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# New Mexico Register

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

**Volume XXXIV - Issue 2 - January 31, 2023**

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## **The New Mexico Register**

Published by the Commission of Public Records,  
Administrative Law Division

1205 Camino Carlos Rey, Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507.

Telephone: (505) 476-7941; Fax: (505) 476-7910; E-mail: [staterules@state.nm.us](mailto:staterules@state.nm.us).

The *New Mexico Register* is available free at <http://www.srca.nm.gov/new-mexico-register/>

# New Mexico Register

Volume XXXIV, Issue 2

January 31, 2023

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## Notices of Rulemaking and Proposed Rules

### HEALTH, DEPARTMENT OF

#### NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the proposed adoption of amendments to rule, 7.1.31 NMAC, "Statewide Health Care Claims Database." The public hearing will be held on March 3, 2023 at 9:30 am via Cisco Webex online, via telephone, and, comments will be received via email through the day of the hearing until 5:00 pm. The hearing is being held via internet, email and telephonic means due to the concerns surrounding Coronavirus and in accord with Governor Michelle Lujan Grisham's Executive Order 2020-004, Declaration of a Public Health Emergency, Executive Order 2023-001, and any subsequent executive orders. This hearing will be conducted to receive public comment regarding the adoption of the proposed amendments to rule, 7.1.31 NMAC, concerning the creation and maintenance of a repository of healthcare claims data to be used to increase the quality and effectiveness of health care delivered in New Mexico.

The existing rule assists in making health care costs more transparent to the public; fulfilling the DOH's legislative obligations in 24-14A-3, NMSA 1978, as part of the overall "Health Information System", "created for the purpose of assisting the department, legislature and other agencies and organizations in the state's efforts in collecting, analyzing and disseminating health information to assist: in the performance of health planning and policymaking functions, including identifying personnel, facility, education and other resource needs and allocating financial, personnel and other resources where appropriate; consumers in making informed decisions regarding health care; and in administering, monitoring and evaluating a statewide health plan. The four proposed amendments

to the rule will a] change the initial data submission date from 1/1/2022 to 1/1/2023 (Subsection 7 of Subsection B of 7.1.31.9 NMAC); b] revise the historical data start date from 1/1/2019 to 1/1/2020 (Subsection 5 of Subsection B of 7.1.31.9 NMAC); c] change the version of the *APCD-Common Data Layout (APCD-CDL™, with errata, Copyright 2021 by APCD Council, National Association of Health Data Organizations, the University of New Hampshire)* used for defining data elements from Version 1.1 to Version 2.1 (Subsection 1 of Subsection A of 7.1.31.9 NMAC); d] add a new exception to reporting for health insurance carriers that only insure less than 500 individuals during the relevant time period (Subsection 6 of Subsection A of 7.1.31.9 NMAC); and e] replace "Centennial Care" with "Medicaid" (Subsection 5 of Subsection A of 7.1.31.9 NMAC).

The legal authority authorizing the proposed amendment of the rule by the Department is at Subsection E of Section 9-7-6, NMSA 1978 and the Health Information System Act, 24-14A-1 et seq. NMSA 1978. A free copy of the full text of the proposed amended rule can be obtained from the Department's website at <https://nmhealth.org/publication/regulation/>.

The New Mexico Department of Health will also hold a public hearing on the proposed adoption of Part 19 of Title 7, Chapter 1 named Violence Intervention Program Fund, previously adopted via emergency rulemaking in 2022. The public hearing will be held on March 3, 2023 at 10:30 am via Cisco Webex online, via telephone, and, comments will be received via email through the day of the hearing until 5:00 pm. This hearing will be conducted to receive public comment regarding the adoption of the proposed rule, 7.1.19 NMAC This rule was previously adopted to administer the provisions of the Violence Intervention Program Act and to establish standards

and procedures designed for the purpose of making funds available as awarded by violence intervention program grants to state agencies, counties, municipalities or tribal governments that the department finds are disproportionately impacted by violent crimes, including homicides, shootings and aggravated assaults, and develop standards pertaining to the collection and sharing of data by grantees.

