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New Mexico Register

The official publication for all official notices of rulemaking
and filing of proposed, adopted and emergency rules.

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The New Mexico Register

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Volume XXXII, Issue 12

June 22, 2021

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Notices of Rulemaking and Proposed Rules

ENVIRONMENT DEPARTMENT

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD NOTICE OF RULEMAKING HEARING TO CONSIDER ADOPTION OF PROPOSED 20.2.50 NMAC, EIB 21-27 (R)

The New Mexico Environmental Improvement Board (“Board”) will hold a public hearing beginning at 9:00 a.m. on September 20, 2021 to consider the matter of EIB 21-27 (R), proposed new regulations at 20.2.50 NMAC – Oil and Gas Sector – Ozone Precursor Pollutants (“Part 50”). The hearing will be held via video conference on a virtual platform, via telephone, and comments will be received by the Board via email at pamela.jones@state.nm.us through the conclusion of the hearing. The hearing will last as long as required to hear all testimony, evidence, and public comment, and is expected to last approximately two weeks.

Information and instructions regarding how to join the virtual hearing will be available on the Board’s webpage at the following link no later than September 6, 2021: <https://www.env.nm.gov/environmental-improvement/main-2/>.

If you have difficulties joining the meeting, please contact Pamela Jones at (505) 660-4305 or Madai Corral at (505)-490-5803.

The hearing is being held via video conference, email and telephonic means due to concerns surrounding the Novel Coronavirus 2019 (“COVID-19”) and in accordance with Governor Michelle Lujan Grisham’s Declaration of a Public Health Emergency in Executive Order 2020-004 and subsequent orders; various Public health Emergency Orders Limiting mass gathering; and the Office of the Attorney General’s Open Government Division’s

Guidance to Public Entities Regarding the Open Meetings Act and Inspection of Public Records Act Compliance During Covid-19 State of Emergency.

The purpose of the public hearing is for the Board to consider and take possible action on a petition by the New Mexico Environment Department (“NMED”) requesting the Board to adopt a plan, including proposed new regulations at 20.2.50 NMAC. The requested action is currently authorized pursuant to the New Mexico Air Quality Control Act, NMSA 1978, Section 74-2-5.3, which requires that the Board adopt a plan, including regulations, to ensure attainment and maintenance of the National Ambient Air Quality Standard (“NAAQS”) for ozone within areas of the State that have monitored ozone concentrations that exceed 95% of the NAAQS. After July 1, 2021, that authority will be codified in NMSA 1978, Section 74-2-5, due to changes made to the Air Quality Control Act in the 2021 Legislative session. The proposed regulations at Part 50 would reduce emissions of ozone precursor pollutants (oxides of nitrogen and volatile organic compounds) from sources in the oil and gas sector located in areas of the State within the Board’s jurisdiction that are experiencing elevated ozone levels.

The proposed regulations and related information, including technical information, may be reviewed on NMED’s web site at <https://www.env.nm.gov/air-quality/o3-initiative/>; during regular business hours at the NMED Air Quality Bureau, 525 Camino de los Marquez, Suite 1, Santa Fe, NM 87505; or by contacting the Air Quality Bureau at (505) 476-4300 or nm.oai@state.nm.us. Stakeholders may submit comments to NMED regarding the proposed rule to nm.oai@state.nm.us by July 22, 2021. Comments may be submitted to the Board through the conclusion of the hearing as described below.

The hearing will be conducted in accordance with the Board’s Rulemaking Procedures at 20.1.1 NMAC; the New Mexico Environmental Improvement Act at NMSA 1978, Section 74-1-9; the New Mexico Air Quality Control Act at NMSA 1978, Section 72-2-6; and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing; to introduce exhibits; and to examine witnesses. Persons wishing to present technical testimony must file a written Notice of Intent with the Board. The requirements for a Notice of Intent can be found at 20.1.1.302 NMAC, Technical Testimony. Notices of Intent to present direct technical testimony must be received by the Board by 5:00 pm on July 28, 2021. Notices of Intent to submit rebuttal technical testimony must be received by the Board by 5:00 pm on September 6, 2021. All Notices of Intent should reference the name of the regulation (20.2.50 NMAC – Oil and Gas Sector – Ozone Precursor Pollutants), the date of the hearing (September 20, 2021), and docket number EIB 21-27 (R). Notices of intent to present technical testimony should be submitted to:

Pamela Jones, Board Administrator
Environmental Improvement Board
P.O. Box 5469
Santa Fe, NM 87502
Tel (505) 660-4305
Fax (505) 827-2836
Email: pamela.jones@state.nm.us

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with their testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing

oral testimony at the hearing, must file such statement with the Board prior to the close of the hearing. To file a written statement via email, send correspondence to pamela.jones@state.nm.us.

The Board may continue the hearing beyond the expected conclusion date, leaving the hearing record open and continuing to receive comments. Notice of continuation will be posted on the Board's and NMED's website. Additionally, the Board may make a decision on the proposed rule at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposed rule.

Persons requiring language interpretation services or having a disability who need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing should contact Pamela Jones no later than September 6, 2021 at (505) 660-4305 or pamela.jones@state.nm.us. TDD or TDY users please access this number via the New Mexico Relay Network (Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779; TTY users: 1-800-659-8331).

STATEMENT OF NON-DISCRIMINATION: NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or

any of NMED's non-discrimination programs, policies or procedures, you may contact:

Kathryn Becker, Non-Discrimination Coordinator
New Mexico Environment Department
1190 St. Francis Dr., Suite N4050
P.O. Box 5469
Santa Fe, NM 87502
(505) 827-2855
nd.coordinator@state.nm.us

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.

**JUNTA DE MEJORA
AMBIENTAL DE NUEVO
MÉXICO
AVISO DE AUDIENCIA DE
REGLAMENTACIÓN PARA
CONSIDERAR LA ADOPCIÓN
DE LA PROPUESTA 20.2.50
NMAC, EIB 21-27 (R)**

La Junta de Mejora Ambiental de Nuevo México ("Junta") celebrará una audiencia pública a partir de las 9:00 a.m. el 20 de septiembre de 2021 para considerar el asunto de la EIB 21-27 (R), propuesta de nuevas regulaciones en 20.2.50 NMAC - Sector de petróleo y gas - Contaminantes precursores de ozono ("Parte 50"). La audiencia se celebrará por videoconferencia en una plataforma virtual y por teléfono, la Junta recibirá comentarios por correo electrónico en pamela.jones@state.nm.us hasta la conclusión de la audiencia. La audiencia durará el tiempo necesario para escuchar todos los testimonios, pruebas y comentarios del público, y se espera que dure aproximadamente dos semanas.

La información e instrucciones sobre cómo unirse a la audiencia virtual

estarán disponibles en la página web de la Junta en el siguiente enlace a más tardar el 6 de septiembre de 2021: <https://www.env.nm.gov/environmental-improvement/main-2/>.

Si tiene dificultades para participar en la reunión, comuníquese con Pamela Jones llamando al (505) 660-4305 o con Madai Corral al (505)-490-5803.

La audiencia se celebra a través de videoconferencia, correo electrónico y medios telefónicos debido a las preocupaciones que rodean al nuevo coronavirus 2019 ("COVID-19") y de acuerdo con la Declaración de Emergencia de Salud Pública de la gobernadora Michelle Luján Grisham en la Executive Order 2020-004 (Orden Ejecutiva 2020-004) y las órdenes subsiguientes; varias Órdenes de Emergencia de Salud Pública que limitan las reuniones masivas; y la Guidance (Guía) de la División de Gobierno Abierto de la Oficina del Procurador General para Entidades Públicas con respecto a la Ley de Reuniones Abiertas y el Cumplimiento de la Ley de Inspección de Registros Públicos durante el Estado de Emergencia Covid-19.

El propósito de la audiencia pública es que la Junta considere y tome una posible acción sobre una petición del Departamento de Medio Ambiente de Nuevo México ("NMED" por sus siglas en inglés) que solicita que la Junta adopte un plan, incluida las nuevas regulaciones propuestas en 20.2.50 NMAC. La acción solicitada está actualmente autorizada de conformidad con la Ley de Control de Calidad del Aire de Nuevo México, NMSA 1978, Sección 74-2-5.3, que requiere que la Junta adopte un plan, incluidas regulaciones, para garantizar el logro y el mantenimiento del Estándar Nacional de Calidad del Aire Ambiental ("NAAQS") para el ozono dentro de las áreas del Estado que han monitoreado concentraciones de ozono que superan el 95% del NAAQS. Después del 1 de julio de 2021, esa autoridad se codificará en NMSA 1978, Sección 74-2-5,

debido a los cambios realizados en la Ley de Control de Calidad del Aire en la sesión legislativa de 2021. Las regulaciones propuestas en la Parte 50 reducirían las emisiones de contaminantes precursores de ozono (óxidos de nitrógeno y compuestos orgánicos volátiles) procedentes de fuentes del sector del petróleo y gas situadas en zonas del Estado dentro de la jurisdicción de la Junta que están experimentando niveles elevados de ozono.

Las regulaciones propuestas y la información relacionada, incluida la información técnica, pueden ser revisadas en el sitio web del NMED en <https://www.env.nm.gov/air-quality/o3-initiative/>; durante el horario comercial habitual en la Oficina de Calidad del Aire del NMED, 525 Camino de los Marquez, Suite 1, Santa Fe, NM 87505; o comunicándose con la Oficina de Calidad del Aire al (505) 476-4300 o nm.oai@state.nm.us. Las partes interesadas pueden presentar comentarios al NMED con respecto a la norma propuesta a nm.oai@state.nm.us a más tardar hasta el 22 de julio de 2021. Los comentarios pueden ser presentados a la Junta hasta la conclusión de la audiencia como se describe a continuación.

La audiencia se llevará a cabo de acuerdo con los Procedimientos de Reglamentación de la Junta en 20.1.1 NMAC; la Ley de Mejoramiento Ambiental de Nuevo México en NMSA 1978, Sección 74-1-9; la Ley de Control de la Calidad del Aire de Nuevo México en NMSA 1978, Sección 72-2-6; y otros procedimientos aplicables.

Todas las personas interesadas tendrán una oportunidad razonable en la audiencia para presentar pruebas, datos, puntos de vista y argumentos pertinentes, de forma oral o por escrito; presentar pruebas instrumentales y para interrogar a los testigos. Las personas que deseen presentar un testimonio técnico deben presentar un Aviso de Intención por escrito a la Junta. Los requisitos para

los Avisos de Intención se encuentran en 20.1.1.302 NMAC, Testimonio Técnico. Los Avisos de Intención para presentar testimonios técnicos directos deben ser recibidos por la Junta a más tardar hasta las 5:00 p.m. del 28 de julio de 2021. Los Avisos de Intención para presentar testimonios técnicos de refutación deben ser recibidos por la Junta a más tardar hasta las 5:00 p.m. del 6 de septiembre de 2021. Todos los Avisos de Intención deben hacer referencia al nombre de la regulación (20.2.50 NMAC - Sector del petróleo y gas - contaminantes precursores de ozono), la fecha de la audiencia (20 de septiembre de 2021) y el número de expediente EIB 21-27 (R). Los Avisos de Intención de presentar testimonios técnicos deben presentarse a:

Pamela Jones, administradora de la Junta
Junta de Mejora Ambiental
P.O. Box 5469
Santa Fe, NM 87502
Teléfono: (505) 660-4305
Fax: (505) 827-2836
correo electrónico: pamela.jones@state.nm.us

Cualquier miembro del público puede testificar en la audiencia. No se requiere aviso previo para presentar un testimonio no técnico en la audiencia. Cualquier miembro de este tipo puede también ofrecer pruebas instrumentales en relación con su testimonio, siempre que la prueba instrumental no sea indebidamente repetitiva del testimonio.

Los miembros del público que deseen presentar una declaración por escrito para que conste en el registro, en lugar de prestar testimonio oral en la audiencia, deberán presentar dicha declaración a la Junta antes de la conclusión de la audiencia. Para presentar una declaración escrita por correo electrónico, envíe la correspondencia a pamela.jones@state.nm.us.

La Junta puede prolongar la audiencia más allá de la fecha prevista de

conclusión, dejando el registro de la audiencia abierto y continuando la recepción de comentarios. El aviso de continuación se publicará en el sitio web de la Junta y de NMED. Además, la Junta puede tomar una decisión sobre la norma propuesta al concluir la audiencia, o puede convocar una reunión después de la audiencia para considerar la acción sobre la norma propuesta.

Las personas que requieran servicios de interpretación de idiomas o que tengan una discapacidad y necesiten un lector, un amplificador, un intérprete cualificado de lenguaje de signos o cualquier otra forma de ayuda o servicio auxiliar para asistir o participar en la audiencia deben comunicarse con Pamela Jones a más tardar el 6 de septiembre de 2021 llamando al (505) 660-4305 o en pamela.jones@state.nm.us. Los usuarios de TDD o TDY pueden acceder a este número a través de la Red de Retransmisión de Nuevo México (usuarios de TDD de Albuquerque: (505) 275-7333; fuera de Albuquerque: 1-800-659-1779; usuarios de TTY: 1-800-659-8331).

DECLARACIÓN DE NO DISCRIMINACIÓN: El NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, tal y como exigen las leyes y reglamentos aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y de la recepción de las consultas relativas a los requisitos de no discriminación implementados por el 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972, y la Sección 13 de las Enmiendas de la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o sobre cualquiera de los programas, políticas o procedimientos de no discriminación

de NMED, puede comunicarse con:

Kathryn Becker, coordinadora de no discriminación
Departamento de Medio Ambiente de Nuevo México
1190 St. Francis Dr., Suite N4050
P.O. Box 5469
Santa Fe, NM 87502
Teléfono: (505) 827-2855
Correo electrónico: nd.coordinator@state.nm.us

Si cree que ha sido discriminado con respecto a un programa o actividad de NMED, puede comunicarse con la coordinadora de no discriminación identificada más arriba o visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para aprender cómo y dónde presentar una queja de discriminación.

REGULATION AND LICENSING DEPARTMENT ALCOHOLIC BEVERAGE CONTROL DIVISION

NOTICE OF PROPOSED RULEMAKING

The New Mexico Regulation and Licensing Department (RLD) Alcoholic Beverage Control Division (ABC) gives notice of its initiation of a proposed rulemaking to amend sections of (or alternatively repeal and replace) the following rules: 15.10.2 NMAC, Definitions; 15.10.31 NMAC, Premises - General Requirements; 15.10.32 NMAC, Premises - Location and Description of Licensed Premises; 15.10.33 NMAC, Premises - Minors on Licensed Premises; 15.10.51 NMAC, Sales - Restrictions on Sales; 15.10.52 NMAC, Segregated Alcohol Sales; 15.10.53 NMAC, Sales - Wholesalers; 15.10.54 NMAC, Sales - Clubs; 15.10.55 NMAC, Internet Sales; 15.10.61 NMAC, Citations - Fines and Penalties; 15.10.70 Operation and Profiting by Authorized Persons and Alternating Proprietorships; 15.11.2 NMAC, Required Documents on Licensed Premises; 15.11.21

NMAC, Licenses and Permits - Applications; 15.11.22 NMAC, Licenses and Permits - Renewal and Suspension; 15.11.23 NMAC, Licenses and Permits - Change in Licensee; 15.11.24 NMAC, Licenses and Permits - Restaurant License; 15.11.25 NMAC, Licenses and Permits - Special Dispenser and Public Celebration Permits; 15.11.26 NMAC, Licenses and Permits - Fees; 15.11.27 NMAC, Licenses and Permits - Inter-Local Option District Transfers; 15.11.28 NMAC, Licenses and Permits - Bed and Breakfast License; 15.11.29 NMAC, Licenses and Permits - Tasting Permits; 15.11.30 NMAC, Purchasing Cooperatives; and 15.11.31 NMAC, Alcohol Server Training, along with a proposed new rule 15.11.20 NMAC, Licenses and Permits - Alcoholic Beverage Delivery. The rules which may be adopted as the final rules in this proceeding may include all, part, or none of the language in the proposed rules issued by ABC. ABC may also consider alternative proposals for amending or replacing the current rules.

