) "Licensed center" means child care provided in a non-residential setting, which is licensed by the department to provide such care.

(6) "Out of school time care" means child care provided to a kindergartner or school age child up to age 13 immediately before or immediately after a regularly scheduled school day or when regular school is not in session.

R. "Recertification" means the process by which a client's eligibility to continue to receive child care assistance benefits are determined.

S. "Registration/ educational fee" means a fee charged to private pay and families receiving child care assistance for materials and supplies.

T. "Residing with" means living in a household which provides shelter and care to a child during the non-working hours of the child's parent or guardian.

U. "SNAP" means the supplemental nutrition assistance program administered by the U.S. department of agriculture, which helps low-income families purchase healthy food. SNAP was previously referred to as food stamps employment and training program.

V. "Star level" means a license indicating the level of quality of an early childhood program. A greater number of stars indicates a higher level of quality. The AIM HIGH essential elements, as approved by the child development board, are the criteria that will be used for determining the number of stars.

W. "Suspension" means that the child care case is kept open, but benefits are not paid.

X. "TANF" means the temporary assistance to needy families program administered by the U.S. department of health and human services. TANF is the successor to the aid to families

with dependent children (AFDC) program and provides cash assistance to qualified low-income families with dependent children.

Y. "Teen parent" means a biological parent under the age of 20 who is attending high school, working towards a general equivalency diploma (GED) or attending any other job skills training or educational programs directly related to enhancing employment opportunities.

Z. "Termination" means the child care case is terminated due to cause.

AA. "Underpayment" means a payment made by the department for services provided which did not fully reimburse the client or provider.

BB. "Unearned income" means income in the form of benefits such as TANF, workmen's compensation, social security, supplemental security income; child support, pensions, contributions, gifts, loans, and grants which does not meet the definition of earned income.

CC. "Waiting list" means a list of families who have applied for child care services during a period of lack of funding.

DD. "Working" means employment of any type, including self-employment. For TANF recipients, this includes work experience or community service or any other activity that meets the TANF work activity requirements.

EE. "CACFP" means the child and adult care food program, administered by the children, youth and families department.

[8.15.2.7 NMAC - Rp, 8.15.2.7 NMAC, 02/14/05; A, 09/15/05; A, 08/31/06; A, 06/30/10; A, 11/30/12; A, 07/15/14]

8.15.2.17 PAYMENT FOR

SERVICES: The department pays child care providers on a monthly basis, according to standard practice for the child care industry. Payment is based upon the child's enrollment with the provider as reflected in the child care placement agreement, rather than daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. The following describes circumstances when placements may be closed and payment discontinued at a time other than the end of the month:

A. When the eligibility period as indicated by the child care placement agreement expires during the month, including the end of a school semester; or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.

[Continued on page 333]

B. Upon a change of provider the client and former provider have three days after the 5th day of nonattendance to notify the department. If this requirement for notification was met, the provider will be paid through the 14th day following the first date of nonattendance. If notification requirement is not met, the provider will be paid through the last date of attendance. The agreement with the new provider shall become effective when payment to the previous provider ceases. If the client notifies the department of the change in providers fewer than 14 days before the change will take place or after the change has taken place, the client is responsible for payment to the new provider beginning on the start date at the new provider and continuing up until the final date of payment to the former provider, as described above. Payment to the former provider will be made through the last day that care is provided if the child is withdrawn from the provider because the health, safety or welfare of the child is at risk, as determined by a substantiated complaint against the child care facility.

C. The amount of the payment is based upon the average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent at the time of certification and is reflected in the provider agreement. Providers are paid according to the units of service needed which are reflected in the child care agreement covering the certification period.

D. The department pays for care based upon the following units of service:

Full time	Part time 1	Part time 2 (<u>only for split custody or in cases where a child may have two providers</u>)	Part time 3
Care provided for an average of 30 or more hours per week per month	Care provided for an average of 20-29 8-29 hours per week per month	Care provided for an average of 6-19 hours per week per month	Care provided for an average of 5 7 or less hours per week per month
Pay at 100% of full time rate	Pay at 75 % of full time rate	Pay at 50 % of full time rate	Pay at 25% of full time rate

E. Hours of care shall be rounded to the nearest whole number.

F. Child care placement agreements for out of school time care shall be opened and closed concurrent with the beginning and end of summer vacations, with the exception of year round school.

G. Monthly reimbursement rates:

Licensed child care centers							
Infant		Toddler		Pre-school		School-age	
Metro	Non-Metro	Metro	Non-Metro	Metro	Non-Metro	Metro	Non-Metro
[\$542.22] \$720.64	[\$482.30] \$641.00	[\$489.55] \$589.55	[\$452.02] \$544.35	\$457.61	\$424.34	\$406.27	\$393.08
Licensed group homes (capacity: 7-12)							
Infant		Toddler		Pre-school		School-age	
Metro	Non-Metro	Metro	Non-Metro	Metro	Non-Metro	Metro	Non-Metro
[\$440.97] \$586.07	[\$417.00] \$554.21	[\$404.49] \$487.11	[\$396.48] \$477.47	\$398.40	\$390.84	\$393.67	\$383.27
Licensed family homes (capacity: 6 or less)							
Infant		Toddler		Pre-school		School-age	
Metro	Non-Metro	Metro	Non-Metro	Metro	Non-Metro	Metro	Non-Metro
[\$426.61] \$566.98	[\$403.10] \$535.74	[\$384.88] \$463.50	[\$379.64] \$457.19	\$383.94	\$376.57	\$378.85	\$368.83
Registered homes and in-home child care							
Infant		Toddler		Pre-school		School-age	
Metro	Non-Metro	Metro	Non-Metro	Metro	Non-Metro	Metro	Non-Metro
\$289.89	\$268.32	\$274.56	\$226.40	\$251.68	\$228.80	\$251.68	\$205.92

H. The department pays a differential rate according to the location of the provider, license or registration status of the provider, national accreditation status of the provider if applicable, star level status of the provider if applicable, and in accordance with

the rate established for metro or non-metro location of the provider. Providers located in the metropolitan statistical areas of the state as determined by the U.S. census bureau receive the metropolitan rate. All other providers receive the non-metro rate.

I. [Providers holding national accreditation status receive an additional \$150.00 per child per month for full time care above the metro rate for type of child care (licensed center, group home or family home) and age of child. All licensed nationally accredited will be paid at the metro rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement. The provider is required to notify the department immediately when a change in accreditation status occurs.] Providers holding and maintaining CYFD approved national accreditation status will receive an additional \$250.00 per child per month for full time care above the metro rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain CYFD approved national accreditation status will be paid at the metro rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement.

(1) Providers who receive national accreditation on or before December 31, 2014 from an accrediting body that is no longer approved by CYFD will no longer have national accreditation status, but will remain eligible to receive an additional \$150.00 per child per month for full time care above the metro rate for type of child care (licensed center, group home or family home) and age of child until December 31, 2017.

(a) In order to continue at this reimbursement rate until December 31, 2017 a provider holding accreditation from accrediting bodies no longer approved by CYFD must maintain licensing standards and maintain accreditation without a lapse;

(b) If the provider fails to maintain their accreditation, the provider reimbursement will revert to the base

reimbursement rate unless they have achieved a FOCUS star level or regain national accreditation status approved by CYFD.

(2) The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee's national accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. All providers are required to notify the department immediately when a change in accreditation status occurs.

J. [The department pays a differential rate to providers achieving higher star levels as follows: 3-star at \$88.00 per month per child for full time care above the base reimbursement rate; 4-star at \$122.50 per month per child for full time care above the base reimbursement rate, and 5-star at \$150.00 per child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must maintain and meet most recent star criteria and basic licensing requirements. If the provider fails to meet the requirements this will result in the provider reimbursement reverting to the level demonstrated.] Effective July 15, 2014 the department will pay a differential rate to providers achieving higher star levels by meeting FOCUS essential elements of quality as follows: 2+ star at \$88.00 per month per child for full time care above the base reimbursement rate; 3-star at \$100.00 per month per child for full time care above the base reimbursement rate; 4-star at \$180.00 per month per child for full time care above the base reimbursement rate, and 5-star at \$250.00 per child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level criteria the provider reimbursement will revert to the FOCUS criteria level demonstrated. Differential rates determined by achieving higher star levels determined by AIM HIGH essential elements of quality will be discontinued effective December 31, 2017. The department will pay a differential rate to providers achieving higher star levels determined by the AIM HIGH essential elements of quality until December 31, 2017 as follows: 3-star at \$88.00 per month per child for full time care above the base reimbursement rate; 4-star at \$122.50 per month per child for full time care above the base reimbursement rate, and 5-star at \$150.00 per child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must maintain and meet most recent AIM HIGH star criteria and basic licensing requirements. If the provider fails to meet the requirements, this will result in the provider reimbursement reverting to the base reimbursement rate.

K. The department pays a differential rate equivalent to 5, 10, or 15% of the applicable full-time/part-time rate to providers who provide care during non-traditional hours. Non-traditional care will be paid according to the following charts:

	1-10 hrs/wk	11-20 hrs/wk	21 or more hrs/wk
After hours	5%	10%	15%
	1-10 hrs/wk	11-20 hrs/wk	21 or more hrs/wk
Weekend hours	5%	10%	15%

L. If a significant change occurs in the client's circumstances, (see Subsection G of 8.15.2.13 NMAC) the child care placement agreement is modified and the rate of payment is adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.

M. The department may conduct provider or parent audits to assess that the approved service units are consistent with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.

N. Payments are made to the provider for the period covered in the placement agreement or based on the availability of funds, which may be shorter than the usual six to 12 month certification period. The client's certification period may be established for a period less than six months, if applicable to their need for care. [8.15.2.17 NMAC - Rp, 8.15.2.17 NMAC, 02/14/05; A, 08/31/06; A/E, 08/15/07; A, 06/30/10; A/E, 11/01/10; Re-pr, 12/30/10; A/E, 12/01/11; Re-pr, 12/30/11; A, 7/1/12; A, 11/30/12; A, 7/1/13; A, 1/15/14; A, 7/15/14]

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT

This is an amendment to 8.16.2 NMAC, Section 7, 11 and 12, effective July 15, 2014.

8.16.2.7 DEFINITIONS:

A. "Abuse" means any act or failure to act, performed intentionally, knowingly or recklessly, which causes or is likely to cause harm to a child, including:

(1) physical contact that harms or is likely to harm a child;

(2) inappropriate use of a physical restraint, isolation, medication or other means that harms or is likely to harm a child; and

(3) an unlawful act, a threat or menacing conduct directed toward a child that results or might be expected to result in fear or emotional or mental distress to a child.

B. "Activity area" means space for children's activities where related equipment and materials are accessible to the children.

C. "Adult" means a person who has a chronological age of 18 years or older.

D. [~~"AIM HIGH" is a voluntary quality child care improvement program that is open to all and or licensed child care educators.~~] "AIM HIGH" is a voluntary quality child care improvement program that is no longer open to new registered or licensed child care programs. Recognition of AIM HIGH will terminate on December 31, 2017.