On March 9, 2022, Governor Michelle Lujan Grisham signed into law House Bill 68, passed by the New Mexico Legislature on February 17, 2022. HB 68 enacted the Violence Intervention Program Act, creating the Violence Intervention Program Fund and assigning the Department as the agency to administer the fund, establish the standards and procedures for taking applications and awarding grants to the agencies described above for the purposes stated. The Department established the same in an emergency rule, which will expire in February 2023 pursuant to Subsection E of Section 14-4-5.6, NMSA 1978. Therefore the proposed rule is to be adopted under the normal rulemaking process.

The legal authority authorizing the adoption of the proposed rule by the Department is at Subsection E of Section 9-7-6, NMSA 1978 and the Violence Intervention Program Fund Act, 31-30-8, NMSA 1978. A free copy of the full text of the proposed rule can be obtained from the Department's website at <https://nmhealth.org/publication/regulation/>.

Any interested member of the public may attend the hearing and offer public comments on the proposed rule during the hearing. To access the hearing by telephone: please call 1-505-312-4308, phone conference ID # 897566521#. Your telephone comments will be recorded. To access the hearing via internet: please go to <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>,

enter the following meeting number and password where indicated on screen—Meeting ID 272 551 467 621, Passcode: GCNHyy, then click the “Join a meeting” button. You may also provide comment via Chat during the live streaming.

Written public comments may also be submitted to the mailing address shown below. Please submit any written comments regarding the proposed rules to the attention of:

**For 7.1.31 NMAC:**

Kenneth Geter, Bureau Chief  
Community & Health Systems  
Epidemiology Bureau  
Epidemiology and Response Division  
New Mexico Department of Health  
1190 S St. Francis Dr., Ste N1320  
Santa Fe, NM 87505  
Kenneth.Geter@doh.nm.gov  
(505) 827-2694

**For 7.1.19 NMAC:**

Rachel Wexler, Bureau Chief  
Injury and Behavioral Epidemiology  
Bureau  
Epidemiology and Response Division  
New Mexico Department of Health  
1190 S St. Francis Dr., Ste N1320  
Santa Fe, NM 87505  
Rachel.Wexler@doh.nm.gov  
(505) 476-3082

Mailed written comments must be received by 5 pm MST on March 3, 2023. Written comments may also be submitted to the email address shown above through 5:00 pm MST on the date of the hearing. All written comments will be published on the agency website at <https://nmhealth.org/publication/regulation/> within 3 days of receipt, and will be available at the New Mexico Department of Health Office of General Counsel for public inspection.

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Sheila Apodaca by telephone at (505) 827-2997. The

Department requests at least ten (10) days advance notice to provide requested special accommodations.

**NEW MEXICO FINANCE  
AUTHORITY**

**NOTICE OF PROPOSED  
RULEMAKING**

The New Mexico Opportunity Enterprise Review Board (Board) will hold a public hearing on Friday, March 3, 2023 from 10:00–11:00 a.m., and on Tuesday, March 7, 2023 from 3:00-4:00 p.m. The public comment hearing will be conducted virtually via Zoom; the public may attend the hearing using the following methods:

**Friday, March 3, 2023 from 10:00 – 11:00 a.m.**

Zoom meeting link: <https://us06web.zoom.us/j/89242811651?pwd=alBxeHFmazNUQUFDUVVnN1k1NjlmUT09>

Meeting ID: 892 4281 1651  
Passcode: 302709

To join the meeting by phone dial:  
+17193594580,,89242811651#,,,,\*30  
2709# US  
+17207072699,,89242811651#,,,,\*30  
2709# US (Denver)

Find your local number: <https://us06web.zoom.us/j/89242811651?pwd=alBxeHFmazNUQUFDUVVnN1k1NjlmUT09>

**Tuesday, March 7, 2023 from 3:00-4:00 p.m.**

Zoom meeting link: <https://us06web.zoom.us/j/85075940948?pwd=RkpKR3dvTEFTMURZU3hjTnZ5SFVoQT09>

Meeting ID: 850 7594 0948  
Passcode: 456523

To join the meeting by phone dial:  
+17193594580,,85075940948#,,,,\*45  
6523# US  
+17207072699,,85075940948#,,,,\*45  
6523# US (Denver)