A public hearing will be held on **July 26, 2021, from 1:00 p.m. to 5:00 p.m. and if the hearing is not concluded at that time, will continue to July 27, 2021, from 1:00 p.m. to 5:00 p.m.** via Cisco Webex platform. Any member of the public who wishes to make a comment at the hearing must contact Desirae Griego at 505-476-4552 or Desirae.Griego@state.nm.us by no later than 12:00 pm on July 22, 2021, in order to be placed upon the public comment listing and to receive the Cisco Webex invitation. The invitation will include a call-in number for those participants who are unable to access the Cisco Webex platform via computer. The purpose of the hearing is to give interested persons an opportunity to give oral comments. The ABC may limit the time for each comment.

A copy of the full text of the proposed rules may be obtained from the ABC website, www.rld.state.nm.us/abc, or by calling Desirae Griego at 505-476-4552 during regular business hours.

Concise explanatory statement:

ABC is considering amending sections of rule **15.10.2 NMAC, Definitions**. ABC is considering changes to many sections of the rule. In particular, defining additional terms, including, but not limited to: “delivery” and “shipping” in order to clarify what activities are authorized by the 2021 amendments to the Liquor Control Act.

ABC is considering repealing and replacing sections of rule **15.10.31 NMAC, Premises - General Requirements**. ABC is considering changes this rule to bring it to current format standards. Additionally, ABC is making changes to the sanitation requirements of the rule to further ensure the public’s health and safety.

ABC is considering amending sections of rule **15.10.32 NMAC, Premises - Location and Description of Licensed Premises**. ABC is considering changes to many sections of this rule due changes in the definition for “licensed premises” in the Liquor Control Act. Additionally, the changes clarify where alcoholic beverage sales and consumption may take place on a licensed premises.

ABC is considering amending sections of rule **15.10.33 NMAC, Premises - Minors on Licensed Premises**. The proposed changes clarify the prohibition on minors participating in the delivery of alcoholic beverages, as employees of liquor license holders and third-party delivery services.

ABC is considering amending sections of rule **15.10.51 NMAC, Sales - Restrictions on Sales**. The proposed changes remove prior contradictory language regarding gambling, thus clarifying prohibited activities on licensed premises. Additionally, the changes will clarify sales of certain spirituous liquors quantities and sales to customers on licensed premises while in a motor vehicle.

ABC is considering amending sections of rule **15.10.52 NMAC, Segregated Alcohol Sales**. The proposed changes will clarify that alcoholic beverage display areas need to be located in the controlled access area of the licensed premises.

ABC is considering amending sections of rule **15.10.53 NMAC, Sales - Wholesalers**. The proposed changes will cause commercial coercion and bribery to conform with the 2021 amendment to the Liquor Control Act on inducements.

ABC is considering amending sections of rule **15.10.54 NMAC, Sales - Clubs**. The proposed changes will remove prior contradictory language regarding gambling on a licensed premises. Additional changes will address the number of fund raising events, by other non-profit organizations, a club may allow on its facilities per year.

ABC is considering amending sections of rule **15.10.55 NMAC, Internet Sales**. The proposed changes will cause the rule to conform to the use of internet, application, and telephonic platforms for the purchase of alcoholic beverages through delivery and other means, as allowed by 2021 amendments to the Liquor Control Act.

ABC is considering amending sections of rule **15.10.61 NMAC, Citations - Fines and Penalties**. The proposed changes will add fines and penalties for violations relating to delivery of alcoholic beverages.

ABC is considering amending sections of rule **15.10.70 NMAC, Operation and Profiting by Authorized Persons and Alternating Proprietorships**. The proposed changes will create a framework in which contracts between licensees and third-party delivery services relate to profit sharing.

ABC is considering amending sections of rule **15.11.2 NMAC, Required Documents on Licensed**

Premises. The proposed changes address the required documents delivery personal are required to have on their person during the delivery of alcoholic beverages to customers.

ABC is proposing the new rule **15.11.20 NMAC, Licenses and Permits – Alcoholic Beverage Delivery**. This rule will establish the framework in which licensees may obtain an alcoholic beverage delivery permit and in which third-party delivery services may obtain a third-party alcohol delivery license. The rule will also clarify what permit holders and license holders are able to do in regards to delivery of alcoholic beverages and restrictions on alcoholic beverage delivery based on location of licensee, size of licensee's retail space, and type of license held.

ABC is considering amending sections of rule **15.11.21 NMAC, Licenses and Permits – Applications**. The proposed change amends the rule to reflect the current name of the division, conforming to 2019 amendments of the Liquor Control Act.

ABC is considering amending sections of rule **15.11.22 NMAC, Licenses and Permits – Renewal and Suspension**. The proposed change amends the rule to reflect the current name of the division, conforming to 2019 amendments of the Liquor Control Act.

ABC is considering amending sections of rule **15.11.23 NMAC, Licenses and Permits – Change in Licensee**. The proposed change clarifies instances in which a change of ownership of a license occurs and creates an additional means of a reportable change of structure without a change of ownership.

ABC is considering amending sections of rule **15.11.24 NMAC, Licenses and Permits – Restaurant License**. The proposed changes address the new restaurant b license created by 2021 amendments to the Liquor Control Act, as well as the

creation of a New Mexico spirituous liquors permits for, what will be renamed, restaurant a licenses.

ABC is considering amending sections of rule **15.11.25 NMAC, Licenses and Permits – Special Dispenser and Public Celebration Permits**. The proposed changes address the ability for New Mexico small manufacturers to obtain private celebration permits. Additionally, the changes will conform to 2021 amendments to the Liquor Control Act in regards to reciprocity between New Mexico small manufacturers.

ABC is considering amending sections of rule **15.11.26 NMAC, Licenses and Permits – Fees**. The proposed changes relate to fees for licenses and permits created by 2021 amendments to the Liquor Control Act.

ABC is considering amending sections of rule **15.11.27 NMAC, Licenses and Permits – Inter-Local Option District Transfers**. The proposed change amends the rule to reflect the current name of the division, conforming to 2019 amendments to the Liquor Control Act.

ABC is considering amending sections of rule **15.11.28 NMAC, Licenses and Permits – Bed and Breakfast License**. The proposed change amends the rule to reflect the current name of the division, conforming to 2019 amendments of the Liquor Control Act.

ABC is considering amending sections of rule **15.11.29 NMAC, Licenses and Permits – Tasting Permits**. The proposed changes clarify where within licensed premises a tasting may be conducted, pursuant to a permit issued by ABC.

ABC is considering amending sections of rule **15.11.30 NMAC, Purchasing Cooperatives**. The proposed change amends the rule to reflect the current name of the division, conforming to 2019

amendments of the Liquor Control Act.

ABC is considering amending sections of rule **15.11.31 NMAC, Alcohol Server Training – Certification**. The proposed change amends the rule to reflect the current name of the division, conforming to 2019 amendments of the Liquor Control Act. Additionally, the changes will reflect the requirement that delivery be addressed in server trainings.

Constitutional and statutory authority: Section 60-3A-7, NMSA 1978.

Public Comment. Interested parties may provide comment at the public hearing or may submit written comments by mail to Desirae Griego, Alcoholic Beverage Control Division, Regulation and Licensing Department, 2550 Cerrillos Road, Santa Fe, New Mexico 87504, by electronic mail to Desirae.Griego@state.nm.us, or by fax to (505) 476-4595. All written comments must be received no later than 5 p.m. (MST) on Friday, 23, 2021. The ABC encourages the early submission of written comments. The public comment period is from June 22, 2021, to Friday, July 23, 2021, at 5:00 p.m. (MST).

The ABC will review all feedback received during the public comment period and issue communication regarding a final decision at a later date.

Any person with a disability requiring special assistance in order to participate in the hearing should contact Desirae Griego at 505-476-4552 or Desirae.Griego@state.nm.us at least 10 calendar days prior to the commencement of the hearing.

REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF

NOTICE OF REGULAR BOARD MEETING AND RULE HEARING

The New Mexico Board of Pharmacy will convene for the purpose of conducting a rule hearing and regular board meeting on July 22, 2021 at 9:00 a.m. and continue until finished. If the meeting agenda items are not finished by 5:00 p.m., the Board will convene on July 23, 2021 at 9:00 a.m. and continue until finished. Pursuant to the June 12, 2020 Public Health Order restricting Mass Gatherings due to COVID-19, the meeting will be held as a virtual meeting.

Location: Virtual meeting

July 22, 2021

Meeting link: <https://nmrld.webex.com/nmrld/onstage/g.php?MTID=ece255bfb9b95b9d6e09c74cdca84b0c1>

Meeting number: 187 929 7215

Password: x6iHd5M3TUD

Join by phone +1-415-655-0002

Access code: 187 929 7215

July 23, 2021

Meeting link: <https://nmrld.webex.com/nmrld/onstage/g.php?MTID=e6d8b5e000d12a13b4041026d3963dcfc>

Meeting number: 187 485 7419

Password: WjVYvG7Wm39

Join by phone +1-415-655-0002

Access code: 187 485 7419

The agenda is posted 72 hours prior to the scheduled meeting. You may view and download a copy of the agenda through the board's website: www.rld.state.nm.us/boards/pharmacy.aspx. All proposed language regarding rule hearings is linked to the *Agenda*, the *Notice to the Public* on our website and the *New Mexico Sunshine Portal*.

Individuals petitioning the board regarding requests/waivers and/or interested persons wishing to comment on proposed language regarding rule hearings must submit

documentation for presentation; via fax (505) 222-9845, mail or email to the Board Administrator, Gabriella Romero, gabriella.romero@state.nm.us at least one week in advance of the scheduled meeting, as public comment is allowed during the rule hearing. On the morning of the hearing beginning at 8:00 a.m. and ending when the rule hearing adjourns, a Board of Pharmacy representative will be stationed at the board office, located at 5500 San Antonio Drive NE, Albuquerque, NM 87109, to receive written comments regarding the rule hearings and also to convey them to the Board. Public attendance will be limited to remote participation. Oral participation by members of the public will be limited to those comments and discussion through audiovisual means.

The board may go into Executive Session to discuss items pursuant to Section 10-15-1H(1), Section 10-15-1H(2), Section 10-15-1H(3) or Section 10-15-1H(7) of the Open Meeting Act. Agenda items may be executed at any time during the meeting to accommodate hearings.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Gabriella Romero 505-222-9835 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact Gabriella Romero, at 505-222-9835 or e-mail gabriella.romero@state.nm.us if a summary or other type of accessible format is needed.

The Board will address:

All Board Matters:

Rule Hearings:

July 22, 2021 9:10 a.m.

16.19.4 NMAC – PHARMACIST:

Section 1, administrative update.
Section 17, removal of restriction on pharmacist clinician writing a recommendation for the use of medical cannabis.

STATUTORY AUTHORITY:

Sections 61-11B-1 to 61-11B-3
NMSA 1978.

16.19.20 NMAC - CONTROLLED SUBSTANCES:

Section 65, schedule isotonitazene, crotonyl fentanyl and valeryl fentanyl; deschedule marijuana, tetrahydrocannabinols, hashish.
Section 38, add remimazolam; and Section 69, add cenobamate – consistent with federal schedules.

STATUTORY AUTHORITY:

Sections 30-31-1 through 30-31-42
NMSA 1978.

16.19.30 NMAC –**COMPOUNDING OF NON-STERILE PHARMACEUTICALS:**

Section 7, administrative clarification.
Section 8, pharmacist in charge responsibilities to include assuring availability of current reference source for the type of compounding conducted. Section 9, remove restriction on controlled substance office use compounded veterinary preparations, specify conditions for compounded controlled substance veterinary office use preparation distribution by a pharmacy.

STATUTORY AUTHORITY:

Paragraph (6) of Subsection (A) of
Section 61-11-6 NMSA 1978.

16.19.31 NMAC – EMERGENCY

PROVISIONS: Sections 1, 2, and 3 administrative updates. New Section 11, during a declared emergency resulting in unavailable required testing or training, the Board may authorize a temporary extension for: pharmacist license under reciprocity, technician registration, or pharmacist to exercise prescriptive authority pursuant to 16.19.26 NMAC.

STATUTORY AUTHORITY:

Paragraphs 1, 3, 4, and 16 of
Subsection A of Section 61-11-6
NMSA 1978.

Disciplinary Hearing(s): July 22, 2021, 1:30 p.m. William Gardner, CS00019456, Case # 2021-002 Order to Show Cause

Executive Director's Report:

Published in Albuquerque Journal
June 18, 2021

Published in NM Register June 22, 2021

SECRETARY OF STATE**NOTICE OF PROPOSED RULEMAKING**

The Office of the New Mexico Secretary of State ("Office") hereby gives notice that the Office will conduct a public hearing on the described rules below.

The purpose of this hearing is to obtain public input on the new Secured Containers Rule to be codified as Part 1.10.19 NMAC as well as amendments to the Alternative and Election Day Voting Administration Rule Part 1.10.15 NMAC.

A public hearing will be held on Thursday July 22, from 9:00 am to 11:00 pm, at the State Capitol Building located at 490 Old Santa Fe Trail, Santa Fe, NM 87501 in Room 322. Every effort will be made to ensure that this hearing will be live streamed on the Office's website. The public hearing allows members of the public an opportunity to submit data, testimony, and arguments in person on the proposed rule changes detailed below. All comments will be recorded by a court reporter.

Authority: Section 1-2-1 NMSA 1978

1.10.19 NMAC Secured Containers

Purpose: The purpose of this rule is to provide clear guidance and uniform standards in the application, operation, and interpretation of the law related to secured containers and

mailed ballot delivery as prescribed by Section 1-6-9 NMSA 1978.

Summary of Full Text: *Section 1.10.19.7 NMAC* defines key terms like "secured container," "permanent drop box," and "temporary drop box." *Section 1.10.19.8 NMAC* provides capacity and accessibility requirements for secured containers. *Section 1.10.19.9 NMAC* provides the security requirements for secured containers. *Section 1.10.19.10 NMAC* provides the requirements for video surveillance and record retention for secured containers. *Section 1.10.19.11 NMAC* provides the preparations county clerks must undertake in order to prepare a secured container for use during an election. *Section 1.10.19.12 NMAC* provides the requirements for using temporary ballot drop boxes at all voting locations during an election. *Section 1.10.19.13 NMAC* provides the ballot retrieval procedures county clerks must follow including the use of a chain of custody log when picking ballots up from a secured container or temporary ballot drop box. *Section 1.10.19.14 NMAC* provides the costs that may be reimbursed by the secretary of state to a county clerk for the installation and use of secured containers.

1.10.15 NMAC Alternative and Election Day Voting Administration

Purpose: This rule will be amended to remove reference to temporary provisions of the election code that sunset effective December 31, 2020. Senate Bill 4 was passed during the 2020 1st special session to provide temporary provisions for special election procedures needed during the COVID global pandemic. Since this law has sunset, 1.10.15 NMAC must be amended accordingly including a repeal of Part 1.10.15.8 NMAC in its entirety. Additionally, corrections will be made to Subsection E of 1.10.15.10 NMAC for rule clarity.

Details for Obtaining a Copy of Rule and Submitting Oral or Written Comments: Copies of the proposed rule are available on the

Office's website at www.sos.state.nm.us or can be obtained from the Bureau of Elections by calling (505) 827-3600 or emailing sos.rules@state.nm.us. The proposed rule is also available on the New Mexico Sunshine Portal. Interested individuals may provide comments at the public hearing. Before the public hearing, written comments may be sent to Kari Fresquez, Director of Legislative and Executive Affairs, via email at sos.rules@state.nm.us or kari.fresquez@state.nm.us, fax (505) 827-8403, or by regular mail at Attn: Kari Fresquez – proposed rule, The Office of the New Mexico Secretary of State, 325 Don Gaspar, Suite 300, Santa Fe, NM 87501. The deadline to receive written comment is 9:00 am on July 22, 2021. All written public comments will be posted on the website throughout the written comment period at: www.sos.state.nm.us.