E. "Assessment of children's progress" means children's progress is assessed informally on a continuous basis using a series of brief anecdotal records (descriptions of the child's behavior or skills in given situations). Children's progress also can be assessed formally at least twice a year using a developmental checklist (checklist of behaviors that indicate physical, motor, language, cognitive, social and emotional development/progress).

F. "Attended" means the physical presence of an educator supervising children under care. Merely being within eyesight or hearing of the children does not meet the intent of this definition (See Supervision, Subsection LLL., 8.16.2.7 NMAC).

G. "Capacity" means the maximum number of children a licensed child care facility can care for at any one time.

H. "Child" means a person who is under the chronological age of 18 years.

I. "Child care center"

means a facility required to be licensed under these regulations that provides care, services, and supervision for less than 24-hours a day to children. A child care center is in a non-residential setting and meets the applicable state and local building and safety codes.

J. "Class A deficiency" means any abuse or neglect of a child by a facility employee or volunteer for which the facility is responsible, which results in death or serious physical or psychological harm; or a violation or group of violations of applicable regulations, which results in death, serious physical harm, or serious psychological harm to a child.

K. "Class B deficiency" means any abuse or neglect of a child by a facility employee or volunteer for which the facility is responsible; or a violation or group of violations of applicable regulations which present a potential risk of injury or harm to any child.

L. "Class C deficiency" means a violation or group of violations of applicable regulations as cited by surveyors from the licensing authority which have the potential to cause injury or harm to any child if the violation is not corrected.

M. "Clean" means to physically remove all dirt and contamination.

N. "Conditions of operation" means a written plan that applies to a licensed facility and is developed by the licensing authority when the licensing authority determines that provisions within these regulations have been violated. The plan addresses corrective actions that the licensee must take within a specified timeframe in order to come into compliance with licensing requirements. During this timeframe the licensing authority may increase its level of monitoring.

O. "Core hours" means the daily hours of operation of the child care facility.

P. "Corrective action plan" means the plan submitted by the licensee addressing how and when identified deficiencies will be corrected.

Q. "Curriculum" is what happens every day in the classroom and on the playground. It includes every aspect of the daily program. Curriculum derives from the program's mission statement, philosophy (which, in turn, is based on assumptions about young children's development and learning), and program goals and objectives. It includes how materials and equipment are used, activities that children and adults participate in, and interactions among children and between children and adults.

R. "Deficiency" means a violation of these regulations.

S. "Direct provider

of care" means any individual who, as a result of employment or contractual service or volunteer service has direct care responsibilities or potential unsupervised physical access to any care recipient in the settings to which these regulations apply.

T. "Director" means the person in charge of the day-to-day operation and program of a child care center.

U. "Disinfect" means to destroy or inactivate most germs on any inanimate object, but not bacterial spores. Mix four tablespoons of bleach with one gallon of cool water or use an environmental protection agency (EPA) registered disinfectant.

V. "Drop-in" means a child who attends a child care facility on an occasional or unscheduled basis.

W. "Educator" means an adult who directly cares for, serves, and supervises children in a licensed child care facility.

X. "Environment" means that the environment meets all required local, state, and federal regulations. It includes space (both indoors and outdoors) with appropriate equipment and materials that encourage children to engage in hands-on learning.

Y. "Exploitation" of a child consists of the act or process, performed intentionally, knowingly, or recklessly, of using a child's property for another person's profit, advantage or benefit without legal entitlement to do so.

Z. "Facility" means any premises licensed under these regulations where children receive care, services, and supervision. A facility can be a center, home, program, or other site where children receive childcare.

AA. "Family child care home" means a private dwelling required to be licensed under these regulations that provides care, services and supervision for a period of less than 24 hours of any day for no more than six children. The licensee will reside in the home and be the primary educator.

BB. "FOCUS" is a voluntary tiered quality rating and improvement program that is open to all registered and licensed child care programs.

[~~BB~~]-] CC. "Group child care home" means a home required to be licensed pursuant to these regulations, which provides care, services, and supervision for at least seven but not more than 12 children. The licensee will reside in the home and be the primary educator.

[~~CC~~]-] DD. "Guidance" means fostering a child's ability to become self-disciplined. Guidance shall be consistent and developmentally appropriate.

[~~DD~~]-] EE. "Home"

means a private residence and its premises licensed under these regulations where children receive care, services, and supervision. The licensee will reside in the home and be the primary educator.

[EE:] FF. "Infant" means a child age six weeks to 12 months.

[FF:] GG. "License" means a document issued by CYFD to a child care facility licensed and governed by these regulations and granting the legal right to operate for a specified period of time, not to exceed one year.

[GG:] HH. "Licensee" means the person(s) who, or organization which, has ownership, leasehold, or similar interest in the child care facility and in whose name the license for the child care facility has been issued and who is legally responsible for compliance with these regulations.

[HH:] IL. "Licensing authority" means the child care services bureau - licensing section of the early childhood services division of the New Mexico children, youth and families department which has been granted the responsibility for the administration and enforcement of these regulations by authority of Children, Youth and Families Department Act, Section 9-2A-1 to 9-2A-16 NMSA 1978, as amended.

[H:] JJ. "Mission statement," describes what the program aspires to do and whom the program aspires to serve.

[JJ:] KK. [~~"National accreditation status" means the achievement and maintenance of accreditation status by an accrediting body that has been approved by CYFD. Approval of an applicant accrediting body by CYFD is pursuant to procedures established by CYFD and requires, at a minimum, that the applicant accrediting body meets the following criteria: 1) is national in scope and practice; 2) has a process to ensure that interim quality is maintained by the accredited entity; 3) meets or exceeds the standards of one of the following national accrediting bodies: the national association for the education of young children (NAEYC) academy for early childhood program accreditation; the national early childhood program accreditation (NECPA); the national association of family child care (NAFCC); the council of accreditation (COA); the national accreditation commission for early care and education programs (NAC); the international Christian accrediting association (ICAA); or the association of Christian schools international (ACSI); and 4) promotes indicators of quality which address, at a minimum, the following: staff training, director and staff qualifications, curriculum and environment, program~~

~~administration, and staff/child ratios:] "National accreditation status" means the achievement and maintenance of accreditation status by an accrediting body that has been approved by CYFD. To determine approval of national accrediting bodies, the following standards are used: for center based programs, CYFD uses the 2007 national association for the education of young children (NAEYC) program standards and accreditation criteria as well as NAEYC's 2007 accreditation process criteria; for family child care, CYFD uses the CYFD family child care accreditation standards; for before and after school care, CYFD uses the CYFD before and after school accreditation standards.~~

~~(1) As of July 15, 2014 the following are the only national accrediting bodies that are approved by CYFD:~~

~~(a) the association of Christian schools international (ACSI);~~

~~(b) the council on accreditation (COA) for early childhood education and after school programs;~~

~~(c) the international Christian accrediting association (ICAA);~~

~~(d) the national association for the education of young children (NAEYC) academy for early childhood program accreditation; or~~

~~(e) the national association of family child care (NAFCC).~~

~~(2) Effective July 15, 2014 accrediting bodies that have been previously approved by CYFD that are not on the above list will no longer be CYFD approved national accrediting bodies.~~

[KK:] LL. "Night care" means the care, services and supervision provided by a licensed child care facility to children between the hours of 10:00 p.m. to 6:00 a.m.

[LL:] MM. "Neglect" means the failure to provide the common necessities including but not limited to: food, shelter, a safe environment, education, emotional well-being and healthcare that may result in harm to the child.

[MM:] NN. "Notifiable diseases" means confirmed or suspected diseases/conditions as itemized by the New Mexico department of health which require immediate reporting to the office of epidemiology which include but are not limited to: measles, pertussis, food borne illness, hepatitis and acquired immune deficiency syndrome.

[NN:] OO. "Orientation" means a process by which the employer informs each new employee, volunteer and substitute, in advance of assuming their duties, of the mission, philosophy, policies, and procedures of the program, including clear direction about performance expectations.

[OO:] PP. "Out of school time

program" means a school age program at a specific site, usually a school or community center, offering on a consistent basis a variety of developmentally appropriate activities that are both educational and recreational.

[PP:] QQ. "Parent handbook" is a written communication tool that provides valuable information to families of the children the program serves. It includes all matters of relevance to family members regarding the program and is updated annually, or as needed.

[QQ:] RR. "Pest" means any living organism declared a pest pursuant to the Pesticide Control Act.

[RR:] SS. "Pesticide" means any chemical substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest.

[SS:] TT. "Philosophy statement" describes how the program's mission will be carried out. It reflects the values, beliefs, and convictions of the program about how young children learn and describes the components of the program that contribute to that learning. It provides the program's perspective on early care and education and the nature of how children learn. The program's philosophy is implemented through the curriculum.

[TT:] UU. "Policy" is a written directive that guides decision-making. Policies form the basis for authoritative action.

[UU:] VV. "Premises" means all parts of the buildings, grounds, and equipment of a child care facility licensed pursuant to these regulations.

[VV:] WW. "Procedure" is a series of steps to be followed, usually in a specific order, to implement policies.

[WW:] XX. "Professional development" is an on-going plan for continued professional development for each staff member, including the director.

[XX:] YY. "Program administrator" means the person responsible for planning or implementing the care of children in the program. This includes but is not limited to making contact with parents, keeping appropriate records, observing and evaluating the child's development, supervising staff members and volunteers, and working cooperatively with the site director and other staff members toward achieving program goals and objectives. This definition applies to out of school time programs only.

[YY:] ZZ. "Punishment" means the touching of a child's body with the intent of inducing pain. This includes but is not limited to pinching, shaking, spanking, hair or ear pulling. It also includes any action which is intended to induce fear, shame or other emotional discomfort.

[ZZ:] AAA.

“Requirements” means the criteria and regulations developed by children, youth and families department in 8.16.2 NMAC; to set minimum standards of care, education and safety for the protection and enhancement of the well-being of children receiving care, services or supervision.

[AAA:] BBB. “Restriction” means to control enrollment, service type, capacity, activities, or hours of operation.

[BBB:] CCC. “Revocation” means the act of making a license null and void through its cancellation.

[CCC:] DDD. “Sanction” means a measure imposed by the licensing authority for a violation(s) of these standards.

[DDD:] EEE. “Sanitize” means to reduce germs on inanimate surfaces to levels considered safe by public health codes or regulations. Mix one and one half teaspoons of bleach with one gallon of cool water or use an EPA registered sanitizer.

[EEE:] FFF. “School-age” means a child in care who is age five to 18 years.

[FFF:] GGG. “Staff evaluation” means that each staff member is evaluated by the director, using criteria from the individual’s job description. The individual being evaluated knows ahead of time the criteria and procedures (which may include self-evaluation) for which they are being evaluated. The director discusses evaluation results with each staff member, and results are considered when determining salary increments and are incorporated into the individual’s professional development plan.

[GGG:] HHH. “Substitute” means an adult who directly cares for, serves, and supervises children in a licensed child care facility, who works in place of the regular educator, and who works less than an average of 40 hours per month in a six month period.