Any person with a disability who needs a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact (505) 827-3600 or email kari.fresquez@state.nm.us (5) business days prior to the hearing.

STATE ETHICS COMMISSION

NOTICE OF RULE MAKING AND PUBLIC RULE HEARING

Notice of Rulemaking: The State Ethics Commission [the commission] will hold a public hearing on the proposed amendment of certain rules, as detailed below. These amendments are proposed pursuant to Sections 10-16-11 and 11.1, NMSA 1978; Subsection C of Section 10-15-1, NMSA 1978; Section 10-16G-8, NMSA 1978; and Paragraph 4 of Subsection B of Section 10-16G-5, NMSA 1978. No technical or scientific information was consulted in drafting these proposed amendments.

Copies of all the proposed amendments may be found at the Commission's website, <https://www.sec.state.nm.us>, or at the commission's main office in Albuquerque: the State Ethics Commission, University of New Mexico Science and Technology Park, 800 Bradbury Drive SE, Suite 215, Albuquerque, NM, 87106.

Notice of Public Rule Hearing:

The public rule hearing is currently scheduled to occur on Friday, August 13, 2021 at 10:00 am in UNM's Science and Technology Park's Executive Board Room, 851 University SE, Suite 200, Albuquerque, NM 87106. It is possible that, pursuant to the Public Health Emergency declared by Governor Michelle Lujan Grisham in Executive Order 2020-004, as extended, and in light of the current pandemic, the Commission will decide to conduct this meeting remotely at that time and date rather than in person. In that case, instructions for public participation will be posted on the Commission's website, <https://www.sec.state.nm.us/transparency>. Members of the public are advised to check this website before the meeting to confirm whether it will be held in person or over the internet. The public hearing will be conducted in a fair and equitable manner by the commission and shall be recorded. Any interested member of the public may attend the hearing, in person or remotely, and will be provided a reasonable opportunity to offer public comment, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Sonny.Haquani@state.nm.us. The commission will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least five calendar days before the scheduled hearing.

Notice of Acceptance of Written Public Comment: Written public

comments, including presentation of data, views, or arguments about the proposed amendments, from any interested member of the public will be accepted until 5:00 p.m. on Wednesday, August 11, 2021, by submitting them via email to ethics.commission@state.nm.us with the subject line "SEC Rulemaking R21-01," or via first class mail or by hand delivery to the commission's Albuquerque office: New Mexico Ethics Commission, University of New Mexico Science and Technology Park, 800 Bradbury Drive SE, Suite 215, Albuquerque, NM, 87106.

Description of Proposed

Amendments: In compliance with Section 14-4-5.2 NMSA 1978, this notice includes the following summary of the proposed amendment, a short explanation of the purpose of the amendment, and specific legal authority authorizing the amendment and proposed new rule. The method and manner of public comment and notice of public hearing on the proposed rules are listed above.

The proposed amendments are as follows: amendments to 1.8.1 NMAC, Sections 9 & 13; amendments to 1.8.3 NMAC, Sections 1, 7, 9, 10, 11, 12, 13, 14, 15, 16.

1.8.1.9 NMAC ("Advisory opinions and informal advisory opinions"); proposed amendments: The proposed amendments to 1.8.1.9 NMAC (i) add a new paragraph to Subsection A of Section 1.8.1.9 that permits a member of the commission to request an advisory opinion based on a legal determination issued by the director, the general counsel, or a hearing officer; and (ii) add a new paragraph to Subsection B of Section 1.8.1.9 giving the director discretion to decide whether to issue an informal advisory opinion or request that the commission issue a formal advisory opinion in response to a request for an advisory opinion that does not specify whether an informal or formal advisory opinion is sought.

1.8.1.13 NMAC (“Address for filing documents”); proposed amendments: This section currently provides an address for the filing of documents with the commission. The proposed amendments to 1.8.1.13 NMAC change the section title to “Address” and deleting “for filing documents.” The commission has created an electronic filing system for filings related to administrative complaints and maintains an email address for receipt of other submissions. The amendment removes the reference to “for filing documents” because the commission discourages physical submission of materials. The proposed amendments to 1.8.1.13 also amend the commission’s address to the current, correct address.

1.8.3 NMAC (“Administrative hearings”); proposed amendments: Part 3 governs the initiation, investigation, and adjudication of ethics complaints. The proposed amendments add definitions of important terms to account for changes to the complaint filing process. The proposed amendments streamline and improve the processes governing the investigation of complaints, the issuance and enforcement of subpoenas, and the conduct of hearings on complaints. The proposed amendments to 1.8.3 NMAC:

- * conform the commission’s administrative rules with Laws 2021, Chapter 109 (House Bill 244, as amended), which amends the State Ethics Commission Act to delete the notarization requirement for administrative complaints;
- * conform the commission’s administrative rules with the commission’s electronic case management and filing system;
- * improve the efficient and fair administration of the commission’s administrative cases by resolving several gaps and ambiguities that staff have noted in the past sixteen months, by (among other things) allowing complainants to amend their complaints, limiting complainants in the number of

complaints they may file in a calendar year (to prevent vexatious litigants), enabling the executive director to make jurisdictional determinations more efficiently, enabling the general counsel to make probable cause determinations more efficiently, formalizing the process by which the commission may initiate administrative complaints, and clarifying the commission’s subpoena powers.

SUPERINTENDENT OF INSURANCE, OFFICE OF

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Superintendent of Insurance (“Superintendent”), pursuant to Section 59A-2-9 NMSA 1978, SB 71, enacting a new Section of Chapter 57, NMSA 1978 cited as the “Patients’ Debt Collection Protection Act”, and 13.1.4 NMAC, proposes to repeal and replace Emergency Rule 13.10.29 NMAC: Patients’ Debt Collection Protections.

PURPOSE OF THE PROPOSED REPLACEMENT RULE: The purpose of this rule is to implement the provisions of the Patients’ Debt Collection Protection Act for which the Office of Superintendent of Insurance (“OSI”) is responsible, including provisions that ensure that health care facilities and covered third-party health care providers screen and identify patients who are indigent, eligible for Medicaid or other health insurance, and ensure that medical debt incurred by indigent patients will not be pursued through collection actions.

STATUTORY AUTHORITY: Section 59A-2-9 NMSA 1978 and SB 71, enacting a new Section of Chapter 57, NMSA 1978 cited as the “Patients’ Debt Collection Protection Act”.

No later than August 24, 2021, copies of the proposed rule will be available

by electronic download from the OSI website (<https://www.osi.state.nm.us/index.php/idms/>) or the New Mexico Sunshine Portal or by contacting Melissa Gutierrez at melissa.gutierrez@state.nm.us

OSI will hold a public video/ telephonic hearing on the proposed rule on September 27, 2021 at 9:00 a.m.

Join via Video: <https://us02web.zoom.us/j/2916274744>

Join via telephone: 1-346-248-7799
Meeting ID: 291 627 4744

The Superintendent will designate a hearing officer for this rulemaking who will accept oral comments at the video/telephonic hearing from members of the public and any interested parties.

Written comments and proposals will be accepted through 4:00 pm on September 27, 2021. Responses to written comments or oral comments will be accepted through 4:00 pm on October 7, 2021. Comments may be submitted electronically through OSI’s eDocket system at <https://edocket.osi.state.nm.us/>

Docket No.: 2021-0037
IN THE MATTER OF ADOPTION OF RULES FOR PATIENTS’ DEBT COLLECTION PROTECTIONS, 13.10.29 NMAC

Only signed statements, proposals, or comments will be accepted. Scanned or electronic signatures conforming to federal and state court requirements will be accepted with the understanding that if there is any dispute regarding a signature, OSI reserves the right to require that original signatures be provided to verify the electronic signature.

SPECIAL NEEDS: Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other auxiliary aid or service to attend or participate in the hearing should contact Melissa Gutierrez at 505-476-0333 ten (10)

business days prior to the hearing.

The Superintendent will consider all oral comments and will review all timely submitted written comments and responses.

ISSUED this 22nd day of June, 2021
/S/RUSSELL TOAL

**End of Notices of
Rulemaking and
Proposed Rules**

Adopted Rules

Effective Date and Validity of Rule Filings

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

HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

This is an amendment to 8.50.108 NMAC, Sections 8, 9, 12 and 13, effective 7/1/2021.

8.50.108.8 ESTABLISHMENT OF SUPPORT ORDER:

If parentage has been [determined] legally established, and there is no support order in existence, the IV-D agency will pursue the establishment of a support order, as appropriate, pursuant to the requirements under 45 CFR §303.4(b)(1-4). All support orders obtained by the IV-D agency shall include a provision requiring the parties to keep the IV-D agency informed of their current addresses and, if the party is a parent, to also provide the name and address of his or her current employer, whether the parent has access to medical insurance coverage at reasonable cost and, if so, the medical insurance policy information.

A. Immediate income withholding: The IV-D agency will request an income withholding provision in accordance with the Support Enforcement Act, [NMSA-1978;] Section 40-4A1 et seq., NMSA 1978. The IV-D agency will not agree to an exception to wage withholding, but will honor any court or administrative order that waives or excepts wage withholding. All payments on Title IV-D cases, whether paid through income withholding, direct withdrawal, or direct payment by the non-custodial parent shall be paid through the IV-D agency. If the custodial party obtains an order [on] in a IV-D case for direct payments to him or her, the IV-D agency will begin non-cooperation procedures in active IV-A cases and close cases with no public assistance history.

B. Persons and agencies the IV-D agency will assist to establish a support order:

- (1) parent;
- (2) legal guardian by court or administrative order;
- (3) legal custodian by court or administrative order;
- (4) IV-B or IV-E agency;
- (5) another IV-D agency, state, U.S. territory or country pursuant to the Uniform Interstate Family Support Act, [NMSA-1978;] Section 40-6A-101 et seq, NMSA 1978, or reciprocal international agreements.

C. Public assistance: If a [dependant] dependent child receives public assistance, the IV-D agency will pursue a support order against the non-custodial parent, unless the IV-D agency determines that the case involves rape, incest, or it would not be in the best interest of the child(ren). If neither parent has custody of the child, the IV-D agency will pursue a support order against both parents. If the custodian of the child receiving public assistance does not have legal standing to pursue support, the IV-D agency will seek to establish a support order solely in favor of the state as reimbursement for public assistance benefits expended on behalf of the child(ren) in accordance with the child support guidelines.

[8.50.108.8 NMAC - Rp/E, 8.50.108.8 NMAC, 1/1/2010; A, 12/30/2010; A, 7/1/2021]

8.50.108.9 CHILD SUPPORT AWARD GUIDELINES: The IV-D agency uses income information provided to the agency by the parties or other sources to apply the child support guidelines in [NMSA-

1978;] Section 40-4-11.1, NMSA 1978. If exact income information is unavailable, or if a party's earnings history is below minimum wage, the IV-D agency will seek to impute income to a party, [as appropriate] provided that the amount of support is established based on consideration of the required factors under 45 CFR §302.56(a-c). A request for retroactive support by the IV-D agency will only be for the minimal period in accordance with New Mexico law. The custodial party may seek a longer retroactive period in accordance with the law and is solely responsible for providing all documentation, presenting all evidence, and making all arguments at any hearing or during negotiations in support for the additional time period. The amount of retroactive support requested by the IV-D agency on behalf of the state or for a custodial party will be in accordance with the child support guidelines established pursuant to 45 CFR §302.56(f-h), or as otherwise stipulated to by the parties. Incarceration may not be treated as voluntary unemployment when a support order is being established, 45 CFR §302.56 (c)(3). Any deviations from the guidelines will be in accordance with [NMSA-1978;] Section 40-4-11.2, NMSA 1978.

[8.50.108.9 NMAC - Rp/E, 8.50.108.9 NMAC, 1/1/2010; A, 12/30/2010; A, 7/1/2021]

8.50.108.12 MODIFICATION OF CHILD SUPPORT ORDERS:

Either party may request the IV-D agency to provide the service of seeking the modification of a child support order. Applicable fees will be charged to the requesting party in compliance with 8.50.125.10 NMAC. The IV-D agency will not review a [spousal] child support order for

modification without request by a party, unless the custodial parent is currently receiving public assistance. In accordance with federal and state laws, a modification of a support order is retroactive only to the time period that a petition or motion was filed with a court and was pending a decision.

[8.50.108.12 NMAC - Rp/E, 8.50.108.14 NMAC, 1/1/2010; A, 12/30/2010; A, 7/1/2021]

8.50.108.13 REVIEW AND ADJUSTMENT OF SUPPORT ORDERS:

The IV-D agency conducts a review for modification of support orders in the IV-D caseload three years from the effective date of the last support order. At the time of review, if the case is actively receiving public assistance, the IV-D agency must pursue a modification either upward or downward if its review indicates that there will be at least a twenty percent [~~(20%)~~] change from the current obligation of support. The review is conducted based on information provided by the parties and other sources that report income. Both parties are sent notice at the time of review to request current information from them regarding income, child care costs, medical expenses to include insurance, and any other appropriate expenses that are considered by the child support guidelines. Both parties are notified of the result of the review conducted by the IV-D agency. If the IV-D agency chooses not to pursue a modification, any party may independently pursue his or her own request for a modification of a support order. The state may initiate a review of an order, without a specific request for review, if information is received by the IV-D agency that the non-custodial parent will be incarcerated for more than 180 calendar days, pursuant to the conditions specified in 45 CFR §303.8(b)(2), (7), and (c). Under 45 CFR §302.56 (c)(3), incarceration may not be treated as voluntary unemployment when a support order is being modified.

[8.50.108.13 NMAC - Rp/E, 8.50.108.15 NMAC, 1/1/2010; A, 12/30/2010; A, 7/1/2021]

HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

This is an amendment to 8.50.109 NMAC, Sections 7 and 8, effective 7/1/2021.

8.50.109.7 DEFINITIONS:

The following definitions apply to this part. Additional definitions may be found under child support enforcement program general provisions at 8.50.100.7 NMAC.

A. “Cash medical support” means an amount ordered to be paid toward the cost of health [~~insurance~~] care coverage provided by a public entity medicaid or for other medical costs for minor child(ren) not covered by insurance.

B. “Health [~~insurance plan~~] or “plan”] care coverage means health insurance coverage [~~not including medicaid~~], generally associated with a medical, dental or vision plan of benefits, whether it be an employment-related or other group health plan, a health maintenance organization, a non-profit health plan, or any other type of health [~~insurance~~] care coverage under which medical or dental services are provided, regardless of service delivery mechanism. Any health [~~insurance~~] care plan coverage of a minor child shall, at a minimum, meet the standards of minimum health care protection as defined in the New Mexico Insurance Code, Section 59A-23B NMSA 1978.

C. “Medical support” means cash medical support, health care [~~insurance~~] coverage, dental insurance, vision insurance, or a percentage split between the custodial party and the non-custodial parent for uncovered medical bills for children.

D. “National medical support notice” or “notice” means a qualified notice pursuant to a court order sent to an employer stating that an employee’s children must be covered by the employment-related health care insurance plan.