[HHH:] III. “Suspension” means a temporary cancellation of a license pending an appeal hearing or correction of deficiencies.

[HH:] JJJ. “Site director” means the person at the site having responsibility for program administration and supervision of an out of school time program. This definition applies to out of school time programs only.

[JJJ:] KKK. “Star level” means a license indicating the level of quality of an early childhood program. A greater number of stars indicates a higher level of quality.

[KKK:] LLL. “Substantiated complaint” means a complaint determined to be factual, based on an investigation of events.

[LLL:] MMM. “Supervision”

means the direct observation and guidance of children at all times and requires being physically present with them. The only exception is school-age children who will have privacy in the use of bathrooms.

[MMM:] NNN. “Survey” means a representative of the licensing authority enters a child care facility, observes activity, examines the records and premises, interviews parents and staff members and records deficiencies.

[NNN:] OOO. “Toddler” means a child age 12 months to 24 months.

[OOO:] PPP. “U/L” means the underwriters laboratory, which is a standards organization which tests electrical and gas appliances for safety.

[PPP:] QQQ. “Unattended” means an educator is not physically present with a child or children under care.

[QQQ:] RRR. “Unsubstantiated complaint” means a complaint not determined to be factual based on an investigation of events.

[RRR:] SSS. “Variance” means an allowance granted by the licensing authority to permit non-compliance with a specified regulation for the period of licensure. The granting of variances is at the sole discretion of the licensing authority.

[SSS:] TTT. “Volunteer” means a person who is not employed as a childcare educator, spends less than six hours per week at the facility, is under direct physical supervision and is not counted in the facility ratio. Anyone not fitting this description must meet all requirements for staff members.

[FFF:] UUU. “Waiver” means an allowance granted by the licensing authority to permit non-compliance with a specified regulation for a specified, limited period of time. The granting of waivers is at the sole discretion of the licensing authority.

[8.16.2.7 NMAC - Rp, 8.16.2.7 NMAC, 11/30/12; A, 7/15/14]

8.16.2.11 LICENSING:

A. TYPES OF LICENSES:

(1) ANNUAL LICENSE:

An annual license is issued for a one-year period to a child care facility that has met all requirements of these regulations.

(a) 1-star level requires meeting and maintaining licensing requirements at all times, except for the requirements outlined in the following items: Items (i), (ii) and (iii) of Subparagraph (a) of Paragraph (1) of Subsection A of 8.16.2.11 NMAC. 1-star level is designated for programs not receiving child care subsidy. All 1-star educators receiving subsidy and licensed at the time of publication of these rules shall have until July 1, 2012 to meet 2-star requirements included in the

following sections of these regulations:

(i) for centers:
Paragraph (16) of Subsection G of 8.16.2.22 NMAC, Paragraphs (5) through (9) of Subsection G of 8.16.2.24 NMAC, and Subsection H of 8.16.2.24 NMAC;

(ii) for licensed family and group child care homes:
Paragraph (4) of Subsection E of 8.16.2.32 NMAC, Paragraph (14) of Subsection F of 8.16.2.32 NMAC, Paragraphs (4) through (8) of Subsection G. of 8.16.2.34 NMAC, and Subsection H of 8.16.2.34 NMAC;

(iii) for licensed out of school time programs: Subparagraph (k) of Paragraph (1) of Subsection E of 8.16.2.41 NMAC, Paragraph (14) of Subsection F of 8.16.2.41 NMAC, Paragraphs (5) through (9) of Subsection B of 8.16.2.43 NMAC and Subsection C of 8.16.2.43 NMAC.

(b) 2-star level requires meeting and maintaining licensing requirements at all times.

(c) 2+ star level is voluntary and requires meeting and maintaining licensing requirements as well as meeting the most recent FOCUS eligibility requirements and 2+ star criteria.

[~~(c)~~] (d) [3-star level is voluntary and requires meeting and maintaining licensing requirements and AIM HIGH level 3 quality criteria at all times.] 3-star level is voluntary and requires meeting and maintaining licensing requirements and AIM HIGH or FOCUS level 3 quality criteria at all times. AIM HIGH criteria will no longer be used for the determination of star level effective December 31, 2017.

[~~(d)~~] (e) [4-star level is voluntary and requires meeting and maintaining licensing requirements and AIM HIGH levels 3 and 4 criteria at all times.] 4-star level is voluntary and requires meeting and maintaining licensing requirements and AIM HIGH or FOCUS levels 3 and 4 quality criteria at all times. AIM HIGH criteria will no longer be used for the determination of star level effective December 31, 2017.

[~~(e)~~] (f) [5-star level is voluntary and requires meeting and maintaining licensing requirements, and maintaining approved national accreditation status.] 5-star level is voluntary and requires meeting and maintaining licensing requirements, FOCUS levels 3, 4 and 5 quality criteria at all times and maintaining CYFD approved national accreditation status.

(2) TEMPORARY LICENSE:
The licensing authority will, at its discretion, issue a temporary license when it finds the child care facility in partial compliance with these regulations.

(a) A temporary license can,

at the discretion of the licensing authority, be issued for up to 120 days, during which time the child care facility will correct all specified deficiencies.

(b) The licensing authority will not issue more than two consecutive temporary licenses.

(c) After a second temporary license has been issued, a new application and the required application fee must be submitted within 30 days in order to renew the license for the remainder of that one year period.

(3) AMENDED LICENSE:

A child care facility will submit a new notarized application to the licensing authority before modifying information required to be stated on the license. Examples of such modifications include dates, capacity, director and number of stars.

(a) A child care facility will apply to the licensing authority for an amended license in order to change the director. The child care facility must notify the licensing authority within 24 hours after the child care facility becomes aware of the need to name a new director, submit an application (Fee \$20.00) and, if necessary, appoint a temporary acting director with the minimum requirements of a high school diploma or GED and three years of experience. The temporary acting director's appointment is valid for 90 days.

(b) A notarized application must be submitted for a change of capacity (Fee \$20.00). Application for an increase or decrease of capacity will not be approved nor an amended license issued until an on-site visit has been made by the licensing authority to determine that the child care facility meets all applicable codes and regulations. A child care facility must not accept additional children or change the layout of the child care facility until the licensing authority has approved and issued the amended license.

(c) A child care facility will apply to the licensing authority for an amended license in order to change the number of stars. An application for a different star level will not be approved nor an amended license issued until on-site visits have been made and it has been determined that the child care facility meets all applicable criteria.

(4) PROVISIONAL 2-STAR LICENSE: Newly licensed programs receiving child care subsidy will be given a provisional 2-star license for up to three months, pending observation by the licensing authority of the interactions between teachers and children in the classrooms.

B. RENEWAL OF LICENSE:

(1) A licensee will submit a

notarized renewal application, indicating the number of stars requested, on forms provided by the licensing authority, along with the required fee, at least 30 days before expiration of the current license. CYFD-approved nationally accredited centers, homes and out of school time programs will submit copies of their current accreditation certificates along with their renewal application. Applications postmarked less than 30 days prior to the expiration date will be considered late and a \$25.00 late fee must be submitted with the renewal fee.

(2) All licensed facilities must maintain an original background check eligibility letter for all current employees and applicable volunteers, including a signed statement annually by each staff person certifying that they would or would not be disqualified as a direct provider of care under the most current version of the Background Checks and Employment History Verification provisions pursuant to 8.8.3 NMAC. This will include all adults and teenage children living in a family child care or group child care home operated in a private residence. The teenage child's guardian shall sign the annual statement on behalf of the teenage child.

(3) Upon receipt of a notarized renewal application, the required fee and the completion of an on-site survey, the licensing authority will issue a new license effective the day following the date of expiration of the current license, if the child care facility is in compliance with these regulations.

(4) If a licensee fails to submit a notarized renewal application with the required fee before the current license expires, the licensing authority may require the agency to cease operations until all licensing requirements are completed.

C. POSTING OF LICENSE: A child care facility will post the license on the licensed premises in an area readily visible to parents, staff members, and visitors.

D. NON-TRANSFERABLE RESTRICTIONS OF LICENSE: A licensee will not transfer a license by assignment or otherwise to any other person or location. The license will be void and the licensee will return it to the licensing authority when:

(1) the owner of the child care facility changes;

(2) the child care facility moves;

(3) the licensee of the child care facility changes; or

(4) the child care facility closes.

E. AUTOMATIC EXPIRATION OF LICENSE: A license will expire automatically at midnight on the expiration date noted on the license unless

earlier suspended or revoked, or:

(1) on the day a child care facility closes;

(2) on the day a child care facility is sold, leased, or otherwise changes ownership or licensee;

(3) on the day a child care facility moves.

F. ACCREDITED PROGRAMS: Accredited programs must meet and maintain all licensing standards and their CYFD-approved national accreditation without a lapse in order to be designated as a 5-star facility. The licensing authority may, at its option, notify the program's accrediting body of the program's failure to meet and maintain licensing standards. [8.16.2.11 NMAC - Rp, 8.16.2.11 NMAC, 11/30/12; A, 7/15/14]

8.16.2.12 LICENSING ACTIONS AND ADMINISTRATIVE APPEALS:

A. The licensing authority may revoke, suspend, or restrict a license, reduce star status, deny an initial or renewal license application, impose monetary sanctions pursuant to 7.1.8 NMAC, put in place conditions of operation, impose other sanctions or requirements against a licensee, or reduce to a base level of child care assistance reimbursement a licensee who is in receipt of a higher than base level of child care assistance reimbursement, for any of the following reasons:

(1) violation of any provision of these regulations, especially when the licensing authority has reason to believe that the health, safety or welfare of a child is at risk, or has reason to believe that the licensee cannot reasonably safeguard the health and safety of children;

(2) failure to allow access to the licensed premises by authorized representatives of the licensing authority;

(3) misrepresentation or falsification of any information on an application form or any other form or record required by the licensing authority;

(4) allowing any person to be active in the child care facility who is or would be disqualified as a direct provider of care under the most current version of the Background Checks and Employment History Verification provisions pursuant to 8.8.3 NMAC; this will include all adults and teenaged children living in a family child care or group child care home operated in a private residence;

(5) failure to timely obtain required background checks;

(6) failure to properly protect the health, safety and welfare of children due to impaired health or conduct or hiring or continuing to employ any person whose health or conduct impairs the person's

ability to properly protect the health, safety, and welfare of the children;

(7) allowing the number of children in the child care facility to exceed its licensed capacity;

(8) failure to comply with provisions of the other related regulations listed in these regulations;

(9) discovery of repeat violations of the regulations or failure to correct deficiencies of survey findings in current or past contiguous or noncontiguous licensure periods;

(10) discovery of prior revocations or suspensions that may be considered when reviewing a facility's application for licensure or license renewal;

(11) loss of accreditation, regardless of reason, will result in a reduction in star status;

(12) possessing or knowingly permitting non-prescription controlled substances or illegal drugs to be present or sold on the premises at any time, regardless of whether children are present; or

(13) making false statements or representations to the licensing authority with the intent to deceive, which the licensee knows, or should know to be false.