[8.50.109.7 NMAC - N, 10/1/2003; A, 8/14/2009; A, 7/1/2021]

8.50.109.8 ESTABLISHMENT OF MEDICAL SUPPORT:

All orders obtained by the IV-D agency must include a provision for medical support for the children. For the purposes of the IV-D program reporting, medical support includes any one of the following: private health insurance, public health care coverage (health, dental, or vision), coverage through Indian health services (IHS), state children’s health insurance program [(SCHIP)] (medicaid), or the defense enrollment eligibility reporting services (DEERS), cash medical support, or a percentage split of uncovered medical expenses for the minor children. Determination of a reasonable cash medical support obligation is pursuant to 45 CFR §303.31(a)(3). If the children are covered by IHS, the IV-D agency will request that private health insurance be provided by either or both parents, when available. If the non-custodial parent provides health [~~insurance~~] care coverage and changes employment, and the new employer provides health [~~insurance~~] care coverage, the IV-D agency must transfer notice of the provision to the new employer. The IV-D agency must request the inclusion of a medical support provision even when employment-related or other group health [~~insurance~~] care coverage is not available or when children cannot be added at the time the order is entered. The IV-D agency shall request the provision of cash medical support only if the case is actively enrolled in Title XIX medicaid at the time medical support is established or modified. The cost of health [~~insurance~~] care coverage is calculated by determining the amount charged to the medical support obligor for adding children to the existing coverage, or the difference between individual and family coverage. The reasonableness of the cost of the [~~insurance~~] care coverage will be determined by stipulation of the parties or by the court. The IV-D agency may request the provision of health [~~insurance~~] care coverage by either or both the custodial party and the non-custodial parent and that

the parties should be responsible for any uncovered medical expenses in proportion to their incomes on the current child support worksheet. If the court does not enter an order for medical support, the IV-D case record must [reflect] specify that a provision for medical support was requested but was not issued, in accordance with 45 CFR §303.31(b)(1-4).
 [8.50.109.8 NMAC - Rp 8 NMAC 5.CSE.830, 5/31/2001; A, 10/1/2003; A, 8/14/2009; A, 7/1/2021]

**HUMAN SERVICES
 DEPARTMENT
 INCOME SUPPORT DIVISION**

This is an amendment to 8.139.410 NMAC, Sections 12, 13, and 14 effective 7/1/2021.

8.139.410.12 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) GENERAL WORK REQUIREMENTS: Any SNAP recipient may be subject to general work requirements. SNAP recipients who do not meet a federal exemption must meet the general work requirements in accordance with Subsection C of this section. Federal exemptions from general work requirements are found at 7 Code of Federal Regulation (CFR) 273.7(a)(6) and (b).

A. General Work requirements: ISD will administer the general work requirements in accordance with 7 CFR 273.7. As a condition of eligibility for participation in SNAP, every household member who does not qualify for a federal exemption, must meet general work requirements as outlined in Subsection C of this section.

B. General work requirement exemptions: Federal exemptions from general work requirements are found at 7 CFR 273.7(a)(6) and 273.7(b). Physical and mental unfitness for the federal exemption is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability

to financially support themselves. Unfitness can be:

(1) obvious to ISD and documented in the case file; or

(2) not obvious to ISD, but is documented by a physician, physician’s assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist, or social worker as being unfit to work; the claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

C. Compliance with general work requirements: An individual who is not temporarily waived or exempt in accordance with 7 CFR 273.7(a)(6) and (b) must:

(1) register for work at the time of application and every 12 months thereafter; all SNAP participants are considered registered for work with the head of household’s signature on an application or recertification form for SNAP participation;

(2) participate in an E&T program to the extent required by law;

(3) participate in a workfare program if assigned by the department;

(4) provide ISD or E&T program service provider with information regarding employment status, participation in E&T program status, or availability for work;

(5) report to an employer referred to by ISD or its designee if the potential employment meets the suitability requirements in accordance with 7 CFR 273.7(h);

(6) accept a bona fide offer of suitable employment at a site or plant not subject to a strike or lockout, at a wage equal to the higher of the federal or state minimum wage or eighty percent of the wage that would have governed had the minimum hourly rate of the Fair Labor Standards Act been applicable to the offer of employment; and

(7) not voluntarily and without good cause quit a job of 30 or more hours a week or reduce work effort to less than 30 hours a week within the 30 day period prior to the household’s application date, or any time after filing an application, or any time during the household’s certification period in accordance with 7 CFR 273.7(a)(vii).

D. Failure to comply with SNAP general work requirements: An individual who is not exempt who refuses or fails without good cause, to comply with the SNAP general work requirements is ineligible to participate in SNAP, and will be considered an ineligible household member, in accordance with 7 CFR 273.1(b)(7). Prior to placing a disqualification for noncompliance with the work requirements, good cause will be determined in accordance with 7 CFR 273.7(i). When determining whether or not good cause applies to voluntary quit, voluntary quit will be evaluated up to the 30 day period prior to applying for SNAP benefits and at any time thereafter. Within 10 calendar days of establishing that the noncompliance was without good cause, ISD must provide the individual with a notice of adverse action, as specified in [~~Section 273.13-7~~] CFR 273.13. A participant who corrects the failure of compliance during the notice of adverse action 13-day time period shall not have the disqualification imposed against the household member.

(1) Consequences of non-compliance with work requirements will be in accordance with [~~7 CFR 273.7(f)(j)~~] 7 CFR 273.7(f).

(a) For the first occurrence of noncompliance, the individual will be disqualified for three months;

(b) For the second occurrence of noncompliance, the individual will be disqualified for six months; and

(c) For the third or subsequent occurrence of noncompliance, the individual will be disqualified for 12 months.

(2) Treatment

of income and resources: All the income and resources of an individual disqualified for non-compliance with general work requirements will be counted to determine the household's income and resource maximum levels and benefit amount in accordance with 8.139.520 NMAC.

(3)

Households shall not be considered categorically eligible if any benefit group member is disqualified for failure to comply with general work requirements in accordance with 8.139.420.8 NMAC.

E. Fair hearings:

Each individual or household has the right to request a fair hearing to appeal a denial, reduction or termination of benefits due to a determination of nonexempt status or a state agency determination of failure to comply with SNAP work requirements, in accordance with 7 CFR 273.7(f)(6).

[2/1/1995, 7/1/1998; 8.139.410.12 NMAC - Rn, 8 NMAC 3.SNAP PROGRAM.415, 05/15/2001; A, 10/15/2003; A, 01/01/2004; A, 04/01/2010; A, 06/01/2013; A, 10/01/2014; A, 01/01/2016; A, 01/01/2016; A, 03/01/2017; A, 09/01/2017; A, 07/01/2021]

8.139.410.13 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)**EMPLOYMENT AND TRAINING PROGRAM (E&T):**

ISD will administer the E&T program requirements in accordance with 7 CFR 273.7(e). SNAP participants may choose to voluntarily participate in any of the E&T services available. Volunteers can participate to the extent that they wish and will not be subject to any E&T disqualification.

~~[Volunteers who incur transportation]~~ Participants who incur expenses that are reasonably necessary and directly related to participation in the E&T program will be reimbursed up to the monthly limit as determined by ISD, in accordance with 7 CFR 273.7(d) (4).

[8.139.410.13 NMAC - N, 04/01/2010; Repealed, 03/01/2017; A, 09/01/2017; A, 07/01/2021]

8.139.410.14 REQUIREMENTS**FOR ABLE BODIED ADULTS:**

ISD will administer this program in accordance with 7 Code of Federal Regulation (CFR) 273.24. This program is referred to as the time limit rule or the able bodied adults without dependents ("ABAWD") program. The program is mandatory at all times unless there is a federally approved statewide waiver in place in accordance with 7 CFR 273.24(f). A statewide waiver makes the program non-mandatory for all ABAWDs who would otherwise be subject to the three month time limit requirement. When a statewide waiver is not in place, ABAWDs are mandatory for all requirements as detailed below. ISD will inform all potential ABAWD households of the ABAWD time limit prior to the expiration of a statewide waiver. ISD will use a fixed 36 month period for measurement and tracking purposes beginning June 1, 2017 through May 31, 2020, and every subsequent fixed three year period.

A. Able bodied adults

can comply by: working 20 hours per week, averaged monthly; for purposes of this provision, 20 hours per week averaged monthly means 80 hours per month; work is defined as:

(1) work in exchange for money;

(2) work in exchange for goods or services ("in kind" work); or

(3) unpaid work, which includes work without compensation that gives a person experience in a job or industry, tests a person's job skills, or involves volunteer time and effort to a not-for-profit organization.

B. Good cause: As determined by ISD, if an individual would have worked an average of 20 hours per week but missed some work for good cause, the individual shall be considered to have met the work requirement if the absence from work is temporary ~~[-and the individual retains their job]~~. Good cause shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the

presence of the member, a household emergency, or the unavailability of transportation.

C. Waived from

the time limit requirements: ISD will waive the three month time limit requirement for the following individuals in accordance with 7 CFR 273.24(f):

(1) any individual residing in or relocating to a county that has an unemployment rate twenty percent above the national average as defined by ISD;

(2) any individual residing in or relocating to pueblos, tribes, and nations, with an estimated employment to population ratio as a measure for insufficient job availability as determined by ISD.

D. Able bodied adults who are determined to be ineligible for SNAP benefits because of non-compliance with the time limit requirements can regain eligibility in accordance with 7 CFR 273.24(d)(i), (d)(ii), (d)(iii), or (d)(v).

E. Exceptions to the three month time limit:

(1) Exceptions to the three month time limit required participation are found at 7 CFR 273.24(c).

(2) Physical and mental unfitness for the three month time limit requirements exception is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves.

(a) unfitness can be obvious to ISD and documented in the case file; or

(b) not obvious, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist or social worker as being unfit to work; this claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

F. ISD will administer the ~~twelve~~ fifteen percent exemptions, as allowed by the food and nutrition service (FNS) and as determined by ISD, in accordance with 7 CFR 273.24(g). [8.139.410.14 NMAC - N, 04/01/2010; A, 10/01/2014; A, 2/13/2015; A, 01/01/2016; A, 01/01/2016; A, 09/01/2017; A, 07/01/2021]

**HUMAN SERVICES
DEPARTMENT
MEDICAL ASSISTANCE
DIVISION**

This is an amendment to 8.292.400 NMAC, Sections 8 and 9, effective 7/1/2021.

8.292.400.8 MISSION: ~~[To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.] To transform lives. Working with our partners, we design and deliver innovative, high quality health and human services that improve the security and promote independence for New Mexicans in their communities.~~
[8.292.400.8 NMAC - Rp, 8.292.400.8 NMAC, 1/1/2014; A, 7/1/2021]

8.292.400.9 WHO CAN BE A RECIPIENT: To be eligible, an individual must meet specific eligibility requirements:
[~~_____ A. _____ The individual must be a biological, step or adoptive parent of a child, provided they live with the child. There is a presumption that a child born to a married woman is the child of the husband.~~
_____ B. _____ When the parent does not live with the child, specified relative(s) within the fifth degree of relationship by blood, marriage or adoption, as determined by New Mexico statute Chapter 45 - Uniform Probate Code, who live with the child are evaluated as a specified relative caretaker(s). Refer to the relationship

~~section in 8.291.410 NMAC:
_____ C. _____ A parent caretaker(s) whose only dependent child is an SSI recipient under age 18 may be an eligible recipient. If the parent does not live in the household, then the specified relative may be an eligible recipient.
_____ D. _____ An individual who meets the eligibility requirements pursuant to 8.291.400 through 8.291.430 NMAC.
_____ E. _____ Prior to the parent caretaker individual becoming an eligible recipient, all children listed on an application must meet the following:
_____ (1) _____ be evaluated for eligibility for a medicaid program if not already eligible; or
_____ (2) _____ if not medicaid eligible, have current health insurance coverage that meets criteria as a qualified health plan.]
_____ A. _____ In accordance with 42 Code of Federal Regulations (CFR) 435.4 an individual must be a parent or caretaker relative defined as a relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care (as may, but is not required to, be indicated by claiming the child as a tax dependent for federal income tax purposes), and who is within the fifth degree of relationship per Subsection C of 8.291.410.12 NMAC.
_____ B. _____ In accordance with 42 CFR 435.4 a dependent child is defined as one who meets both of the following criteria:
_____ (1) _____ is under the age of 18, or;
_____ (2) _____ is age 18 and a full-time student in secondary school (or equivalent vocational or technical training), if before attaining age 19 the child may reasonably be expected to complete such school or training.
_____ C. _____ An individual who meets the eligibility requirements pursuant to 8.291.400 through 8.291.430 NMAC.
_____ D. _____ Prior to the parent caretaker individual becoming an~~

~~eligible recipient, all children listed on an application must meet the following:
_____ (1) _____ be evaluated for eligibility for a medicaid program if not already eligible; or
_____ (2) _____ if not medicaid eligible, have current health insurance coverage that meets criteria as a qualified health plan.~~
[8.292.400.9 NMAC - Rp, 8.292.400.9 NMAC, 1/1/2014; A, 7/1/2021]

**PUBLIC SAFETY,
DEPARTMENT OF**

**TITLE 10 PUBLIC SAFETY
AND LAW ENFORCEMENT
CHAPTER 2 DEPARTMENT
OF PUBLIC SAFETY
PART 3
PROCEDURE TO CONTEST
SORNA EQUIVALENCY
DETERMINATION**

10.2.3.1 ISSUING AGENCY: Department of Public Safety.
[10.2.3.1 NMAC - N, 7/1/2021]

10.2.3.2 SCOPE: All individuals convicted in another jurisdiction pursuant to state, federal, tribal or martial law, of the equivalent of a "sex offense", as defined in Section 29-11A-3 NMSA 1978, who seek to contest a determination that registration as a sex offender in New Mexico is required.
[10.2.3.2 NMAC - N, 7/1/2021]

10.2.3.3 STATUTORY AUTHORITY: Subsection G of Section 29-11A-5 NMSA 1978, requires the department to adopt rules necessary to carry out the provisions of the act.
[10.2.3.3 NMAC - N, 7/1/2021]

10.2.3.4 DURATION: Permanent.
[10.2.3.4 NMAC - N, 7/1/2021]

10.2.3.5 EFFECTIVE DATE: July 1, 2021.
[10.2.3.5 NMAC - N, 7/1/2021]

10.2.3.6 OBJECTIVE:

The objective of this rule is to provide a procedure whereby an out-of-state registrant may contest a determination by the New Mexico department of public safety that the out-of-state registrant must register as a sex offender in New Mexico which procedure includes notice, an opportunity to be heard, and judicial review.

[10.2.3.6 NMAC - N, 7/1/2021]

10.2.3.7 DEFINITIONS:

For purposes of this rule, the following terms have the following meaning:

A. "Department"

means the New Mexico department of public safety.

B. "Out-of-state registrant"

means any person who establishes a residence in New Mexico while the person is required to register as a sex offender in another state or territory.

C. "Translation"

means the comparison of a conviction rendered under state (other than New Mexico), international, federal, tribal, or military law with the sex offenses enumerated in Subsection I of Section 29-11A-3 NMSA, 1978, for the purpose of determining whether that conviction is the equivalent of a sex offense enumerated in Subsection I of Section 29-11A-3 NMSA 1978.

[10.2.3.7 NMAC - N, 7/1/2021]

10.2.3.8 NOTIFICATION TO COUNTY SHERIFF OF OUT-OF-STATE REGISTRANT:

A. Within 10 business days of receipt by the department of a letter or other notification from an out-of-state law enforcement or other agency that an individual required by that state to register as a sex offender intends to relocate to New Mexico, the department shall notify the county sheriff in the county in which the out-of-state registrant intends to reside and shall provide to the county sheriff copies of any and all documents that may accompany that notification. The initial notification by the department to the county sheriff will remind the county sheriff not to place the out-of-

state registrant on any public facing local registry until notified by the department that it may do so.

B. When an out-of-state registrant presents himself or herself to the sheriff and prior to the translation, the sheriff shall make an entry into the investigative notes section of Offender Watch, noting that the out-of-state registrant presented himself or herself for registration and that the translation by the department is pending. The sheriff shall also notify the department of the need for the department to enter the same information into the miscellaneous notes in the National Crime Information Center ["NCIC"].

[10.2.3.8 NMAC - N, 7/1/2021]

10.2.3.9 DOCUMENTS PROVIDED BY OUT-OF-STATE REGISTRANT TO COUNTY SHERIFF:

In addition to the information set forth in Subsection B of Section 29-11A-4 NMSA 1978, an out-of-state registrant shall, at the time of the registrant's initial registration with the county sheriff in the county in which the registrant resides, provide copies of the following documents to the sheriff:

A. the judgment and sentence entered by the court in the jurisdiction in which the out-of-state registrant is required to register as a sex offender; and

B. the plea and disposition agreement entered by the court in the jurisdiction in which the out-of-state registrant is required to register as a sex offender.