B. Commencement of a children, youth and families department or law enforcement investigation may be grounds for immediate suspension of licensure pending the outcome of the investigation. Upon receipt of the final results of the investigation, the department may take such further action as is supported by the investigation results.

C. The children, youth and families department notifies the licensee in writing of any action taken or contemplated against the licensee. The notification shall include the reasons for the department's action.

D. The licensee may obtain administrative review of any action taken or contemplated against the licensee.

E. The administrative review shall be conducted by a hearing officer appointed by the department's secretary.

F. If the action is to take effect immediately, the department affords the licensee the opportunity for an administrative appeal within five working days. If the license is suspended pending the results of an investigation, the licensee may elect to postpone the hearing until the investigation has been completed.

G. If the contemplated action does not take immediate effect, and the licensee is given advance notice of the contemplated action, the licensee is allowed 10 working days from date of notice to request an administrative appeal.

H. In circumstances in which Public Health Act NMSA 1978

Subsection N of Section 24-1-5 (2005) may apply, and in which other provisions of this regulation are not adequate to protect children from imminent danger of abuse or neglect while in the care of a licensee, the provisions of Subsection N of Section 24-1-5 shall apply as follows.

(1) The department shall consult with the owner or operator of the child care facility.

(2) Upon a finding of probable cause, the department shall give the owner or operator notice of its intent to suspend operation of the child care facility and provide an opportunity for a hearing to be held within three working days, unless waived by the owner or operator.

(3) Within seven working days from the day of notice, the secretary shall make a decision, and, if it is determined that any child is in imminent danger of abuse or neglect in the child care facility, the secretary may suspend operation of the child care facility for a period not in excess of 15 days.

(4) Prior to the date of the hearing, the department shall make a reasonable effort to notify the parents of children in the child care facility of the notice and opportunity for hearing given to the owner or operator.

(5) No later than the conclusion of the 15 day period, the department shall determine whether other action is warranted under this regulation.

(6) Nothing in Subsection H of 8.16.2.12 NMAC shall be construed to require licensure that is not otherwise required in this regulation.

I. The licensing authority may require a direct provider of care to undergo an additional background check if information shows any of the following:

(1) that the direct provider of care has pending charges for any criminal offense;

(2) that the direct provider of care has a pending or substantiated CYFD protective services or juvenile justice service referral;

(3) that the direct provider of care has any criminal history or history of a referral to CYFD protective services or juvenile justice services discovered after the most recent background check; or

(4) that the direct provider of care is the subject of an allegation of abuse and neglect in any licensed facility.

J. There shall be no right to administrative review for reduction in star level resulting from loss of, or failure to maintain, national accreditation status. The licensee shall be bound by the rules, regulations, policies and procedures implemented by the national accreditation body that governs its accreditation process.

K. ~~[The licensee shall~~

~~notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee's national accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. The licensing authority shall reduce the star level of the licensee star level 2 until the licensee regains national accreditation status, or until the facility can be verified at a level higher than star level 2. If Child care subsidies shall be adjusted to correspond with any reductions or increases to star level.] The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee's national accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. The licensing authority shall reduce the star level of a provider granted national accreditation status by the department to star level 2 until the licensee regains national accreditation status, or until the facility can be verified at a level higher than star level 2. If a provider holding accreditation from an accrediting body no longer approved by CYFD fails to maintain these requirements, this will result in the provider reimbursement reverting to the base reimbursement rate. The provider may increase their star level only by meeting FOCUS criteria or by attaining CYFD approved national accreditation status. Child care subsidies shall be adjusted to correspond with any reductions or increases to star level.~~

[8.16.2.12 NMAC - Rp, 8.16.2.12 NMAC, 11/30/12; A, 7/15/14]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

The Human Services Department, Medical Assistance Division, is repealing the following rule in Title 8, effective July 15, 2014.

8.314.4 NMAC, Long Term Care Services-Waivers, Acquired Immunodeficiency Syndrome (AIDS) or AIDS-Related Condition Home and Community-Based Services Waiver, filed 11-9-2010.

NEW MEXICO LIVESTOCK BOARD

The New Mexico Livestock Board repeals its rule entitled Exhibition Livestock, 21.32.5 NMAC, filed 03/01/1999, effective 07/15/2014.

NEW MEXICO LIVESTOCK BOARD

This is an amendment to 21.30.5 NMAC, Sections 1, 8, 9, and 10, effective 07/15/14.

21.30.5.1 ISSUING AGENCY:
New Mexico Livestock Board [~~300~~ San Mateo NE, Suite 1000, Albuquerque, New Mexico 87108; Telephone (505) 841-6161].

[21.30.5.1 NMAC - N, 7-15-05; A, 07/15/14]

21.30.5.8 HORSE RESCUE OR RETIREMENT FACILITY REGISTRATION:

A. The board shall register facilities that meet the requirements of 21.30.5 NMAC. The board will follow the guidelines as established by the American association of equine practitioners (AAEP), an internationally recognized authority on equine care. Prior to registration, agents of the board will inspect said premise for adherence to the AAEP prescribed standards of care guidelines for equine rescue and retirement facilities, with the exception of wild horse facilities. Wild horse facilities will be inspected using the requirements set out in Subsection C of 21.30.5.10 NMAC.

(1) Any person desiring to operate a horse rescue or retirement facility in New Mexico shall file an application for [a license] registration with the board on such form(s) as the board shall prescribe, which application shall be signed by the applicant. The form(s) will contain at the very minimum the information as listed in the AAEP veterinary checklist for equine rescue and retirement facilities and any other information the board shall prescribe. The form(s) will be available at the board's office or may be downloaded from the board's website (www.newmexicolivestockboard.com).

(2) Every [license] registration issued by the board to a horse rescue or retirement facility shall expire one year from the date of issuance. Renewal of such [license] registration shall be made on renewal forms as prescribed by the board.

(3) The board shall provide [a license] an official registration document to registered facilities, and each facility owner shall display [the license] that registration document in a prominent place visible to the public.

(4) The board may extend [licenses] registrations for a portion of a calendar year, in order to synchronize the periods of all [licenses] registrations, so that the one year period of issue coincides with the calendar year.

(5) A facility shall use only humane horsemanship training methods.

(6) A facility shall not exceed the number of horses allowed by any applicable state, county, municipal, or zoning ordinances.

(7) A facility shall notify the board within fourteen (14) days of the introduction of any new horse to the facility.

(8) Foals born to horses owned by the facility shall be considered owned by the facility. Upon the birth of a foal from a horse not owned by the facility, the facility shall notify the board within fourteen (14) days, so the board can establish ownership.

B. The board shall annually consult with representatives from the equine industry, equine rescue organizations and veterinarians on facility standards.
[21.30.5.8 NMAC - N, 7-15-05; A, 07/15/14]

21.30.5.9 HORSE RESCUE OR RETIREMENT FACILITY [LICENSE] REGISTRATION FEES:

A. The initial inspection and registration fee is two hundred fifty dollars (\$250.00) per facility.

B. The annual inspection and registration fee is one hundred dollars (\$100.00) per facility.

C. The re-inspection fee is one hundred dollars (\$100.00) per facility.
[21.30.5.9 NMAC - N, 7-15-05; A, 07/15/14]

21.30.5.10 HORSE RESCUE OR RETIREMENT FACILITIES, INSPECTIONS, RE-INSPECTION:

A. Prior to annual registration conducted in January of each year, each facility will be inspected by agents of the board.

B. The board or its agents may enter the premises of a facility to conduct unannounced inspections.

(1) The board or its agents may request, and the registrant must provide, all records pertaining to ownership, transportation, feed and care for all horses in the facility.

(2) Any violations of Chapters 30 or 77, NMSA 1978, or NMLB

rule violations, may be reason to revoke the facility's registration.

C. Prior to annual registration of wild horse facilities, each facility will be inspected by agents of the board for adherence to standard of care guidelines in the following areas:

(1) Environment, including access to water, forage, salt and supplemental feeding with hay in winter;

(2) Veterinary care, including at least one annual visual check per horse and all other care as needed in consultation with an experienced veterinarian;

(3) Sanctuary maintenance, including proper fencing in accordance with Sections 77-16-4 through 77-16-8, NMSA 1978.

(4) Policies regarding quarantine, euthanasia, reproduction and emergencies specific to wild horses.

~~[C.]~~ **D.** If, following an inspection, the board's agent determines that the facility does not meet the requirements as established by the American association of equine practitioners or the requirements for wild horse facilities established in Subsection C of 21.30.5.10 NMAC, the board's agent shall give the registrant written notice of the deficiencies on site ~~[and schedule a re-inspection, allowing 14 calendar days for the registrant to correct the deficiencies].~~ Within ten (10) days, the registrant must submit to the agent performing the inspection a written plan to remedy the deficiencies. The registrant and agent will then determine a mutually agreeable timeframe for the registrant to correct the deficiencies and schedule a re-inspection, which must occur no later than one hundred twenty (120) days after the initial inspection.

E. If the board determines that the health or safety of the horses is at risk because of the deficiencies, the board may authorize the removal of the horses.

~~[D.]~~ **F.** The registrant shall remedy the deficiencies and submit written evidence to the board demonstrating compliance with board rules for the facility.

~~[E.]~~ **G.** If on re-inspection the board determines that the facility is still deficient in those areas for which it has been given written notice, the horses may be impounded in accordance with the provisions of Section 77-18-2 NMSA 1978, and the board shall hold a hearing as provided in the Uniform Licensing Act to determine if the registration should be suspended or revoked.
[21.30.5.10 NMAC - N, 7-15-05; A, 07/15/14]

NEW MEXICO LIVESTOCK BOARD

This is an amendment to 21.30.6 NMAC, Sections 1, 6, 7, 8, 9, 10, 11, 12 and 14, effective 07/15/14.

21.30.6.1 ISSUING AGENCY:
New Mexico Livestock Board [;300 San Mateo NE, Suite 1000; Albuquerque, New Mexico 87108; Telephone (505) 841-6164]. [21.30.6.1 NMAC - N, 7/15/05; A, 07/15/14]

21.30.6.6 OBJECTIVE: To prevent introduction and to control the bovine venereal disease trichomoniasis, specifically [trichomonas fetus (F. fetus)] *Tritrichomonas foetus* (*T. foetus*) infection. [21.30.6.6 NMAC - N, 7/15/05; A, 07/15/14]

21.30.6.7 DEFINITIONS:
A. [**“Board”** means the New Mexico livestock board.] **“Acceptable specimen”** means a specimen determined satisfactory for diagnostic testing by the testing laboratory, including complete documentation.

B. [**“Agent”** means the executive director, deputy director, veterinarian, livestock inspectors or employee of the board.] **“Accredited veterinarian”** means an individual who is currently licensed to practice veterinary medicine and is accredited by the United States department of agriculture, animal plant health inspection service, veterinary services in the state of New Mexico.

C. [**“Acceptable specimen”** means a specimen determined satisfactory for diagnostic testing by the testing laboratory, including complete documentation.] **“Agent”** means the executive director, deputy director, veterinarian, livestock inspector or employee of the board.