[10.2.3.9 NMAC - N, 7/1/2021]

10.2.3.10 DETERMINATION BY DEPARTMENT OF NEED TO REGISTER:

A. Within 45 calendar days after the department receives the initial registration information the out-of-state registrant is required under Section 29-11A-4 NMSA 1978 and Section 10.2.3.9 NMAC to provide to the sheriff, the department shall complete a translation and advise the out-of-state registrant and the sheriff whether the out-of-

state registrant was convicted in another jurisdiction of a sex offense equivalent to one or more of those sex offenses identified in Subsection I of Section 29-11A-3 NMSA 1978 and is required to register as a sex offender in New Mexico.

B. The standard to be used by the department in determining whether the out-of-state conviction is equivalent to a sex offense listed in Section 29-11A-4 NMSA 1978 is one of clear and convincing evidence.

C. If the department does not receive the statutorily required information and the documents the out-of-state registrant is required by this rule to provide to the sheriff, or if the statutorily required information and documents provided to the sheriff and forwarded to the department are insufficient to enable the department to complete the translation and render a decision on the equivalency of the non-New Mexico conviction based on clear and convincing evidence, the department shall advise the out-of-state registrant and the sheriff that additional time not to exceed forty-five days will be needed to complete the translation.

D. While the translation is pending, no information regarding the out-of-state registrant shall be entered in the public facing portion of the local or state central registry.

E. If the department determines that the non-New Mexico conviction of the out-of-state registrant is not the equivalent of a sex offense identified in Subsection I of Section 29-11A-3 NMSA 1978, the department shall notify the out-of-state registrant and sheriff in writing, of that decision and no information regarding the out-of-state registrant shall be placed on the public facing portion of either the local or central registry. In the event additional information is later brought to the department's attention, the department may revisit its original decision.

F. If the department determines that the non-New Mexico conviction of the out-of-state registrant is the equivalent of a sex offense identified in Section 29-11A-

3 NMSA 1978, the department shall notify the out-of-state registrant, in writing, of that initial decision and shall serve the notification on the out-of-state registrant by certified mail, return receipt requested, and provide a copy to the sheriff. The initial determination shall include a list of all documents reviewed by the department in conducting the translation. The initial determination shall advise the out-of-state registrant that the registrant may request reconsideration of the department's decision, by requesting the same, in writing, within 14 calendar days of receipt of the initial determination. If no timely request for reconsideration is received, the department shall issue its final determination and post the statutorily required information regarding the out-of-state registrant on the public facing portion of the central registry of sex offenders maintained by the department and shall notify the sheriff that the statutorily required information regarding the out-of-state registrant may also be posted on the local directory, in accordance with Section 29-11A-5 NMSA 1978.

G. Upon receipt of a timely request for reconsideration of the department's initial determination, the department shall schedule a meeting with the out-of-state registrant, on a mutually agreeable date and time, at which meeting the out-of-state registrant may present any additional information, documents or argument that the out-of-state registrant believes supports the registrant's contention that the out-of-state conviction is not the equivalent of a sex offense identified in Subsection I of Section 29-11A-3 NMSA 1978 and that the registrant is not legally required to register in New Mexico. At the meeting, the out-of-state registrant may be represented by counsel, hired at the out-of-state registrant's expense.

H. Within 21 calendar days of the meeting described in Subsection G of Section 10.2.3.10 NMAC, the department shall issue its written final determination regarding the translation. This notice shall be served on the out-of-state registrant

by certified mail, return receipt requested. The department shall send a copy of the final determination to the sheriff.

I. An out-of-state registrant who is aggrieved by the final determination of the department that the out-of-state conviction is the equivalent of a sex offense identified in Section 29-11A-3 NMSA 1978 and that the out-of-state registrant must register in New Mexico, may seek judicial review of the decision by filing a petition for writ of certiorari, in accordance with New Mexico Rule of Civil Procedure Rule 1-075 NMRA, in the district court in which the department is located, within 30 days of the date of the department's final determination.

J. Neither the sheriff nor the department shall post any information regarding the out-of-state registrant on the public facing portion of the local or central registry until the time for filing a petition for writ of certiorari has expired. If a petition is filed, neither the sheriff nor the department shall post any information regarding the out-of-state registrant on the public facing portion of the local or central registry until served with a court order advising that the out-of-state registrant must register in New Mexico.

K. If the department learns that information regarding an out-of-state registrant has been published on a public facing portion of a local or the central registry, prior to the department's final determination and the expiration of the period to seek judicial review, or, if judicial review has been sought, prior to the final resolution of those proceedings, the department shall remove any information on the public facing portion of the registry, pertaining to the out-of-state registrant, pending resolution of the equivalency determination.
[10.2.3.10 NMAC - N, 7/1/2021]

History of 10.2.3 NMAC:
[RESERVED]

SUPERINTENDENT OF INSURANCE, OFFICE OF

TITLE 13 INSURANCE CHAPTER 10 HEALTH INSURANCE PART 29 PATIENTS' DEBT COLLECTION PROTECTIONS

13.10.29.1 ISSUING

AGENCY: Office of Superintendent of Insurance ("OSI").

[13.10.29.1 NMAC - N/E, 07/01/2021]

13.10.29.2 SCOPE: This rule requires screening of all uninsured patients receiving health care services in covered facilities to determine eligibility for health insurance programs, and to determine indigency for the purpose of prohibiting medical debt collection for indigent patients.

[13.10.29.2 NMAC - N/E, 07/01/2021]

13.10.29.3 STATUTORY

AUTHORITY: Sections 59A-2-9 NMSA 1978 and New Mexico Senate Bill 71 from the 2021 Regular Session the Patients' Debt Collection Protections Act NMSA Chapter 57.

[13.10.29.3 NMAC - N/E, 07/01/2021]

13.10.29.4 DURATION:

Emergency rule expires 180 days from effective date unless a permanent rule is adopted before that time.

[13.10.29.4 NMAC - N/E, 07/01/2021]

13.10.29.5 EFFECTIVE

DATE: July 1, 2021 unless a later date is cited at the end of a section.

[13.10.29.5 NMAC - N/E, 07/01/2021]

13.10.29.6 OBJECTIVE:

To ensure that health care facilities and covered third-party health care providers screen and identify patients who are indigent, eligible for Medicaid or other health insurance, and ensure that medical debt incurred by indigent patients will not be pursued through collection actions.

[13.10.29.6 NMAC - N/E,
07/01/2021]

13.10.29.7 DEFINITIONS:

For definitions of terms contained in this rule, refer the Patients' Debt Collection Protection Act or in Chapter 59A NMSA 1978, unless otherwise noted below.

A. "Culturally and linguistically appropriate" means communication that meets the following requirements:

(1) the provisions of oral and hearing-impaired language services (such as the telephone customer assistance hotline) that includes answering questions in any applicable non-English language, including ASL, and providing assistance with filing claims and reviews in any applicable non-English language;

(2) the provisions of, upon request, a notice in any applicable non-English language;

(3) the inclusion of, in the English version of all notices, a statement prominently displayed in any applicable non-English language clearly indicating how to access the language services provided by the health care insurer; and

(4) for purposes of this definition, with respect to an address in any New Mexico county to which a notice is sent, a non-English language is an applicable non-English language if ten percent or more of the population residing in the county is literate only in the same non-English language, as determined by the department of health and human services ("HHS") The counties that meet this ten percent standard, as determined by HHS, are found at <http://cciiio.cms.gov/resources/factsheets/clas-data.html> and any necessary changes to this list are posted by HHS annually.

B. "Day or days" means, unless otherwise specified:

(1) one – five days excludes weekends and state holidays; and

(2) six days or more includes weekends and holidays.

C. "Debt collection activity" means collection action as defined in the Act, including sale of the debt to a third-party debt collector or any type of legal action, including liens, property seizure, wage garnishment and law suits against the patient in pursuit of collection of the debt. Debt collection activity does not include the health care facility or third-party health care provider sending a bill or inquiring about payment.

D. "Deliver or delivery" means email and retain an email delivery confirmation; electronic transmission through a dedicated two way communication portal and retain deliver confirmation; fax and retain a fax delivery confirmation; regular mail; or personal delivery.

E. "Disclose or disclosure" means the release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.

F. "Health care service or service" means services for the diagnosis, prevention, treatment, care, or relief of a physical, dental, behavior or mental health condition, substance use disorder, illness, injury or disease, which services include procedures, products, devices or medications.

E. "Household" means the countable members of the patient's household as defined by MAGI.

G. "Household income" means the sum of the current MAGI-based income of the patient's household and includes permanent and temporary income calculated in a MAGI-based income calculation.

H. "Federal poverty guidelines" means the poverty guidelines issued annually by the U.S department of health and human services at aspe.hhs.gov/poverty-guidelines/.

I. "Medicaid" means the federal health program administered by the New Mexico human services department and established by the federal department

of health and human services under Title XIX of the Social Security Act and by state statute, Section 27-1-12 NMSA 1978 et. seq., and regulations, including 8.291.430 NMAC.

J. "Medicaid adjusted gross income or MAGI" means household size and income calculated to determine eligibility for a Medicaid program as set forth by the New Mexico human services department.

K. "Patient" means the person who receives health care services, or the parent or legal guardian of a minor or an adult under guardianship who receives health care services.

L. "Patients' Debt Collection Protection Act" ("the Act") means New Mexico Senate Bill 71 from the 2021 regular session to be codified at NMSA Chapter 57 and 61.

M. "Uninsured" means that the patient does not have major medical insurance compliant with the provisions of the Affordable Care Act.

[13.10.29.7 NMAC - N/E,
07/01/2021]

13.10.29.8 SCREENING FOR INSURANCE AND PROGRAM ELEGIBILITY:

A health care facility shall screen and offer to assist patients in obtaining Medicaid, public and other insurance, accessing public programs that assist with health care costs other financial assistance offered by the facility, before seeking payment for emergency or medically necessary care. All screening shall utilize culturally linguistically appropriate mechanisms for communication including ASL.

A. Health care facilities shall screen patients when the patient is registered or within the following time periods:

(a) a patient who is admitted for emergency care shall be screened when the patient's condition has been stabilized through treatment and prior to discharge;

(b) a patient who is admitted for inpatient care shall be screened at the time that the

inpatient care is scheduled or within 24 hours of admission;

(c) a patient who receives outpatient care shall be screened at the time that the outpatient care is scheduled and prior to discharge; or

(d) upon request of a patient who is scheduled to receive or has received health care services from the health care facility.

B. Screening must be offered to every patient and if requested, the health care facility shall:

(a) verify whether a patient is uninsured;

(b) if the patient is uninsured, offer information about, offer to screen for and screen the patient for:

(i) all available public insurance including Medicaid, Medicare, New Mexico's children's health insurance program and Tricare;

(ii) public programs that may assist with health care costs including but not limited to the New Mexico health insurance exchange, the New Mexico medical insurance pool, county indigent care programs, COVID-19 claims reimbursement programs, and the Indian health service purchased/referred care program; and

(iii) financial assistance offered by the health care facility.

C. Offer and if requested, provide assistance with the application process for programs identified in the screening. Providing assistance means having adequate staff, systems, and equipment available to enable the completion of any Medicaid, financial assistance or other health insurance application.

D. The health care facility must provide notification regarding the screening to patients who are uninsured as follows.

(a) the results of the screening must be delivered to the patient, or the patient's legal guardian or parent, if the patient is a minor or disabled, in writing within five days of the completion of the

screening. If the patient is not found indigent, then the notice shall inform the patient of their right to complain to the New Mexico attorney general and shall include the website and telephone number of that office.

(b) if the patient chooses not to pursue screening, notification must be delivered to the patient with information about how to apply for health insurance, including Medicaid and the New Mexico health insurance exchange within five days of the patient's discharge.

(c) if the patient is deemed indigent, the patient must be notified in writing within 30 days of discharge, that the medical cost for the health care services may not be the subject of debt collection activity, although the facility may bill the patient for the health services as permitted by law.

(d) if the patient is found presumptively eligible for Medicaid, or any other health insurance or financial assistance program, written notification must be provided to the patient within 30 days of discharge.

E. If the patient's treatment will include a third-party health care provider, as defined by the Act, who will bill the patient, the information gathered in the screening process will be provided by the health care facility to the third-party health care provider within five business days through a secure method of transmission protecting the confidentiality of the patient's information. The information transmitted shall include the patient's identifying information, whether the patient participated in the screening, the outcome of the screening and application process, the status of the patient's application for assistance with health care costs, and whether the patient is indigent.

F. The third-party health care provider shall not seek payment for emergency or medically necessary care until the health care facility has provided the screening information. When the third-party health care provider has received

the screening information, it will notify the patient that it has received the results and, if the patient was found indigent, that it will not pursue collection action for the medical costs related to the health care services.

G. A health care facility or third-party health care provider covered by the Act shall not disclose information a patient provides during the screening and application process, to third parties, except as permitted or required in the Act and its implementing regulations and as further provided below:

(a) as needed to facilitate the application process for health insurance or financial assistance as described in Paragraph C of this section;

(b) upon request, a covered entity shall disclose information obtained during a screening or application assistance conducted pursuant to Section 7 of this rule or during an indigency determination pursuant to Section 8 of this rule, to the patient; or

(c) a health care facility or covered third-party health care provider is required to disclose information provided during screening or application assistance, when required by the human services department or the attorney general's office to investigate or determine the covered entity's compliance with the Act; provided, that such information shall not be used or disclosed by the human services department or attorney general's office for the purpose other than the investigation or determination of the facility or provider's compliance with the Act. [13.10.29.8 NMAC - N/E, 07/01/2021]

13.10.29.9 INDIGENT PATIENT DETERMINATION

Collection actions based on charges for health care services and medical debt may not be pursued against an indigent patient.

A. Medical creditors, medical debt buyers, and medical debt collectors shall include a notice with each bill sent to a patient, informing the patient that a determination of

indigency may be conducted, if requested, and that if the patient is indigent, no collection actions will be pursued. The notice shall be culturally and linguistically appropriate, will be on a separate piece of paper, in bold font no smaller than 12 points, and will provide both a telephone number, email contact and website link for the patient to utilize in requesting an indigency determination.

B. Medical creditors, medical debt buyers, and medical debt collectors shall make a determination as to whether a patient is indigent using the following methodology:

(a) household income will be calculated using the methods used to determine Medicaid eligibility by the New Mexico human services department, Title 8 Chapter 200 NMAC, and by the federal Medicaid program utilizing the MAGI protocols promulgated by the New Mexico human services department;

(b) utilizing the most recent federal poverty guidelines, the patient household income and household size, the medical creditor shall determine whether the patient's income is less than or equal to two hundred percent of the federal poverty guidelines; and

(c) in determining household income, the medical creditor will consider both permanent and temporary income as defined by MAGI.

C. If the medical creditor is a health care facility or third-party provider, it may use the information gathered during the screening process described in the Act and in Section 8 of this rule to determine whether the patient is indigent.

D. All medical creditors, medical debt buyers and medical debt collectors will make the determination of indigency based on verbal or written communication with the patient, in which the patient will be asked to prove household income and household size, consistent with the MAGI protocols.

(a) The verbal or written communication will inform the patient of the purpose of the

communication, i.e., to determine indigency for purpose of whether collection actions may be pursued;

(b) if the patient is a minor or incapacitated, the communication should be with the parent(s) or legal guardian(s) of the patient;

(c) the verbal or written communication with the patient will be documented, including date, time, identity of persons engaged in the communication, and complete content of the information obtained from the communication; and

(d) the patient may respond to the communication by providing a signed attestation as to household income and size, or through provision of documentation such as i.e., pay stubs, at the election of the patient.

E. The patient will be provided with notification of the determination of indigency in writing within 10 days.

(a) if the patient is determined to be indigent, the notice shall inform the patient that collection actions for the health care services, and medical debt are prohibited by the Act.

(b) the notice will provide information to the patient about how to apply for Medicaid, for public insurance, and for insurance through the New Mexico health insurance exchange.

(c) the notice shall inform the patient the right to complain to the New Mexico attorney general and shall include the website and telephone number of that office.

[13.10.29.9 NMAC - N/E, 07/01/2021]

History of 13.10.29 NMAC:
[RESERVED]

WORKFORCE SOLUTIONS DEPARTMENT

This is an amendment to 11.2.4 NMAC, Section 7, 9 and 15, effective 6/22/2021.

11.2.4.7 DEFINITIONS:

A. Chief elected official (CEO) is the chief elected executive officer of a unit of general local government in a local area. CEOs shall consist of one county commissioner from each county located in the area. [~~and in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement described in WIOA Section 107~~] In a case in which a local area includes more than one unit of general local government, the points of contact shall only be the recognized CEOs for each county located in that area.

B. [~~Lead chief elected official~~] Chief lead elected official (CLEO) is the individual selected by the participating chief elected officials who may act on behalf of the other chief elected officials in a given local workforce development area (local area).

C. Local administrative entity means the entity designated by the local board for the administration of WIOA in the local area.

D. Local area means a workforce development area assigned to a region by the governor for the administration of workforce development activities; and the area within which local boards oversee their functions.

E. Local board grant agreement means the grant agreement between the recipient of WIOA funding (DWS), and the sub-recipient of WIOA funding (local board), to fund and direct the administration of WIOA in the local area.

F. Local workforce development board (state local board) means the state workforce development board established by the governor under WIOA section 107.

G. One-stop delivery system means a one-stop delivery system, as described in WIOA section 121.

H. One-stop operator means a public, private, or nonprofit entity, or a consortium of entities designated or certified under WIOA section 121.

I. One-stop partner means an entity described in WIOA section 121 that is participating in the operation of a one-stop delivery system.

J. State workforce development board (state board) means the state workforce development board established by the governor under WIOA section 101.

K. Technical assistance guidance means technical advisories issued by state or federal government authorities to aid in the implementation of WIOA.

L. Unit of general local government means any general purpose political subdivision of a state that has the power to levy taxes and spend funds, as well as general corporate and police powers.

M. Workforce connection center means a physical one-stop center within the one-stop delivery system, as described in WIOA section 121, and partner of the American job center network.

N. Workforce solutions department means the state administrative agency designated by the governor for the administration of WIOA in New Mexico, commonly referred to as the department of workforce solutions (DWS). DWS is also the agency designated by the governor as the pass-through entity for WIOA funding. [11.2.4.7 NMAC - N, 7/1/2018; A, 6/22/2021]

11.2.4.9 ~~(CEO)~~ **SHARED LIABILITY AGREEMENT:**

Per WIOA section 107, if a local area includes more than one unit of general local government, the CEOs of such units must execute a written agreement that specifies the respective roles and liability of the individual CEOs. If the CEOs are unable to reach agreement after reasonable effort, the governor may appoint the members of the local board from individuals nominated or recommended.

A. Required inclusions. CEOs must enter into an agreement with each other that, at a minimum, includes the following sections:

(1) Liability of funds. The agreement must acknowledge financial liability per WIOA section 107, and outline the process for determining each CEO’s share of responsibility as laid out in the CEO agreement. This determination could be based on allocation, population, expenditures, and other criteria determined by the CEOs.

(2) Grant recipient and signatory. The agreement must acknowledge the CEOs are the grant recipient for all local WIOA funds or have designated grant recipient authority to the local board. If the CEOs will serve as the grant recipient, they must outline the process they will use to sign contracts and enter into agreements related to WIOA. This may be accomplished by designating signatory authority to a ~~[lead CEO]~~ chief lead elected official (CLEO).

(3) Fiscal agent designation. To assist in the administration of the grant funds, the CEOs may designate an entity to serve as a local fiscal agent and describe the process for designating a local fiscal agent within the guidelines required by state and local procurement laws and policies.

(4) Local board budget approval. The agreement must describe the process for reviewing and approving the local board annual budget.

(5) Participating CEOs. The agreement must contain the name, representation, contact information, and signature of each participating CEO in the local area.

(6) Election of a new CEO. Within ~~[+20]~~ 90 days of when a new CEO is elected within the local area, either participating as a signatory on the agreement or as a participating CEO, the local board must ensure the individual submits to the local board a written statement acknowledging that he or she:

(a) has read, understands, and will comply with the current CEO agreement; and

(b) reserves the option to request negotiations to amend the CEO agreement at any time during the official’s tenure as a CEO.

(c) Amendment or change to the CEO agreement. The agreement must outline the process that will be used for amendments or changes to the CEO agreement. All amendments or changes must be maintained at the local administrative entity office and available for monitoring by DWS.

B. Recommended inclusions. To improve the coordination and functionality of the local workforce system, CEOs should also address the following items in their agreement:

(1) Designation of a ~~[lead CEO]~~ CLEO. CEOs are liable for all WIOA funds in the local area and are required by WIOA to approve or provide guidance on a number of local board activities. DWS encourages CEOs to select a ~~[lead CEO]~~ CLEO who will act on behalf of the other CEOs. If a ~~[lead CEO]~~ CLEO is appointed, the following information must be sent to the local administrative entity and kept on file for review by DWS:

(a) appointment process and term of ~~[lead CEO]~~ CLEO;

(b) designation of the ~~[lead CEO]~~ CLEO to serve as the signatory for the CEOs;

(c) outline of decisions that may be made by the lead on behalf of the CEOs; and

(d) inclusion of the name, title, and contact information of the appointed ~~[lead CEO]~~ CLEO.

(2) Local board member representation. The agreement should outline how CEOs will ensure local board representation is fair and equitable across the local area.

(3) Communication. The agreement should describe how the CEOs will communicate with each

other regarding local board activities, determining how many times a year the CEOs will meet, and how often a joint meeting with the local board will be held. CEOs should meet at least once a year just as CEOs and once a year with the local board.

[11.2.4.9 NMAC - N, 7/1/2018; A, 6/22/2021]

11.2.4.15 Planning regions A. Background

(1) WIOA

envisions a workforce development system that is customer-focused on both the job seeker and business, and is able to anticipate and respond to the needs of regional economies. Strong collaboration among government, local employers and industry, training providers and educational institutions, service and advocacy organizations, philanthropy and other local organizations is often needed to support and deliver effective workforce services. It requires chief elected officials (CEOs) and local workforce development boards (LWDB) to design and govern the system regionally, to align workforce policies and services with regional economies, and to support service delivery strategies tailored to these needs. To support this regional approach, WIOA requires States to identify planning regions. Per section 106 (a)(2) of WIOA, the State shall identify:

(a)

which regions are comprised of one local workforce development area (local area) that is aligned with the region;

(b)

which regions are comprised of two or more local areas that are collectively aligned with the planning region; and

(c)

which, of the planning regions, are interstate areas contained within two or more states, and consist of labor market areas, economic development areas, or other appropriate contiguous sub-areas of those States.

(2) As part of

the identification of planning regions, New Mexico also uses the following criteria:

(a) a single labor market;

(b) a common economic development area;

(c) possessing of the Federal and non-Federal resources to administer workforce development activities;

(d) commuting patterns, which shows movement of workers from their residence to their workplace;

(e) population centers;

(f) similar economic bases, including percentage of employment in a particular industry;

(g) labor force conditions, including labor force data and unemployment data; and

(h) industrial composition, including industry employment patterns (jobs by industry and share of total employment by industry).

(3) Planning regions are areas identified by the State and the purpose of a planning regions is to promote alignment of workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both individuals and employers. The development of comprehensive regional partnerships facilitates this alignment and provides support for the execution and implementation of sector strategies and career pathways. Identification of planning regions is important, because regional economic development areas are established in order to ensure that training and employment services:

(a) support economic growth and related employment opportunities;

(b) meet the needs of individuals, including those with barriers to employment;

(c) meet the skill competency and unique cultural requirements of the region; and

(d) meet the specific needs of regional employers and the skills they require.

B. State requirements;

(1) The state is required to identify regions in consultation with local CEOs and LWDBs. In New Mexico, consultation will entail one or more of the following activities:

(a) collaboration with the state workforce development board;

(b) collaboration with the New Mexico department of economic development;

(c) e-mail notification of proposed planning regions to the CEOs and LWDB directors with the opportunity to provide comment at least 30 days prior to any final action;

(d) public notice of proposed planning regions to allow affected businesses, institutions of higher education, labor organizations, other primary stakeholders and the general public the opportunity to provide public comment at least 30 days prior to any final action;

(e) dialogue with one or more of the following associations which provide support and guidance to the CEOs and LWDBs:

(i) New Mexico municipal league; and

(ii) New Mexico association of counties;

(f) in-person meetings or teleconferences with individual CEOs and LWDBs;

(g) presentations at training events or at CEO or LWDB meetings; and

(h) through legal public comment processes for workforce policies.

(2) CEOs and affected LWDBs shall be provided opportunity for consultation throughout the designation process. Consultation shall include

(a) collaboration with the state;

(b) notice of proposed planning regions

and opportunity to provide comment at least 30 days prior to final action;

(c) dialogue with one or more of the following associations which provide support and guidance to the CEOs and LWDBs;

(d) in-person meetings or teleconferences with the state; and

(e) through legal public comment processes for workforce policies.

~~(2)~~ (3) In addition to WIOA law and the state’s criteria for identification of planning regions, the following guidelines have been used to identify and designate planning regions for New Mexico:

(a) a single local area may be split across two planning regions;

(b) local areas must be contiguous in order to be a planning region;

(c) a local area may share part of one planning region (interstate planning); and

(d) alignment with statewide economic development regions.

~~(3)~~ (4) Planning regions shall be identified using the state criteria and the associated WIOA guidelines. Announcements of planning regions shall be included in correspondence and guidance documents issued by NMDWS and communicated to the local areas when regional and local planning is conducted.

~~(4)~~ (5) NMDWS may identify interstate planning regions if necessary. Announcements regarding interstate planning regions shall be communicated to the local areas when regional and local planning is conducted. If interstate planning regions have not been identified by NMDWS, New Mexico may still plan with other states for the purposes of that state’s regional or local planning requirements.

~~(5)~~ (6) The identified regions are required to be included in local area planning. Local workforce development boards are

required to coordinate and include regional plans into their local plan every four years; additionally, LWDBs will be required to address and include activities with planning regions who share common labor markets. Regional and local planning activities will include but are not limited to the following:

(a) the preparation of a regional plan;

(b) the establishment of regional service strategies, including use of cooperative service agreements;

(c) the development and implementation of sector strategies for in-demand industry sectors or occupations for the planning region;

(d) the collection and analysis of regional labor market data;

(e) the coordination of administrative cost arrangements, including the pooling of funds for administrative costs, as appropriate;

(f) the coordination of transportation and other supportive services as appropriate;

(g) the coordination of services with regional economic development service, partners and providers;

(h) development of strategies to serve common employers;

(i) coordination of rapid response and layoff aversion activities; and

(j) identification, development and coordination of training programs and providers to support job seekers and employers.

~~(6)~~ (7) The state workforce development board will review or modify the identification of single local areas and planning regions when local area designation is reviewed or modified, including local area subsequent designation, ongoing review of local area subsequent designation, and local area re-designation.

~~(7)~~ (8) NMDWS will assist the planning regions and local areas in obtaining the necessary labor market data, operational data elements, and any other data that will support the process of regional and local planning. NMDWS will also provide ongoing support to meet the purpose of the regional and local planning.

~~(8)~~ (9) Each planning region, including the individual local workforce development board, in partnership with CEO’s, shall prepare, submit and obtain approval of a local plan that includes a description of the policies, procedures, and local activities that are carried out in the regional area that contains all the requirements outlined in 679.560 of Title 20 the Federal Regulations.

C. Public comment;
(1) Public notice shall be issued for any contemplated actions concerning changes to proposed planning regions or workforce policies;
(2) notice shall be provided by email notification to the CEOs and LWDB directors and published in a newspaper of general circulation in the local affected area at least 30 days prior to any final action
(3) notice to interested parties shall include the method by which comments will be accepted and any applicable deadlines.

~~(C)~~ D. Technical assistance; (1) Ongoing support, guidance, training and technical assistance on development of local and regional planning is available to all local areas.

(2) Requests for technical assistance may be sent to NMDWS to the attention of the WIOA Department at 401 Broadway NE, PO Box 1928, Albuquerque, NM 87103.

[11.2.4.15 NMAC - N, 7/28/2020; A, 6/22/2021]

End of Adopted Rules

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Other Material Related to Administrative Law

**HEALTH,
DEPARTMENT OF**

**PUBLIC HEALTH ORDER
NEW MEXICO DEPARTMENT
OF HEALTH
SECRETARY TRACIE C.
COLLINS, M.D.**

JUNE 2, 2021

**Public Health Emergency Order
Clarifying that Current Guidance
Documents, Advisories, and
Emergency Public Health Orders
Remain
in Effect; and Amending Prior
Public Health Emergency Orders
to
Impose County-by-County
Restrictions Due to COVID-19**

PREFACE

The purpose of this amended Public Health Emergency Order is to amend restrictions on mass gatherings and business operations, which were implemented in response to the spread of the Novel Coronavirus Disease 2019 (“COVID-19”). Continued social distancing and self-isolation measures are necessary to protect public health given the devastating effects that are now resulting from the rapid increase in COVID-19 cases in New Mexico. It remains the core purpose of this Order to emphasize that all New Mexicans should be staying in their homes for all but the most essential activities and services. When New Mexicans are not in their homes, they must strictly adhere to social distancing protocols and wear face coverings to minimize risks. These sacrifices are the best contribution that each of us can individually make to protect the health and wellbeing of our fellow citizens and the State as a whole. In accordance with these purposes, this Order and its exceptions should be narrowly construed to encourage

New Mexicans to stay in their homes for all but the most essential activities.

It is hereby **ORDERED** that

1. All current guidance documents and advisories issued by the Department of Health remain in effect.

2. The following Public Health Emergency Orders remain in effect through the current Public Health Emergency and any subsequent renewals of that Public Health Emergency or until they are amended or rescinded:

- A. March 24, 2020 Public Health Emergency Order Temporarily Regulating the Sale and Distribution of Personal Protective Equipment Due to Shortages Caused by COVID-19;

- B. December 15, 2020 Amended Public Health Emergency Order Implementing Additional Contact Tracing Information Requirements for All Laboratories and Submitters Submitting Notifiable Condition COVID-19 Test Results to the New Mexico Epidemiology and Response Division;

- C. January 8, 2021 Emergency Order Implementing Administration and Reporting Requirements for All COVID-19 Vaccine Providers;

- D. April 5, 2021 Amended Public Health Emergency Order Temporarily Limiting Long-Term Care Facilities Visitation Due to COVID-19; and

- E. February 26, 2021 Public Health Emergency Order Implementing Administration Requirements for all COVID-19 Vaccine Providers and Requiring Accurate Information be Provided by Individuals Registering to Receive the COVID-19 Vaccine.