D. [**“Accredited veterinarian”** means an individual who is currently licensed to practice veterinary medicine and is accredited by the United States department of agriculture, animal plant health inspection service, veterinary services, in the state of New Mexico.] **“Approved laboratory”** means any laboratory designated and approved by the state veterinarian for examining *T. foetus* samples.

E. [**“Approved laboratory”** means any laboratory designated and approved by the state veterinarian for examining *T. foetus* samples.] **“Approved veterinarian”** means an accredited veterinarian who has attended trichomoniasis training that is approved by the New Mexico state veterinarian.

Such training must include preputial sampling, sample handling and shipping, appropriate record keeping and official bull trichomoniasis identification.

F. [**“Approved veterinarian”** means an accredited veterinarian who has attended trichomoniasis training that is approved by the New Mexico state veterinarian.] **“Board”** means the New Mexico livestock board.

G. **“Bovine”** means any sexually intact male [and] or female animal of the genus *bos*.

H. **“Certificate of veterinary inspection (CVI)”** means the form issued by the state of origin that records the consignor, consignee, identity, origin, destination and health status of animals, issued by an accredited veterinarian of that state. It is commonly known as a health certificate.

I. [**“New Mexico commuter permit”** means a permit issued by the New Mexico state veterinarian’s office to New Mexico livestock producers who utilize pasture lands and other livestock operations in one or multiple states that are contiguous with New Mexico.] **“Commingle”** means bovids of opposite sex and belonging to different owners in the same enclosure or pasture with a reasonable opportunity for sexual contact.

J. [**“Commingle”** means animals of opposite sex and belonging to different owners in the same enclosure or pasture with a reasonable opportunity for sexual contact.] **“Complete bull herd test”** means an official *T. foetus* test from each non-virgin bull in the herd.

K. [**“Complete bull herd test”** means an official *T. foetus* test from each non-virgin bull in the herd.] **“Confined feeding”** means a dry lot feeding facility (not grazing) where there is no sexual contact among bovine therein.

L. **“Direct slaughter”** means transporting an animal to a slaughter plant without unloading prior to arrival at the slaughter plant.

M. **“Disease management plan”** means a plan developed to eradicate the disease from a positive herd. The disease management plan will be developed by the producer and shall be approved by the state veterinarian.

N. **“Exposed herd”** means a herd adjacent to a premises occupied by an affected herd, herds sharing common pasture or having contact with affected herd(s) as determined by the state veterinarian.

O. **“Herd”** means the

group of animals consisting of all bovines over 12 months of age (male and female) which have commingled during the last 12 months.

P. **“Import permit”** means a document issued by the state veterinarian’s office authorizing specific livestock movements into New Mexico. Permits expire 30 days after issuance and are not transferable.

Q. [**“Official *T. foetus* laboratory testing”** means the laboratory procedures that shall be approved by the state veterinarian for culture and identification of *T. foetus*.] **“N’ brand”** means the official brand registered to New Mexico livestock board, used to designate any livestock which must be shipped to slaughter or an approved feedlot.

R. [**“Official *T. foetus* bull test”** means the sampling of the preputial content of a bull by a licensed, accredited and trich test certified veterinarian or a veterinarian from the New Mexico livestock board. Such test must be conducted after at least one week separation from all female bovine. The bull and sample must be positively and individually identified and documented for laboratory submission. The official laboratory test shall be a genetic based test such as polymerase chain reaction (PCR), either standard or real time, or other technologies as approved by the state veterinarian.] **“Negative *T. foetus* bull”** means a bull which qualifies by one of the following:

(1) originates from a herd not known to be infected and has had a negative official *T. foetus* bull test within the last sixty (60) days;

(2) originates from a positive herd but has a series of three (3) negative official *T. foetus* bull tests at intervals of at least one (1) week; or

(3) qualified with a negative import or negative in-state official *T. foetus* bull test.

S. [**“Quarantine”** means movement restriction issued by a New Mexico livestock inspector that shall be placed on all cattle in a positive *T. foetus* herd. Such restriction shall specify the identity of the animals and the premises where the animals shall be confined.] **“Negative *T. foetus* herd”** means a herd which has received a complete bull herd test with negative results within the last twelve (12) months.

T. [**“Quarantine feedlot”** means a dry lot feeding facility approved by the state veterinarian where positive *T. foetus* bulls and or bovine females from a *T. foetus* positive herd may be fed prior to slaughter and there is no sexual contact with the opposite sex bovine.] **“New Mexico commuter permit”** means a permit issued by the New Mexico state veterinarian’s

office to New Mexico livestock producers who utilize pasture lands and other livestock operations in one or multiple states that are contiguous with New Mexico.

U. [**“Quarantine release”** means that a herd has completed all regulatory requirements to eliminate *T. fetus* infection in that herd and is no longer classified a positive herd.] **“Official *T. fetus* bull test”** means the sampling of the preputial content of a bull by a licensed, accredited and *T. fetus* test certified veterinarian or a veterinarian from the New Mexico livestock board. Such test must be conducted after at least one (1) week separation from all female bovine. The bull and sample must be positively and individually identified and documented for laboratory submission. The official laboratory test shall be a genetic based test such as polymerase chain reaction (PCR), either standard or real time, or other technologies as approved by the state veterinarian. Test is not considered official until results are reported by the testing laboratory.

V. [**“Positive *T. fetus* bull”** means a bull that has had a positive *T. fetus* test.] **“Official *T. fetus* laboratory testing”** means the laboratory procedures that shall be approved by the state veterinarian for identification of *T. fetus*.

W. [**“Positive *T. fetus* herd”** means the group of all bovines which have had any opportunity for sexual contact in the previous breeding season and in which any animal (male or female) has had a positive diagnosis for *T. fetus*.] **“Positive *T. fetus* bull”** means a bull that has had a positive *T. fetus* test.

X. [**“Negative *T. fetus* bull”** means a bull which qualifies by one of the following:

——— (1) — originates from a herd not known to be infected and has had a negative official *T. fetus* bull test within the last thirty days;

——— (2) — originates from a positive herd but has a series of three negative official *T. fetus* bull tests at intervals of at least one week; or

——— (3) — qualified with a negative import and negative in-state official *T. fetus* bull test.] **“Positive *T. fetus* herd”** means the group of all bovines which have had any opportunity for sexual contact in the previous breeding season and in which any animal (male or female) has had a positive diagnosis for *T. fetus*.

Y. [**“Regulatory veterinarian”** means the state veterinarian or his designee. This may be a state or USDA employed veterinarian or any accredited veterinarian holding a current state license.] **“Quarantine”** means movement restriction issued by a New Mexico livestock inspector that shall be

placed on all cattle in a positive *T. fetus* herd. Such restriction shall specify the identity of the animals and the premises where the animals shall be confined.

Z. [**“State veterinarian”** means the veterinarian designated by the New Mexico livestock board.] **“Quarantine feedlot”** means a dry lot feeding facility approved by the state veterinarian where positive *T. fetus* bulls or bovine females from a positive *T. fetus* herd may be fed prior to slaughter and there is no sexual contact with the opposite sex bovine.

AA. [**“Suspect *T. fetus* bull”** means a bull from a positive *T. fetus* herd that has not yet had three consecutive negative official *T. fetus* bull tests.] **“Quarantine release”** means that a herd has completed all regulatory requirements to eliminate *T. fetus* infection in that herd and is no longer classified as a positive herd.

BB. [**“*Tritrichomonas fetus* (or *T. fetus*)”** means a protozoan parasite that is the causative agent to the contagious venereal disease trichomoniasis. The disease exhibits as infertility, pyometra, abortions and reproductive inefficiency in the female bovine.] **“Regulatory veterinarian”** means the state veterinarian or his designee. This may be a state or USDA employed veterinarian or any accredited veterinarian holding a current state license.

CC. [**“Unacceptable sample”** means a sample that is deemed not diagnostic by the official testing laboratory.] **“State veterinarian”** means the veterinarian designated by the New Mexico livestock board.

DD. [**“USDA form 1-27”** means the official form used when livestock movement is restricted. The form is issued by a regulatory veterinarian and specifies the owner, owner’s address, owner’s telephone, premises affected, number, breed, age, sex, positive unique individual identification and destination of animals included.] **“Suspect *T. fetus* bull”** means a bull from a positive *T. fetus* herd that has not yet had three (3) consecutive negative official *T. fetus* bull tests.

EE. [**“Virgin bull”** means a sexually intact male bovine less than 12 months of age.] **“*Tritrichomonas fetus* (or *T. fetus*)”** means a protozoan parasite that is the causative agent to the contagious venereal disease trichomoniasis. The disease exhibits as infertility, pyometra, abortions and reproductive inefficiency in the female bovine.

FF. [**“N” brand”** means the official brand registered to New Mexico livestock board, used to designate any livestock which must be shipped to slaughter or an approved feedlot.] **“Unacceptable sample”** means a sample

that is deemed not diagnostic by the official testing laboratory.

GG. **“Virgin bull”** means a sexually intact male bovine less than twelve (12) months of age.

[21.30.6.7 NMAC - N, 7/15/05; A, 2/26/10; A, 07/15/13; A, 07/15/14]

21.30.6.8 IMPORT REQUIREMENTS:

A. Breeding bull.

(1) All non-virgin bulls entering New Mexico must be accompanied by a certificate of veterinary inspection (CVI) and an import permit. All non-virgin bulls, except as noted in Paragraph (7) of this subsection (below), shall be accompanied by a certificate of veterinary inspection (CVI), import permit and a negative official *T. fetus* test within sixty (60) days prior to entry and no sexual contact between testing and entry.

(2) If the pre-entry test is not an official *T. fetus* test and is not conducted at [other than] a laboratory approved by the American association of veterinary laboratory diagnosticians [diagnostic laboratories] or the New Mexico state veterinarian, an in-state, post-entry test shall be required within ten (10) days of entry into New Mexico.

(3) No bull which has ever previously tested positive for *T. fetus* shall enter New Mexico unless the bull is consigned directly to slaughter and is individually identified for movement [on a USDA form 1-27] by a NMLB approved method.

(4) [No bull from a known positive *T. fetus* herd shall enter New Mexico unless the bull has three consecutive negative official tests at least a week apart within 60 days prior to entry. The post entry official test is also required. Bulls must be isolated from all females until the in-state test results are known. Identification procedures are listed below.] Each CVI issued for bulls covered under this rule shall bear one of the following statements:

——— (a) “*T. fetus* has not been diagnosed in the herd of origin”; or

——— (b) “the bull(s) represented on this CVI have had a negative official *T. fetus* bull test within sixty (60) days prior to entry and there has been no female contact since the last qualifying test.”

(5) [Each CVI issued for bulls covered under this rule shall bear one of the following statements:

——— (a) “*T. fetus* has not been diagnosed in the herd of origin”; or

——— (b) “the bull(s) represented on this CVI have three consecutive negative official *T. fetus* test which were at least seven days apart within 60 days prior to entry and there has been no female

contact since the last qualifying test.”] The veterinarian issuing the CVI shall forward a copy of all official negative *T. foetus* tests for the bull(s) represented on the CVI to the New Mexico state veterinarian’s office.