3. The May 14, 2021 Public Health Emergency Order Clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders Remain in Effect; and Amending

Prior Public Health Emergency Orders to Impose County-by-County Restrictions Due to COVID-19 is hereby amended as follows:

ORDER

WHEREAS, on March 11, 2020, because of the spread of the novel Coronavirus Disease 2019 (“COVID-19”), Michelle Lujan Grisham, the Governor of the State of New Mexico, declared that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked her authority under the All Hazards Emergency Management Act;

WHEREAS, Governor Michelle Lujan Grisham has renewed the declaration of a Public Health Emergency through June 25, 2021;

WHEREAS, confirmed cases in the United States have risen to more than 33.3 million and confirmed COVID-19 infections in New Mexico have risen to over 203,000;

WHEREAS, COVID-19 is a deadly virus and has taken the lives of over 594,000 Americans and over 4,265 New Mexicans;

WHEREAS, the further spread of COVID-19 in the State of New Mexico poses a threat to the health, safety, wellbeing and property of the residents in the State due to, among other things, illness from COVID-19, illness-related absenteeism from employment (particularly among public safety and law enforcement personnel and persons engaged in activities and businesses critical to the economy and infrastructure of the State), potential displacement of persons, and closures of schools or other places of public gathering;

WHEREAS, vaccination, social distancing and the consistent and proper use of face coverings in public spaces are the most effective ways New Mexicans can minimize

the spread of COVID-19 and mitigate the potentially devastating impact of this pandemic in New Mexico; and

WHEREAS, the New Mexico Department of Health possesses legal authority pursuant to the Public Health Act, NMSA 1978, Sections 24-1-1 to -40, the Public Health Emergency Response Act, NMSA 1978, Sections 12-10A-1 to -19, the Department of Health Act, NMSA 1978, Sections 9-7-1 to -18, and inherent constitutional police powers of the New Mexico state government, to preserve and promote public health and safety, to adopt isolation and quarantine, and to close public places and forbid gatherings of people when deemed necessary by the Department for the protection of public health.

NOW, THEREFORE, I, Tracie C. Collins, M.D., Secretary of the New Mexico Department of Health, in accordance with the authority vested in me by the Constitution and the Laws of the State of New Mexico, and as directed by the Governor pursuant to the full scope of her emergency powers under the All Hazard Emergency Management Act, do hereby declare the current outbreak of COVID-19 a condition of public health importance, as defined in NMSA 1978, Section 24-1-2(A) as an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico.

DEFINITIONS

As used in this Order, the following terms shall have the meaning given to them, except where the context clearly requires otherwise:

(1) "Bars and clubs" means any business, other than those specifically defined as a "food and drink establishment," that typically or actually generates more than half of its revenue from

the sale of alcohol for on-premises consumption, as well as adult entertainment venues, nightclubs, and dance clubs, regardless of the source of their revenue.

(2) "Close-contact businesses" include barbershops, hair salons, tattoo parlors, nail salons, spas, massage therapy services, esthetician clinics, and tanning salons.

(3) "COVID-Safe Practices" ("CSPs") are those directives, guidelines, and recommendations for businesses and other public operations that are set out and memorialized in the document titled "All Together New Mexico: COVID-Safe Practices for Individuals and Employers." This document may be obtained at the following link <https://cv.nmhealth.org/covidsafe-practices/>.

(4) "Essential business" means any business or non-profit entity falling within one or more of the following categories:

a. Health care operations including hospitals, walk-in-care health facilities, pharmacies, medical wholesale and distribution, home health care workers or aides for the elderly, emergency dental facilities, nursing homes, residential health care facilities, research facilities, congregate care facilities, intermediate care facilities for those with intellectual or developmental disabilities, supportive living homes, home health care providers, drug and alcohol recovery support services, and medical supplies and equipment manufacturers and providers;

b. Homeless shelters, food banks, and other services providing care to indigent or needy populations;

c. Childcare facilities;

d. Grocery stores, supermarkets, food banks, farmers' markets and vendors who sell food, convenience stores, and other businesses that generate more than one-third of their revenue from the sale of canned food, dry goods,

fresh fruits and vegetables, pet food, animal feed or supplies, fresh meats, fish, and poultry, and any other consumable food and drink products;

e. Farms, ranches, and other food cultivation, processing, or packaging operations;

f. Infrastructure operations including, but not limited to, public works construction, commercial and residential construction and maintenance, self-storage facilities, airport operations, public transportation, airlines, taxis, private transportation providers, transportation network companies, water, gas, electrical, oil drilling, oil refining, natural resources extraction or mining operations, nuclear material research and enrichment, those attendant to the repair and construction of roads and highways, gas stations, solid waste collection and removal, trash and recycling collection, processing and disposal, sewer, data and internet providers, data centers, technology support operations, and telecommunications systems;

g. Manufacturing operations involved in food processing, manufacturing agents, chemicals, fertilizer, pharmaceuticals, sanitary products, household paper products, microelectronics/semi-conductor, primary metals manufacturers, electrical equipment, appliance, and component manufacturers, and transportation equipment manufacturers;

h. Services necessary to maintain the safety and sanitation of residences or essential businesses including security services, towing services, custodial services, plumbers, electricians, and other skilled trades;

i. Veterinary and livestock services, animal shelters and facilities providing pet adoption, daycare, or boarding services;

j. Media services;

k.

Automobile repair facilities, bike repair facilities, and retailers who generate the majority of their revenue from the sale of automobile or bike repair products;

l. Utilities, including their contractors, suppliers, and supportive operations, engaged in power generation, fuel supply and transmission, water and wastewater supply;

m. Hardware stores;

n. Laundromats and dry cleaner services;

o. Crematoriums, funeral homes, and cemeteries;

p. Banks, credit unions, insurance providers, licensed check cashing businesses, payroll services, brokerage services, and investment management firms;

q. Businesses providing mailing and shipping services;

r. Laboratories and defense and national security-related operations supporting the United States government, a contractor to the United States government, or any federal entity;

s. Professional services, such as legal or accounting services, but only where necessary to assist in compliance with legally mandated activities; and

t. Logistics, and also businesses that store, transport, or deliver groceries, food, materials, goods, or services directly to residences, retailers, government institutions, or essential businesses.

(5) “Food and drink establishments” include restaurants, breweries, wineries, distillers, cafes, coffee shops, or other similar establishments that offer food or drink. For purposes of this section, “breweries” are those businesses licensed pursuant to NMSA 1978, Section 60-6A-26.1; “distillers” are those businesses licensed pursuant to NMSA 1978, Section 60-6A-1; and “wineries” are those businesses

licensed pursuant to NMSA 1978, Section 60-A-11.

(6) “Houses of worship” means any church, synagogue, mosque, or other gathering space where persons congregate to exercise their religious beliefs.

(7) “Large entertainment venues” mean any publicly or privately owned venue typically or actually used to host large audiences for the purposes of entertainment or amusement, including, but not limited to: convention centers, concert venues, movie theaters, performance venues, professional or semi-professional sports venues, racetracks, and theaters.

(8) “Mass gathering” means any public gathering, private gathering, organized event, ceremony, parade, funeral, or any other grouping that brings together a specified number of individuals in a single room or connected space, confined outdoor space, or open outdoor space. “Mass gathering” does not include the presence of any number of individuals where those individuals regularly reside or individuals who are public officials or public employees in the course and scope of their employment.

(9) “Maximum capacity” means the maximum number of individuals allowed within a specified location, as determined by the relevant fire marshal or fire department. If the relevant fire marshal or fire department does not make such a determination, maximum capacity shall be determined by dividing the total square footage of floor space unoccupied by obstructions such as equipment and displays by thirty-six (36).

(10) “Places of lodging” means hotels, motels, RV parks, and short-term vacation rentals.

(11) “Recreational facilities” means any publicly or privately owned facility typically or actually used for recreational activities capable of bringing persons within close proximity

of one another, including, but not limited to: aquariums, amusement parks, arcades, basketball courts, baseball fields, bowling alleys, botanical gardens, family entertainment centers, football fields, gokart courses, golf courses, guided raft and balloon tours, ice-skating rinks, museums with interactive displays or exhibits, miniature golf courses, ski areas, soccer fields, swimming pools, tennis courts, trampoline parks, youth programs, and zoos.

(12) “Retail space” means any business that regularly sells goods or services directly to consumers or end-users at the business location and includes, but is not limited to, the following “essential businesses” identified in the categories above: (1)d, (1)k, (1)m, and (1)n.

THE “RED TO GREEN” FRAMEWORK

I DIRECT that the State shall continue to reopen according to the following county-by-county framework:

SUMMARY

This Order sets out the “Red to Green” framework, which includes four levels of operations that are based on a county’s ability to satisfy specified metrics: Turquoise Level, Green Level, Yellow Level, and Red Level. The Department of Health maintains the official map displaying each county’s current level at: <https://cvprovider.nmhealth.org/public-dashboard.html>. The Department of Health updates this map every other Wednesday. Beginning June 2, 2021, all counties shall be entitled to operate at the Turquoise Level regardless of their compliance with the following metrics

REOPENING LEVEL METRICS

Counties shall be categorized according to one of the following levels:

(1) Turquoise Level

– Counties seeking to operate at this level must satisfy ALL of the following metrics for the most recent 14-day reporting period or TWO of the metrics for the TWO previous 14-day reporting periods:

(a) A new COVID-19 case incidence rate of no greater than 10 cases per 100,000 inhabitants during the most recent 14-day period;

(b) An average percent of positive COVID-19 test results over the most recent 14-day period less than or equal to 7.5%; and

(c) A percentage of total vaccine-eligible residents fully vaccinated greater than or equal to 35% beginning on the date of this Order, 40% beginning the week of May 3, 2021, and increased by 5% every other week thereafter.

(2) Green Level -Counties seeking to operate at this level must satisfy TWO of the following metrics for the most recent 14-day reporting period:

(a) A new COVID-19 case incidence rate of no greater than 10 cases per 100,000 inhabitants during the most recent 14-day period;

(b) An average percent of positive COVID-19 test results over the most recent 14-day period less than or equal to 7.5%; and

(c) A percentage of total vaccine-eligible residents fully vaccinated greater than or equal to 35% beginning on the date of this Order, 40% beginning the week of May 3, 2021, and increased by 5% every other week thereafter.

(3) Yellow Level - Counties seeking to operate at this level must meet ONE of the following metrics for the most recent 14-day reporting period:

(a) A new COVID-19 case incidence rate of no greater than 10 cases per 100,000 inhabitants during the most recent 14-day period;

(b)

An average percent of positive COVID-19 test results over the most recent 14-day period less than or equal to 7.5%; and

(c) A percentage of total vaccine-eligible residents fully vaccinated greater than or equal to 35% beginning on the date of this Order, 40% beginning the week of May 3, 2021, and increased by 5% every other week thereafter.

(4) Red Level -All other counties shall operate at the Red Level.

REQUIREMENTS FOR EACH LEVEL

Turquoise Level - Turquoise Level counties are subject to the following requirements:

(1) Except as provided in the following paragraph, all “mass gatherings” of more than one hundred fifty (150) individuals are prohibited.

(2) All businesses, houses of worship, and other non-profit entities may operate subject to the following capacity limits and restrictions:

a. All “essential businesses,” excluding those defined as a “retail space,” may operate without capacity limitations but must limit operations to only those absolutely necessary to carry out essential functions.

b. “Essential businesses” identified as a “retail space” may operate up to 75% of the maximum capacity of any enclosed space on the premises and up to 100% capacity of any outdoor space on the premises.

c. “Houses of worship” may hold religious services up to 100% of the maximum capacity of any outdoor or enclosed space on the premises but are strongly encouraged to limit indoor services to 75% capacity.

d. “Large entertainment venues” may operate up to 33% of the maximum capacity of any enclosed space on the premises and up to 75% capacity of

any outdoor space on the premises.

e. “Recreational facilities” may operate up to 50% of the maximum capacity of any enclosed space on the premises and up to 75% capacity of any outdoor space on the premises.

f. “Bars and clubs” may operate up to 33% of the maximum capacity of any enclosed space on the premises and up to 75% capacity of any outdoor space on the premises. “Bars and clubs” shall comply with all other requirements applicable to “food and drink establishments.”

g. “Food and drink establishments” may not provide indoor dine-in service, except those restaurants that have completed the NM Safe Certified training program. All “food and drink establishments” that have completed the NM Safe Certified offered at <https://nmsafecertified.org>, and also comply with all NM Safe Certified requirements, including, but not limited to: screening customers and staff for symptoms of COVID-19 prior to entry, consenting to Department of Health spot-testing of symptomatic employees, requiring dine-in customers to provide limited contact information for contact tracing purposes, and retaining contact tracing information for no less than three weeks may operate at 75% of the maximum capacity of any outdoor seating area. All “food and drink establishments,” regardless of compliance with the NM Safe Certified requirements, may operate up to 75% of the maximum capacity of any outdoor seating area. In all instances, tables must be spaced at least six feet apart, no more than six patrons may be seated at any single table, patrons must be seated in order to be served food or drink unless ordering food for carryout, and no bar or counter seating is permitted. “Food and drink establishments” may provide carryout service, or delivery service if otherwise permitted by law.

h. “Places of

lodging” which have completed the NM Safe Certified training offered at <https://nmsafecertified.org> may operate up to 100% of maximum occupancy. All other “places of lodging” shall not operate at more than 50% of maximum occupancy. Further, and notwithstanding any other provision herein, any home, apartment, condominium, or other similar space that is offered as a vacation rental may operate but may not exceed fifteen (15) guests. Healthcare providers who are engaged in the provision of care to New Mexico residents, individuals for extended stays as temporary housing, and individuals who are quarantining shall not be counted for purposes of determining maximum occupancy.

i. Any entity not identified above may operate up to 75% of the maximum capacity of any enclosed space on the premises and up to 100% capacity of any outdoor space on the premises.

Green Level - Green Level counties are subject to the following requirements:

(1) Except as provided in the following paragraph, all “mass gatherings” of more than twenty (20) individuals are prohibited.

(2) All businesses, houses of worship, and other non-profit entities may operate subject to the following capacity limits and restrictions:

a. All “essential businesses,” excluding those defined as a “retail space,” may operate without capacity limitations but must limit operations to only those absolutely necessary to carry out essential functions.

b. “Essential businesses” identified as a “retail space” may operate up to 50% of the maximum capacity of any outdoor or enclosed space on the premises.

c. “Houses of worship” may hold religious services up to 100% of the maximum capacity of any outdoor

or enclosed space on the premises but are strongly encouraged to limit indoor services to 50% capacity.

d. “Large entertainment venues” may operate up to 25% of the maximum capacity of any enclosed space on the premises and up to 50% capacity of any outdoor space on the premises.

e. “Recreational facilities” may operate up to 25% of the maximum capacity of any enclosed space on the premises and up to 50% capacity of any outdoor space on the premises.

f. “Bars and clubs” may operate up to 25% capacity of any outdoor space on the premises but shall not permit patrons to enter any indoor portion of the premises except for the limited purpose of using the restroom or momentarily exiting/entering. Employees may occupy the indoor portion of the premises only to the extent necessary to operate the outdoor portion. “Bars and clubs” shall comply with all other requirements applicable to “food and drink establishments.”

g. “Food and drink establishments” may not provide dine-in service, except those restaurants that have completed the NM Safe Certified training program. All “food and drink establishments” that have completed the NM Safe Certified offered at <https://nmsafecertified.org>, and also comply with all NM Safe Certified requirements, including, but not limited to: screening customers and staff for symptoms of COVID-19 prior to entry, consenting to Department of Health spot-testing of symptomatic employees, requiring dine-in customers to provide limited contact information for contact tracing purposes, and retaining contact tracing information for no less than three weeks may operate at 50% of the maximum capacity of any enclosed space on the premises. All “food and drink establishments,” regardless of compliance with the NM Safe Certified requirements,

may operate up to 75% of the maximum capacity of any outdoor seating area. In all instances, tables must be spaced at least six feet apart, no more than six patrons may be seated at any single table, patrons must be seated in order to be served food or drink unless ordering food for carryout, and no bar or counter seating is permitted. “Food and drink establishments” may provide carryout service, or delivery service if otherwise permitted by law.

h. “Places of lodging” which have completed the NM Safe Certified training offered at <https://nmsafecertified.org> may operate up to 75% of maximum occupancy. All other “places of lodging” shall not operate at more than 40% of maximum occupancy. Further, and notwithstanding any other provision herein, any home, apartment, condominium, or other similar space that is offered as a vacation rental may operate but may not exceed ten (10) guests. Healthcare providers who are engaged in the provision of care to New Mexico residents, individuals for extended stays as temporary housing, and individuals who are quarantining shall not be counted for purposes of determining maximum occupancy.

i. Any entity not identified above may operate up to 50% of the maximum capacity of any outdoor or enclosed space on the premises.