(6) [The veterinarian issuing the CVI shall forward a copy of all official negative *T. foetus* tests for the bull(s) represented on the CVI to the New Mexico state veterinarian’s office.] No bull from a known positive *T. foetus* herd shall enter New Mexico unless the bull has three (3) consecutive negative official *T. foetus* bull tests at least a week apart within sixty (60) days prior to entry. The post-entry official test is also required. Bulls must be isolated from all females until the in-state test results are known. Identification procedures are listed below.

(7) Exceptions to the importation testing requirements are:

(a) transient rodeo or exhibition (show) bulls, which shall have no sexual contact with a female bovine and are held in a secure facility to prevent such contact (does not include pasture) while in New Mexico;

(b) bulls consigned direct to slaughter; or

(c) bulls consigned to [a feedlot for feeding purposes where they will be isolated from all females; bulls moved from a feedlot must have three consecutive official negative *T. foetus* tests at least one week apart unless consigned directly to slaughter; any bull quarantined in a feedlot testing positive for *T. foetus* shall go directly to slaughter from such feedlot] confined feeding; or

(d) bulls originating from a certified trichomoniasis-free herd, in a state with requirements equivalent to those New Mexico has in place for such a herd designation, as determined by the New Mexico state veterinarian. This exemption requires documentation of current trichomoniasis-free certification in the state of origin and a copy of the program requirements for certification.

B. Reproductive bovine female.

(1) No female bovine originating from a known positive *T. foetus* herd will be allowed to enter New Mexico. Exceptions include the following:

(a) on the premises of origin, there were three (3) consecutive official negative *T. foetus* tests of the entire bull population and the only allowed females are those which:

(i) have a calf at side and no exposure to other than known negative bulls since parturition; or

(ii) are at least one hundred twenty (120) days pregnant; or

(iii) are known virgin heifers; or

(iv) are heifers exposed only to known negative bulls and not yet one hundred twenty (120) days pregnant; or

(v) are documented to have had at least one hundred twenty (120) days of sexual isolation; and

(vi) no other female will be allowed entry into New Mexico for breeding purposes from such herds;

(b) consigned directly to slaughter or to a quarantined feedlot.

(2) Bovine breeding females must have the following statement placed on the CVI and signed by the owner/manager of the herd of origin:

(a) “the cows listed on this CVI did not originate from a known positive *T. foetus* herd”; or

(b) “the cows listed on this CVI are at least 120 days pregnant”; or

(c) “the cows listed on this CVI originated from a positive *T. foetus* herd and are consigned for slaughter”; or

(d) “the heifers listed on this CVI were exposed for their first breeding only to a known negative *T. foetus* bull or artificially inseminated and are not yet 120 days pregnant”; or

(e) “the females listed on this CVI have had at least 120 days of sexual isolation immediately preceding the date of their movement into New Mexico.”

C. Commuter permitted cattle.

(1) [~~Bulls must be tested annually after a separation of at least one week from all female bovine.~~] All bulls must be negative to an official *T. foetus* test [~~to be eligible to have a commuter permit issued for the following year.~~] within sixty (60) days prior to entry. There shall be no commingling between testing and entry. All purchased bulls added to herd shall comply with test provisions.

(2) In any herd, should a bull be a positive *T. foetus* bull, he shall be identified and sold to slaughter only.

(a) All remaining bulls must test negative on three (3) consecutive official tests at least one (1) week apart.

(b) Only females which have a calf at side and no exposure to other than known negative *T. foetus* bulls since parturition, are at least one hundred twenty (120) days pregnant, are known virgin heifers or are heifers exposed only to known negative ~~bull~~ bulls and not yet one hundred twenty (120) days pregnant shall be allowed to accompany the commuting herd. Other open cows shall be sold to slaughter, moved under quarantine to be fed for slaughter or artificial insemination or held in sexual isolation for a one hundred twenty (120) day period.

D. Import permit.

(1) All cattle must obtain an

import permit, which will be recorded on the CVI.

(2) All cows originating from a premises where *T. foetus* has been diagnosed within the last year must obtain an import permit, and prior approval for entry from the New Mexico state veterinarian, which will be recorded on the CVI.

E. Public livestock sales (auctions).

(1) All out-of-state bulls must be accompanied by an import permit.

(2) All non-virgin bulls (in state or import) shall be accompanied by an official laboratory negative *T. foetus* test, conducted within ~~[thirty]~~ sixty (60) days prior to sale with no exposure to bovine females from the time of sample collection until sold. Any bull without a test will be placed under quarantine and tested at the livestock sale premises within ten (10) days of sale or will be sold for slaughter purposes only. Bulls shall be isolated from all females until the in-state test results are known. Identification procedures are listed below.

(3) All bulls not qualifying as above will be announced in the sale ring as [~~“slaughter-only”~~] having “unknown *T. foetus* status” and shall be so designated on the buyer’s documents. Such bulls shall be identified with a back tag designating them as having no [~~trich~~] *T. foetus* test prior to being offered for sale.

(4) Untested bulls may be sold for confined feeding. To be removed from confined feeding, bulls must go directly to slaughter or have a negative official *T. foetus* bull test.

~~(4)~~ (5) Bovine breeding females shall be accompanied by one of the following statements signed by the owner/manager of the herd of origin on the CVI or other suitable document. In the absence of one of these statements, any female bovine over the age of twelve (12) months shall be consigned and sold to slaughter (or quarantined feed for slaughter) only[-];

(a) “The cows listed on this document did not originate from a known positive *T. foetus* herd.”

(b) “The heifers on this document have been exposed to only known negative *T. foetus* bulls and are not yet 120 days pregnant.”

(c) “The cows listed on this document are at least 120 days pregnant.” or

(d) “The cows listed on this document originate from a positive *T. foetus* herd and are consigned for slaughter.” [21.30.6.8 NMAC - N, 7/15/05; A, 2/26/10; A, 07/15/13; A, 07/15/14]

21.30.6.9 INTRASTATE BREEDING BULLS:

A. All non-virgin bulls must have a negative *T. foetus* test within sixty (60) days prior to change of ownership or change of possession under lease or rental, sharing or any other agreement that would place the bull in a different breeding herd. There shall be no sexual contact between the time of testing and change of possession.

B. Bulls shall not be exposed to females at the new premises until the results of the test are known.

C. Any bull with a positive test shall be immediately quarantined and the positive bull(s) shall be identified with the official New Mexico livestock board "N" fire brand or other NMLB approved method.

D. ~~[The quarantine shall be in effect until the bull is sent to slaughter.]~~ The positive *T. foetus* bull's herd of origin will be placed under quarantine.

E. ~~[The positive *T. foetus* bull's herd of origin will be placed under quarantine.]~~ The quarantine will be released in accordance to the regulatory section of this rule.

F. ~~The quarantine will be released in accordance to the regulatory section of this rule.]~~

[21.30.6.9 NMAC - N, 7/15/05; A, 2/26/10; A, 07/15/13; A, 07/15/14]

21.30.6.10 VOLUNTARY NEW MEXICO *T. FOETUS* FREE HERD CERTIFICATION REQUIREMENTS - MAY BE AN INDIVIDUAL HERD, RANCH, GRAZING ASSOCIATION OR FEDERAL LAND PERMITEE:

A. Breeding bulls.

(1) All non-virgin breeding bulls shall be tested annually for *T. foetus* for the three (3) years following the adoption of this rule.

(2) During the three year inception period, all non-virgin breeding bulls with changes of ownership, leased, rented or otherwise, shall be tested for *T. foetus* within sixty (60) days prior to such change unless consigned direct to slaughter. The test will be completed and test results known prior to the time a bull[(s)] is physically transferred to the receiving premises or herd.

(3) Negative *T. foetus* bulls will be identified with the official New Mexico negative *T. foetus* tag described in the identification section of this part.

(4) All slaughter bulls removed from the herd will be tested for *T. foetus*. The test may be performed at a slaughter facility if prior arrangement with a veterinarian and an appropriate agreement with the slaughter facility management is made.

(5) Bovine females added to a certified herd shall not originate from

a known *T. foetus* infected herd. Female herd additions must originate from a New Mexico certified *T. foetus*-free herd or qualify in one of the following categories:

(a) calf at side and no exposure to other than known negative *T. foetus* bulls;

(b) checked by an accredited veterinarian, at least one hundred twenty (120) days pregnant and so recorded;

(c) virgin; or

(d) heifers exposed as virgins only to known negative *T. foetus* infected bulls and not yet one hundred twenty (120) days pregnant.

(6) Records must be maintained for all tests including all non-virgin bulls entering the herd and made available for inspection by ~~a designed~~ an accredited veterinarian or state animal health official.

(7) Following successful completion of the three-year testing requirement, the participating entity shall receive a *T. foetus*-free certification from the New Mexico state veterinarian's office. Annual re-certification will require documented evidence that all male herd additions were virgin or that non-virgin breeding bulls added to the herd had three (3) official negative *T. foetus* test tests within sixty (60) days prior to commingling with female bovine and that all slaughter bulls removed from the herd have been negative for *T. foetus* prior to or at slaughter.

(8) A herd in which a bull has a confirmed *T. foetus* infection will be classified as a positive *T. foetus* herd and shall be removed from the "free" status. The herd will be quarantined until positive *T. foetus* bulls are sent to slaughter and all other bulls in the herd test negative to three (3) consecutive official *T. foetus* tests at least seven (7) days apart. The third *T. foetus* test will be completed within twelve (12) months of the initial *T. foetus* confirmation in the herd and will be conducted after the bulls have had breeding exposure to the cow herd. The bulls will be removed from the cow herd at least seven (7) days prior to the official *T. foetus* test. If more than twelve (12) months have passed since confirmation of *T. foetus* in the herd, the state veterinarian may require additional *T. foetus* testing prior to release of quarantine. The initial negative *T. foetus* test is included in the three (3) negative tests.

B. A non-tested, non-virgin bull that commingles with a herd ~~which~~ that holds or is actively working toward the New Mexico certified ~~[trich-free]~~ *T. foetus*-free status, by fence breach or any commingled situation, shall obligate the owner of the non-tested bull to test the bull from one to three times at the option of the state veterinarian in consultation with the owner and veterinarian of the negative herd.

C. A bull from a herd

which holds a current or has pending a [free] *T. foetus*-free certification and which commingles with a non-tested herd, shall undergo one to three official *T. foetus* test(s) prior to return to his herd of origin. Shall such test be positive, all bulls from both herds may be subject to [test] testing. The state veterinarian in consultation with the herd owner and herd veterinarian will determine the appropriate number of tests and number of bulls to be tested.

[21.30.6.10 NMAC - N, 7/15/05; A, 2/26/10; A, 7/15/13; A, 07/15/14]

21.30.6.11 REGULATORY ACTION:

A. Commingled grazing.

All non-virgin bulls commingling in grazing associations or multiple permittee allotments or leases, shall have the official *T. foetus* bull test conducted annually prior to turn out. A new official test will be required each time the bull(s) enter a different grazing association or multiple permittee allotment or lease.

(1) If a bull is found positive, the entire bull population present on the allotment or lease, regardless of ownership, will be required to have an official *T. foetus* test conducted. All positive bulls shall be identified with the official New Mexico livestock board "N" fire brand or NMLB approved method, and be sold for slaughter only. All test negative bulls belonging to the same owner(s) will be required to have a second negative test prior to turn out and a third negative official test after the bull(s) are removed from the grazing association or multiple permittee allotment or lease.

(2) Any stray non-virgin bull from an untested group that enters the grazing area of tested animals may be held under quarantine until the bull has one or more official *T. foetus* test(s) conducted. The test(s) shall be the responsibility of the bull's owner. The conditions of the quarantine and number of tests will be determined by the state veterinarian.

B. Positive *T. foetus* bull & herd. Any confirmed *T. foetus* bovine and its herd (as defined by state animal health officials) shall immediately be placed under quarantine and will continue under quarantine until the following rules are completed.

(1) Positive *T. foetus* bulls shall be identified with the official New Mexico livestock board "N" fire brand.

(2) Positive *T. foetus* bulls shall be quarantined and sent directly to slaughter or to public livestock market for slaughter only. A quarantined feed period may be allowed under special conditions. Positive bulls may be required to move on [an official USDA 1-27 permit] a NMLB approved method.

(3) All other bulls in a positive

T. foetus herd shall test negative to three (3) consecutive official *T. foetus* tests at least seven (7) days apart. The third *T. foetus* test will be completed within twelve (12) months of *T. foetus* confirmation in the herd and will be conducted after the bulls have had breeding exposure to the cow herd. The bulls will be removed from the cow herd at least seven (7) days prior to the official *T. foetus* test. If more than twelve (12) months have passed since confirmation of *T. foetus* in the herd, the state veterinarian may require additional *T. foetus* testing prior to release of quarantine. The initial negative *T. foetus* test is included in the three (3) negative tests.

(4) If a disease management plan has not been developed and activated within thirty (30) days of confirmation of *T. foetus* infection in the herd, all [cattle] bovids, except steers and spayed heifers, will be required to go directly to slaughter upon leaving the ranch.

C. Reproductive bovine females from a positive *T. foetus* herd.

(1) Females over twelve (12) months of age (not known to be virgin heifers) from a positive *T. foetus* herd may be sold direct to slaughter or quarantined on the premises of origin. Individual females [with] may be released from quarantine when [there are three consecutive negative *T. foetus* tests of the entire bull population and] either all requirements of Paragraph 3 of Subsection B of 21.30.6.11 NMAC have been met or the cow(s) has a calf at side with no exposure to other than known negative *T. foetus* bulls since parturition, has documented one hundred twenty (120) days of sexual isolation or is determined by an accredited veterinarian to be at least one hundred twenty (120) days pregnant. Heifers known to be virgin at the time of turnout or heifers exposed only to known negative *T. foetus* bulls and not yet one hundred twenty (120) days pregnant are allowed unrestricted movement.

(2) Open females shall be sold to slaughter or held in isolation from all bulls for one hundred twenty (120) days. Any female sold to slaughter through a livestock market shall be identified with an official New Mexico positive *T. foetus* tag or NMLB approved method during the quarantine period.

(3) Breeding by artificial insemination is allowed during the quarantine period and cows confirmed by an accredited veterinarian to be at least one hundred twenty (120) days pregnant as well as cows documented to have one hundred twenty (120) days sexual isolation will be released from quarantine.

(4) If a disease management plan has not been developed and activated within thirty (30) days of confirmation of *T. foetus* infection in the herd, all [cattle]

bovids, except steers and spayed heifers, will be required to go directly to slaughter upon leaving the ranch.

D. Regulatory action.

(1) Any stray non-virgin bull from an untested group that enters the land of [another] a negative *T. foetus* herd and commingles with [~~a negative~~] that herd may be held under quarantine until the bull has one or more official *T. foetus* test(s) conducted.

(2) The test(s) shall be the responsibility of the bull(s) owner. The conditions of the quarantine and the number of tests will be determined by the state veterinarian.

E. Neighboring facilities of a positive *T. foetus* herd.

(1) All facilities that share a common boundary with a positive *T. foetus* herd will be notified by the NMLB and may be required to test all of the bulls on the facility at their own expense. The decision to require such testing will be made by the state veterinarian based on results of epidemiological investigation.

(2) Any exposed herds found positive [~~on~~] upon testing will be designated as a positive *T. foetus* herd.

[21.30.6.11 NMAC - N, 7/15/05; A, 2/26/10; A, 07/15/14]

21.30.6.12 IDENTIFICATION:

A. Bulls which have [~~passed~~] been sampled for the official [~~negative~~] *T. foetus* bull test shall be identified with an official New Mexico [~~negative~~] *T. foetus* tag. [~~Virgin bulls should also be tagged with the official negative *T. foetus* tag. The official tag shall be embossed with "New Mexico negative *T. foetus*" and a number.~~] Tags will be supplied by the New Mexico livestock board and be assigned to approved veterinarians, who shall apply such tags at the time samples are collected. The approved veterinarian shall record any form of positive official identification worn by the bull or apply a standard USDA metal tag as a secondary identification if none exists. Bulls so identified pending test results shall be isolated from all females until the test result is reported. The official [~~negative~~] New Mexico *T. foetus* tag color shall be changed annually.

B. Positive *T. foetus* bulls shall be identified with the official New Mexico livestock board "N" fire brand or other identification approved by the state veterinarian and applied by the attending livestock inspector. Existing standard USDA metal ear tag and the official *T. foetus* tag shall be recorded when the "N" brand is applied.

C. Any quarantined bovids moved from the original premises of quarantine shall be identified with the

official New Mexico livestock board "N" fire brand or other identification approved by the state veterinarian.

[21.30.6.12 NMAC - N, 7/15/05; A, 2/26/10; A, 07/15/13; A, 07/15/14]

21.30.6.14 APPROVED LABORATORY RESPONSIBILITIES:

A. An approved laboratory is required to immediately report any positive specimen to the state veterinarian's office. Such report will include the animal identification, brand, owner name, address, telephone number and the submitting veterinarian's name, address and telephone number.

B. [~~Transport media shall be ringers lactate U.S.P. or a commercial trichomonas pouch (inpouchTF), if the samples are hand-carried to the laboratory within 24 hours of sampling. If any shipment by mail or other carrier is involved in the transport, ringers lactate is not allowed and the inpouch TM TF must be used. The specimen(s) shall be received at the laboratory in good condition within 48 hours of sampling.~~

~~_____C._____]~~ The laboratory shall report unacceptable samples to the state veterinarian. If any sample is deemed unacceptable, the submitting veterinarian shall submit a retest specimen. The state veterinarian may require the offending veterinarian to attend an approved trichomoniasis training session and submit acceptable specimens to continue as an approved trichomoniasis veterinarian. [21.30.6.14 NMAC - N, 7/15/05; A, 07/15/14]

NEW MEXICO LIVESTOCK BOARD

This is an amendment to 21.32.6 NMAC, Sections 7 and 8, effective 07/15/14.

21.32.6.7 DEFINITIONS:
[~~RESERVED~~] "Registered horse rescue or retirement facility" means such facility that has a current registration issued by the New Mexico livestock board to operate as a horse rescue or retirement facility. [21.32.6.7 NMAC - N, 01/31/14; A, 07/15/14]

21.32.6.8 DISBURSEMENTS FROM FUND:

A. Subject to the availability of money in the horse shelter rescue fund, monies in the fund may be distributed to reimburse registered horse rescue [~~and~~] or retirement facilities to defray the feeding and care expenses incurred by those facilities whenever they provide care and feed to animals that

have been placed there [~~by the board or other government agency~~] in accordance with Chapter 77, Articles 2 through 18, NMSA 1978, after owner surrender, the estray process [~~or seizure~~] or court-ordered disposition.

B. Subject to the availability of money in the horse shelter rescue fund, monies in the fund may be distributed to registered horse rescue [~~and~~] or retirement facilities, which make application to the board for a grant from the fund, in such amounts as the board determines, in its discretion, are reasonable and appropriate [~~based on its evaluation of the facility's need, the adequacy of care being provided, the volume of animals that are located at the facility, the monetary limitations of grant fund assistance, the number of applications in light of fund limitations and the need to prioritize assistance as deemed appropriate by the board~~].

(1) The board shall establish a committee to review such grant applications.

(2) A final decision on all grant applications shall be voted on by the board.

C. In no event is the board obligated to distribute monies for the purposes described in Subsections A and B above [~~and~~] or beyond [~~that~~] such amount that the board determines, in its discretion, is available for expenditure from the horse shelter rescue fund.
[21.32.6.8 NMAC - N, 01/31/14; A, 07/15/14]

NEW MEXICO PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

This is an emergency amendment to 2.80.600 NMAC, Section 10, effective 7/1/2014.

2.80.600.10 GENERAL PROVISIONS

A. Service shall be credited to the nearest month.

(1) Members may receive one month of service credit for any calendar month in which the member becomes a member on or before the sixteenth day of that month, or for any calendar month in which the member leaves office or terminates employment on or after the fifteenth day of the month, provided that all other requirements for awarding service credit are met.

(2) A member who is a full-time employee of an affiliated public employer shall acquire one month of service credit for every calendar month in which the

member is paid 50% or more of his or her monthly salary as reported by the member's affiliated public employer.

(3) If a member who is a full-time employee of an affiliated public employer is paid less than 50% of the member's monthly salary as reported by the member's affiliated public employer, employer and member contributions shall be paid on any salary paid during that month, and the member contributions shall be posted to the member's individual member contribution account, but no service credit shall be acquired for that month, even if unpaid leave was taken pursuant to the Family Medical Leave Act.

(4) A member who has the applicable minimum number of years of service credit required for normal retirement on June 30, 2014 and who is a part-time employee of an affiliated public employer shall acquire one month of service credit for every calendar month in which the member works twenty (20) or more hours per week, totaling forty (40) or more hours in an eighty (80) hour pay period as reported by the member's affiliated public employer.

[~~A part-time employee is an employee who works forty (40) or more hours but less than eighty (80) hours in an eighty (80) hour pay period or twenty (20) or more hours but less than forty (40) hours in a week.~~] This amendment was adopted as an emergency rule to provide additional time for review and consideration of the manner in which service credit is awarded to PERA members who are employed part-time. Immediate adoption of this amendment is necessary for the general welfare of the association.

(a) Notwithstanding any other provision of 2.80.600.10 NMAC, part-time employees who normally work at least twenty (20) hours in a week and who were furloughed pursuant to executive order issued between July 1, 2009 and June 30, 2010 shall acquire one month of service credit for each month affected by a furlough day. This amendment was adopted as an emergency rule to allow part-time employees to acquire service credit they would otherwise be eligible for absent the executive order. Immediate adoption of this amendment is necessary for the general welfare of the association.