Yellow Level -Yellow Level counties are subject to the following requirements:

(1) Except as provided in the following paragraph, all “mass gatherings” of more than ten (10) individuals are prohibited.

(2) All businesses, houses of worship, and other non-profit entities may operate subject to the following capacity limits and restrictions:

a. All “essential businesses,” excluding those defined as a “retail space,” may operate without capacity limitations but must limit operations

to only those absolutely necessary to carry out essential functions.

b. “Essential businesses” identified as a “retail space” may operate up to 33% of the maximum capacity of any outdoor or enclosed space on the premises.

c. “Houses of worship” may hold religious services up to 100% of the maximum capacity of any outdoor or enclosed space on the premises but are strongly encouraged to limit indoor services up to 33% capacity.

d. “Large entertainment venues” may operate up to 25% of the maximum capacity of any outdoor space on the premises but shall not permit patrons to enter any indoor portion of the venue except for the limited purpose of using the restroom or momentarily exiting/entering. Employees may occupy the indoor portion of the facility only to the extent necessary to operate the outdoor portion. Notwithstanding the foregoing, “large entertainment venues” may operate up to 25% of the maximum capacity of any enclosed space on the premises for the limited purposes of recording and broadcasting entertainment, but shall in no event permit any live, in-person audience.

e. “Recreational facilities” may operate up to 33% of the maximum capacity of any outdoor space on the premises but shall not permit patrons to enter any indoor portion of the facility except for the limited purpose of using the restroom or momentarily exiting/entering. Employees may occupy the indoor portion of the facility only to the extent necessary to operate the outdoor portion. Notwithstanding the foregoing, pools may operate up to 33% of the maximum capacity of any enclosed space on the premises so long as they are only used for physical therapy and socially distanced exercise.

f. “Bars and clubs” may not operate.

g. “Food

and drink establishments” may not provide dine-in service unless they complete the NM Safe Certified training offered at <https://nmsafecertified.org>, as well as comply with all NM Safe Certified requirements, including, but not limited to: screening customers and staff for symptoms of COVID-19 prior to entry, consenting to Department of Health spot-testing of symptomatic employees, requiring dine-in customers to provide limited contact information for contact tracing purposes, and retaining contact tracing information for no less than three weeks. Those “food and drink establishments” that complete the NM Safe Certified training and comply with all attendant requirements mandated by that program may operate up to 33% of the maximum capacity of any enclosed space on the premises. All “food and drink establishments,” regardless of compliance with the NM Safe Certified requirements, may operate up to 75% of the maximum capacity of any outdoor seating area. In all instances, tables must be spaced at least six feet apart, no more than six patrons may be seated at any single table, patrons must be seated in order to be served food or drink unless ordering food for carryout, and no bar or counter seating is permitted. Any “food and drink establishment” that is permitted to serve alcohol must close for in person service by 10:00 p.m. and must remain closed until at least 4:00 a.m., but may continue to provide delivery service so long as customers are permitted on the premises. “Food and drink establishments” may provide carryout service, or delivery service if otherwise permitted by law.

h. “Places of lodging” which have completed the NM Safe Certified training offered at <https://nmsafecertified.org> may operate up to 60% of maximum occupancy. All other “places of lodging” shall not operate at more than 33% of maximum occupancy. Further, and notwithstanding any other provision herein, any home,

apartment, condominium, or other similar space that is offered as a vacation rental may operate but may not exceed five (5) guests. Healthcare providers who are engaged in the provision of care to New Mexico residents, individuals for extended stays as temporary housing, and individuals who are quarantining shall not be counted for purposes of determining maximum occupancy.

i. “Close-contact businesses” may operate but may not exceed the lesser of 33% of the maximum capacity of any outdoor or enclosed space on the premises or twenty (20) customers inside the building at any given time.

j. Any entity not identified above may operate but may operate up to 33% of the maximum capacity of any enclosed space on the premises.

Red Level -Red Level counties are subject to the following requirements:

(1) Except as provided in the following paragraph, all “mass gatherings” of more than five (5) individuals are prohibited.

(2) All businesses, houses of worship, and other non-profit entities may operate subject to the following capacity limits and restrictions:

a. All “essential businesses,” excluding those defined as a “retail space,” may operate without capacity limitations but must limit operations to only those absolutely necessary to carry out essential functions.

b. “Essential businesses” identified as a “retail space” may operate up to 25% of the maximum capacity of any outdoor or enclosed space on the premises.

c. “Houses of worship” may hold religious services up to 100% of the maximum capacity of any outdoor or enclosed space on the premises but are strongly encouraged to limit indoor services to 25% capacity.

d. “Large entertainment venues” may not operate.

e. “Recreational facilities” may operate up to 25% of the maximum capacity of any outdoor space on the premises but shall not permit patrons to enter any indoor portion of the facility except for the limited purpose of using the restroom or momentarily exiting/entering. Employees may occupy the indoor portion of the facility only to the extent necessary to operate the outdoor portion. Notwithstanding the foregoing, amusement parks may not operate. Further, pools may operate up to 25% of the maximum capacity of any enclosed space on the premises so long as they are only used for physical therapy and socially distanced exercise.

f. “Bars and clubs” may not operate.

g. “Food and drink establishments” may operate up to 25% of the maximum capacity of any outdoor seating areas but shall not permit patrons to enter any indoor portion of the premises except for the limited purpose of using the restroom or momentarily exiting/entering. Employees may occupy the indoor portion of the premises only to the extent necessary to operate the outdoor portion. Tables must be spaced at least six feet apart, no more than six patrons may be seated at any single table, patrons must be seated in order to be served food or drink unless ordering food for carryout, and no bar or counter seating is permitted. “Food and drink establishments” may provide carryout service, or delivery service if otherwise permitted by law. Any “food and drink establishment” that is permitted to serve alcohol must close for in-person service by 9:00 p.m. and must remain closed until at least 4:00 a.m. but may continue to provide delivery service so long as no customers are permitted on the premises.

h. “Places of

lodging” which have completed the NM Safe Certified training offered at <https://nmsafecertified.org> may operate up to 40% of maximum occupancy. All other “places of lodging” shall not operate at more than 25% of maximum occupancy. Further, and notwithstanding any other provision herein, any home, apartment, condominium, or other similar space that is offered as a vacation rental may operate but may not exceed five (5) guests. Healthcare providers who are engaged in the provision of care to New Mexico residents, individuals for extended stays as temporary housing, and individuals who are quarantining shall not be counted for purposes of determining maximum occupancy.

i. “Close-contact businesses” may operate but may not exceed 25% of the maximum capacity of any outdoor or enclosed space on the premises or ten (10) customers inside the building at any given time.

j. Any entity not identified above may operate but may not exceed 25% of the maximum capacity of any outdoor or enclosed space on the premises.

BASELINE DIRECTIVES

Regardless of a county’s level, I **DIRECT** that the following baseline directives apply at all times and in all instances:

(1) Unless a healthcare provider instructs otherwise, all individuals shall wear a mask or multilayer cloth face covering in public settings except when: eating or drinking, exercising outdoors alone or with members of the same household; attending a small, outdoor gathering of fully vaccinated individuals no larger than the applicable mass gathering limit for the county or twenty (20) individuals, whichever is less. Notwithstanding the foregoing, fully vaccinated individuals are not required to wear a mask unless otherwise recommended by the latest official guidance from the Centers for Disease

Control (“CDC”). Further, fully vaccinated individuals shall not be required to socially distance from other individuals unless otherwise recommended by the latest official guidance from the CDC, in which case they must follow that guidance. Businesses, houses of worship, and other non-profit entities shall also follow the latest official guidance from the CDC regarding mask-wearing and social distancing, provided that nothing in this Order shall be construed as prohibiting any entity from imposing more stringent requirements.

(2) Any “food and drink establishment,” “close-contact business,” “place of lodging,” “retail space,” or other business (including “essential businesses” other than those which meet the definition of a healthcare operation, utility, or indigent care services) in which members of the public regularly visit must immediately close for a period of fourteen (14) days following the occurrence of four (4) or more rapid responses within a fourteen (14) day period. For purposes of this directive, rapid responses will be counted on a rolling basis. Notwithstanding this provision, an “essential business” may be permitted to continue operating if the Department of Health, after consultation with the New Mexico Environment Department, determines that the business is a necessary provider of goods or services within the community in light of geographic considerations. Further, “essential businesses” that test each employee every two weeks and regularly provide contact tracing data to the Environment Department shall not be subject to closure under this provision; provided that fully vaccinated employees, other than those working in congregate care settings such as correctional facilities and long-term care facilities, shall not be required to be tested every two weeks.

(3) All businesses, houses of worship, and other non-profit entities must adhere to the

pertinent CSP's. In the event the pertinent CSP's specify a reduced capacity limit, the CSP's limit shall control.

(4) Private educational institutions serving children and young adults from pre-Kindergarten through 12th Grade, including homeschools serving children who are not household members, shall adhere to the face covering and other COVID-Safe Practices requirements for in person instruction contained in the New Mexico's Public Education Department's "Reentry Guidance" and "COVID-19 Response Toolkit for New Mexico's Public Schools", available at <https://webnew.ped.state.nm.us/reentry-district-and-school-guidance/>, and may operate up to maximum capacity. Private schools shall report to the New Mexico Public Education Department all cases of COVID-19-positive students, staff, contractors and volunteers associated with the school within four hours of the school being notified of the positive case, pursuant to the procedures in the current COVID-19 Response Toolkit for New Mexico's Public Elementary Schools. Private schools must immediately close for a period of fourteen (14) days following the last occurrence of four (4) or more rapid responses within a fourteen (14) day period. Private schools also are subject to inclusion on the New Mexico Environment Department's watchlist and closure list.

(5) State museums may operate subject to the capacity level and restrictions applicable to comparable private museums located in their respective counties.

I FURTHER DIRECT as follows:

(1) This Order shall be broadly disseminated in English, Spanish and other appropriate languages to the citizens of the State of New Mexico.

(2) This Order declaring restrictions based upon the existence of a condition of public

health importance shall not abrogate any disease-reporting requirements set forth in the Public Health Act.

(3) Nothing in this Order is intended to restrain or preempt local authorities from enacting more stringent restrictions than those required by the Order.

(4) This Order shall take effect immediately and remain in effect through June 30, 2021.

(5) The New Mexico Department of Health, the New Mexico Department of Public Safety, the New Mexico Department of Homeland Security and Emergency Management, the New Mexico Environment Department, and all other State departments and agencies are authorized to take all appropriate steps to ensure compliance with this Order.

(6) Any and all State officials authorized by the Department of Health may enforce this Public Health Order by issuing a citation of violation, which may result in civil administrative penalties of up to \$5,000 for each violation under Section 12-10A-19.

I FURTHER ADVISE the public to take the following preventive precautions:

-- **New Mexico citizens should stay at home and undertake only those outings absolutely necessary for their health, safety, or welfare.**

-- Avoid crowds.

-- Avoid all non-essential travel including plane trips and cruise ships.

DONE AT THE EXECUTIVE OFFICE THIS 2ND DAY OF JUNE 2021

ATTEST:
/S/ MAGGIE TOULOUSE
OLIVER
SECRETARY OF STATE

WITNESS MY HAND AND THE GREAT SEAL OF THE STATE OF NEW MEXICO

/S/ TRACIE C. COLLINS, M.D.

SECRETARY OF THE STATE OF NEW MEXICO DEPARTMENT OF HEALTH

HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF PUBLIC COMMENT

The Human Services Department is required by the Federal Community Opportunity Accountability Training and Education Services (COATS) Reauthorization Act of 1998 to submit a State Plan to the U.S. Department of Health and Human Services, Office of Community Services in order to receive a grant or allotment for the CSBG program. The Department is required to offer a 30-day comment period for the CSBG State Plan prior to submittal.

The proposed CSBG State Plan is available on the Human Services Department website at: <https://www.hsd.state.nm.us/income-support-division-plans-and-reports/>. If you do not have Internet access, a copy of the proposed State Plan may be requested by contacting the Income Support Division's Work and Family Support Bureau (WFSB) at 505-705-5726. The Department proposes to implement the plan effective October 1, 2021. All comments received will be considered for the New Mexico CSBG State Plan.

A public hearing to receive comments on this proposed plan will be held on **Thursday, July 22, 2021 from 10:00am to 11:00am**. The hearing will be held virtually through Go To Meeting at this link: <https://global.gotomeeting.com/join/535121069>.

Anyone wishing to join via phone may call 1-312-757-3121, Access Code: 535-121-069.

Individuals wishing to testify may contact the CSBG Program Manager, Gayla Delgado, by phone at 505-705-5726 or by email at Gayla.Delgado2@state.nm.us.

If you are a person with a disability and you require this information in an alternative format, or you

require a special accommodation to participate in any HSD public hearing, program, or service, please contact the American Disabilities Act Coordinator with the Office of General Counsel, at 505-827-7701 or through the New Mexico Relay system at 711, or toll free at 1-800-659-1779. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Interested persons may address written or recorded comments to:

Human Services Department
Attn: CSBG Program Manager
P.O. Box 2348
Santa Fe, NM 87504-2348

Interested persons may also address comments via electronic mail to: HSD-isdrules@state.nm.us. Comments will be posted on the HSD website within 3 days of receipt.

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION**

NOTICE OF PUBLIC HEARING

The Human Service Department is required by Federal Law to file a State Plan that describes how the Department will administer the State's Low Income Home Energy Assistance Program (LIHEAP). The State Plan must be submitted every year to the United States Department of Health and Human Services (DHHS), Administration for Children and Families (ACF). The Department is required to offer a 30-day comment period and conduct a public hearing for the LIHEAP State Plan that includes Weatherization prior to submittal.

The Department proposes the New Mexico LIHEAP State Plan covering the period of October 1, 2021 to September 30, 2022. All comments received will be considered for the New Mexico LIHEAP State Plan.

The proposed State Plan is available on and can be printed from the Department's website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-plans-and-reports.aspx>. A copy of the proposed LIHEAP State Plan is available in written format upon request. Please call the Income Support Division at (505) 709-5391 to request a copy. You may also send a request to:

Human Services Department
Income Support Division
Attn: LIHEAP Unit
39-B Plaza La Prensa
Santa Fe, New Mexico 87507

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the American Disabilities Act Coordinator at the office of General Counsel, at 505-827-7701 or through the New Mexico Relay system, toll free at 1-800-659-1779. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

A public hearing to receive testimony on this proposed plan will be held on July 22, 2021, from 9:00 a.m. to 10:00 a.m. The hearing will be held virtually via GoToMeeting at <https://global.gotomeeting.com/join/535121069> or by phone at 1(312) 757-3121.

Interested persons may address written or recorded comments to:

Human Services Department
Attn: LIHEAP Unit
P.O. Box 2348
Santa Fe, NM 87504-2348

Interested persons may also address comments via electronic mail to: HSD-isdrules@state.nm.us.

Comments will be posted on the HSD website within 3 days of receipt.

**End of Other Material
Related to Administrative
Law**

2021 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXII, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 4	January 12
Issue 2	January 14	January 26
Issue 3	January 28	February 9
Issue 4	February 11	February 23
Issue 5	February 25	March 9
Issue 6	March 11	March 23
Issue 7	March 25	April 6
Issue 8	April 8	April 20
Issue 9	April 22	May 4
Issue 10	May 6	May 25
Issue 11	May 27	June 8
Issue 12	June 10	June 22
Issue 13	June 24	July 7
Issue 14	July 8	July 20
Issue 15	July 22	August 10
Issue 16	August 12	August 24
Issue 17	August 26	September 14
Issue 18	September 12	September 28
Issue 19	September 30	October 13
Issue 20	October 14	October 26
Issue 21	October 28	November 9
Issue 22	November 15	November 30
Issue 23	December 2	December 14
Issue 24	December 16	December 28

The *New Mexico Register* is the official publication for all material relating to administrative law, such as 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.

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