(b) Notwithstanding any other provision of 2.80.600.10 NMAC, part-time employees who normally work at least twenty (20) hours in a week and who were furloughed in January and February, 2010 as a result of the second judicial district court's furlough plan shall acquire one month of service credit for each month affected by a furlough day.

(c) Notwithstanding any other provision of 2.80.600.10 NMAC, part-time employees who normally work at least twenty (20) hours in a week and who were

furloughed in May and June, 2010 as a result of the city of Rio Rancho's resolution no. 43 furlough plan shall acquire one month of service credit for each month affected by a furlough day.

(5) A member who does not have the applicable minimum number of years of service credit required for normal retirement on June 30, 2014 and who is a part-time employee of an affiliated public employer shall acquire one (1) month of service credit for every calendar month in which the member works thirty (30) or more hours per week, totaling sixty (60) or more hours in an eighty (80) hour pay period as reported by the member's affiliated public employer. This amendment was adopted as an emergency rule to provide additional time for review and consideration of the manner in which service credit is awarded to PERA members who are employed part-time. Immediate adoption of this amendment is necessary for the general welfare of the association.

(6) A member who does not have the applicable minimum number of years of service credit required for normal retirement on June 30, 2014 and who is a part-time employee of an affiliated public employer shall acquire one (1) month of service credit for every two (2) consecutive calendar months in which the member works twenty (20) or more, but less than thirty (30) hours per week, totaling forty (40) or more hours, but less than sixty (60) hours, in an eighty (80) hour pay period as reported by the member's affiliated public employer.

[(6)] (7) If a member who is a part-time employee does not qualify for service credit, employer and member contributions shall be paid on any salary paid during that month, and the member contributions shall be posted to the member's individual member contribution account, but no service credit shall be acquired.

(8) As used in Subsection A of 2.80.600.10 NMAC, "service credit" means only the service credit earned by the member during periods of employment with an affiliated public employer.

B. An employee who works fewer than forty (40) hours in an eighty (80) hour pay period or fewer than twenty (20) hours in a forty (40) hour week shall be exempt from membership by filing a PERA exclusion from membership form pursuant to 2.80.400.40 NMAC.

C. If a member has an incomplete contract to purchase service credit at the time of termination of employment, the contract must be paid in full within thirty (30) days of termination or the amount already paid under the contract will be refunded and no corresponding service credit will be granted.

D. Overlapping service credit.

(1) If a member has service credit for the same period of time for employment by public employers covered under different state systems, service credit may only be acquired under one state system for the period of overlapping service credit. In no case shall a member be credited with more than one month of service credit for all service in any calendar month.

(2) If a member accrues service credit under PERA and another state system for an overlapping period, the member shall be granted service credit for this overlapping period in accordance with all applicable statutes and rules that provide for the highest pension factor. [10-15-97; 11-15-97; 12-15-99; 2.80.600.10 NMAC - Rn, 2 NMAC 80.600.10, 8-15-01; A, 9-30-03; A/E, 5-28-10; A, 9-30-10; A, 12-30-13; A/E, 6-9-14; A/E, 7-1-14]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

1.18.394 NMAC, ERRDS, Office of the State Treasurer (filed 11/15/2000) repealed 07/20/2014 and replaced by 1.18.394 NMAC, ERRDS, Office of the State Treasurer, effective 07/20/14.

1.18.420 NMAC, ERRDS, Regulation and Licensing Department (filed 03/12/2002) repealed 07/20/2014 and replaced by 1.18.420 NMAC, ERRDS, Regulation and Licensing Department, effective 07/20/14.

NEW MEXICO COMMISSION OF PUBLIC RECORDS

June 17, 2014

Jackie Garcia, Agency Analysis Bureau Chief
NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, New Mexico 87507

Ms. Garcia:

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

118.394 NMAC ERRDS, Office of the State Treasurer

1.18.420 NMAC ERRDS, Regulation and Licensing Department

1.18.665 NMAC ERRDS, Department of Health

A review of the rules shows that their impact is limited to the individual agency to which it pertains, and it is "unduly cumbersome, expensive or otherwise inexpedient" to publish. Therefore, your request to publish a synopsis for each of the rules listed is approved.

Sincerely,

Linda Trujillo
Acting State Records Administrator

LT/jg

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS

1.18.394 NMAC ERRDS, Office of the State Treasurer

1. Subject matter: 1.18.394 NMAC, Executive Records Retention and Disposition Schedule for the Office of the State Treasurer. This is a replacement to 1.18.394 NMAC, ERRDS, Office of the State Treasurer. The records retention and disposition schedule is a timetable for the management of specific records series of the Office of the State Treasurer. 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 and the Office of the State Treasurer.

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

3. Interests of persons affected: Interests include the records produced and maintained by the Office of the State

Treasurer.

4. Geographical applicability:

Geographical applicability is limited to areas within the State of New Mexico covered by Office of the State Treasurer. Any person or entity outside the covered geographical area that conducts business with or through the Office of the State Treasurer 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: July 20, 2014

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.394 NMAC ERRDS, Office of the State Treasurer

/Tania Maestas/ /06/17/2014
SRCA Legal Representative Date

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS

1.18.420 NMAC ERRDS, Regulation and Licensing Department

1. Subject matter: 1.18.420 NMAC, Executive Records Retention and Disposition Schedule for the Regulation and Licensing Department. This is a replacement to 1.18.420 NMAC, ERRDS, Regulation and Licensing Department. The records retention and disposition schedule is a timetable for the management of specific records series of the Regulation and Licensing 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 and the Regulation and Licensing Department.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Regulation and Licensing Department. Persons and entities normally subject to the rules and regulations of Regulation and Licensing 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 Regulation and Licensing Department.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by Regulation and Licensing Department. Any person or entity outside the covered geographical area that conducts business with or through the Regulation and Licensing 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: July 20, 2014

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.420 NMAC ERRDS, Regulation and Licensing Department.

/Tania Maestas/ /06/17/2014
SRCA Legal Representative Date

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

SYNOPSIS

1.18.665 NMAC ERRDS, Department of Health

1. Subject matter: 1.18.665 NMAC, Executive Records Retention and Disposition Schedule for the Department of Health. This is an amendment to 1.18.665 NMAC, ERRDS, Department of Health. The records retention and disposition schedule is a timetable for the management of specific records series of the Department of Health. 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 and the Department of Health.

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

3. Interests of persons affected: Interests include the records produced and maintained by the Department of Health.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Department of Health. Any person or entity outside the covered geographical area that conducts business with or through the Department of Health 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: July 20, 2014

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.665 NMAC ERRDS, Department of Health.

/Tania Maestas/ /06/17/2014
SRCA Legal Representative Date

End of Adopted Rules Section

Other Material Related to Administrative Law

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

The New Mexico Human Services Department Medical Assistance Division is providing this notice for the purpose of receiving comments on Personal Care Services rates proposed to be implemented effective with dates of service July 1, 2014.

The proposed rate change is to increase the rate for "Personal Care, Consumer-Delegated" by 4.1% and to increase the rate for "Personal Care, Consumer-Directed" by 1.4% with an effective date of July 1, 2014. The increase in expenditures to the Medicaid Program is anticipated to be not more than \$9.6 million of which approximately \$6.6 million will come from federal matching funds.

This change is being made following a review of the adequacy of current Personal Care reimbursement and the rate changes and inflationary costs over time. Should the Department revise the proposed increase based on comments received, the Department will make retroactive payment adjustments as appropriate. Written comments, as well as requests for copies of all comments received, may be sent to Cedric Chavez-Medicaid Assistance Division-HSD, PO Box 2348, Santa Fe, New Mexico, 87504-2348, or by email to cedric.chavez@state.nm.us. If you are a person with a disability and you require this information in an alternative format, please contact MAD toll free at 1-888-997-2583 and ask for extension 7-7743. In Santa Fe call 827-7743. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

The New Mexico Human Services Department Medical Assistance Division is providing this notice for the purpose of receiving comments on proposed fee schedule changes and existing Medicaid fee schedule. These fee schedules may be found at <http://www.hsd.state.nm.us/providers/fee-for-service.aspx> Fee for Service.

The rates are effective as of the dates indicated on the website, or July 1, 2014, if not otherwise indicated. With the

exception of Behavioral Health rates and rates that have been implemented at the Medicare fee schedule amount, there are no significant changes to the rates now in effect. However, providers may still comment on the current rates for further consideration by the Medical Assistance Division. Subsequent changes to these rates, other than those at the Medicare fee schedule or that are technical corrections, will be made only with additional public notification. There is no anticipated increase or decrease to overall expenditures for the state Medicaid program with the exception of the Behavioral Health which extends some existing rates for evaluation and management services to prescribing psychologists and mid-level practitioners with an anticipated annual increase of not more than \$30,000 of which approximately \$21,000 will come from federal matching funds. This change is being made as a technical correction to accommodate the scope of license of these providers. Should the Department revise the fee schedule based on comments received, the Department will make retroactive payment adjustments as appropriate. Written comments, as well as requests for copies of all comments received, may be sent to Cedric Chavez-Medicaid Assistance Division-HSD, PO Box 2348, Santa Fe, New Mexico, 87504-2348, or by email to cedric.chavez@state.nm.us. If you are a person with a disability and you require this information in an alternative format, please contact MAD toll free at 1-888-997-2583 and ask for extension 7-7743. In Santa Fe call 827-7743. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

The New Mexico Human Services Department Medical Assistance Division is providing this notice for the purpose of receiving comments on nursing facility rates proposed to be implemented effective with dates of service July 1, 2014.

The rates for nursing home facilities are determined specifically for each facility. The proposed rate change is to increase each facility's "Nursing Facility - Low" rate by 3.7%, effective July 1, 2014. The increase in expenditures to the Medicaid Program is anticipated to be not more than \$6,589,800 of which approximately \$4,589,800 will come from federal

matching funds. This change is being made following a review of the adequacy of current nursing facility reimbursement and the rate changes and inflationary costs over time. Should the Department revise the proposed increase based on comments received, the Department will make retroactive payment adjustments as appropriate. Written comments, as well as requests for copies of all comments received, may be sent to Cedric Chavez-Medicaid Assistance Division-HSD, PO Box 2348, Santa Fe, New Mexico, 87504-2348, or by email to cedric.chavez@state.nm.us. If you are a person with a disability and you require this information in an alternative format, please contact MAD toll free at 1-888-997-2583 and ask for extension 7-7743. In Santa Fe call 827-7743. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184.

End of Other Related Material Section

Submittal Deadlines and Publication Dates

Volume XXV, Issues 1-24

2014

Volume XXV	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 31
Issue Number 3	February 3	February 14
Issue Number 4	February 17	February 28
Issue Number 5	March 3	March 14
Issue Number 6	March 17	March 31
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 30
Issue Number 11	June 2	June 13
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 18	August 29
Issue Number 17	September 2	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 30
Issue Number 21	October 31	November 13
Issue Number 22	November 14	November 26
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

The *New Mexico Register* is the official publication for all notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. 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.

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

For further information, call (505) 476-7907.