Find your local number: <https://us06web.zoom.us/j/85075940948?pwd=RkpKR3dvTEFTMURZU3hjTnZ5SFVoQT09>

The purpose of the rule hearing is to obtain input and public comment on the following proposed rules:

TITLE 2 PUBLIC FINANCE  
CHAPTER 93 OPPORTUNITY  
ENTERPRISE ACT -- ENTERPRISE  
ASSISTANCE  
PART 1 GENERAL  
PROVISIONS

**Statutory Authority:** Legal authority for this rulemaking may be found in the Opportunity Enterprise Act, Section 6-34-7 NMSA 1978. Pursuant to NMSA 1978, 6-34-3 and 6-34-5, the New Mexico Finance Authority is responsible for adopting rules relating to the use of the opportunity enterprise revolving fund necessary to carry out the provisions of the Opportunity Enterprise Act and shall provide necessary administrative services to the board.

**Proposed Rule:**

TITLE 2 PUBLIC  
FINANCE  
CHAPTER 93 OPPORTUNITY  
ENTERPRISE ACT ENTERPRISE  
ASSISTANCE  
PART 1 GENERAL  
PROVISIONS

**2.93.1.1 ISSUING AGENCY:** New Mexico Opportunity Enterprise Review Board.  
[2.93.1.1 NMAC – N, x/x/2023]

**2.93.1.2 SCOPE:** All persons or entities applying for enterprise assistance under the opportunity enterprise revolving fund administered by the New Mexico finance authority, , Sections 6-34-8 and 6-34-12, NMSA 1978.  
[2.93.1.2 NMAC – N, x/x/2023]

**2.93.1.3 STATUTORY AUTHORITY:** Sections 6-34-6 and 6-34-7, NMSA 1978.  
[2.93.1.3 NMAC – N, x/x/2023]

**2.93.1.4 DURATION:** Permanent.  
[2.93.1.4 NMAC – N, x/x/2023]

**2.93.1.5 EFFECTIVE DATE:** xxxxxxxxxxxx xx, 2023, unless a later date is cited at the end of a section.  
[2.93.1.5 NMAC – N, x/x/2023]

**2.93.1.6 OBJECTIVE:**

**A.** Section 6-34-3, NMSA 1978, provides that the authority may adopt separate rules to administer the opportunity enterprise revolving fund to originate enterprise assistance for opportunity enterprise projects recommended by the board, govern the process through which applicants may apply for enterprise assistance from the opportunity enterprise revolving fund, and collect fees and costs related to providing enterprise financing to each opportunity enterprise financing partner.

**B.** Section 6-34-5, NMSA 1978 provides that the authority shall provide staff support for necessary administrative services of the board.

**C.** Section 6-34-6, NMSA 1978 provides that the authority shall upon the recommendation of the board, process, review and evaluate applications for enterprise assistance received from applicants.

**D.** Section 6-34-7, NMSA 1978 provides that the opportunity enterprise review board is required to adopt rules necessary to carry out the provisions of the act and allowing the authority to establish procedures for applying and qualifying for enterprise assistance, establishing economic development goals for the state in consultation with the department, governing the application procedures and requirements for enterprise assistance, determining how to select and prioritize applications for enterprise assistance to be funded by the authority, and providing safeguards to protect public money and other public resources.

**E.** Section 6-34-12, NMSA 1978 provides that the authority shall administer the opportunity enterprise revolving fund and recover from the opportunity enterprise revolving fund the costs of administering the fund and originating enterprise assistance.

**F.** Subsection K of Section 6-21-5, NMSA 1978 provides that the authority may fix charge

and collect fees and other charges in connection with the making of loans, leases and any other services rendered by the authority.  
[2.93.1.6 NMAC – N, x/x/2023]

**2.93.1.7 DEFINITIONS:**

**A.** “Act” means the Opportunity Enterprise Act, Sections 6-34-1 through 6-34-15, NMSA 1978, as the same may be amended and supplemented.

**B.** “Application” means a written document made publicly available by the authority and filed with the authority for enterprise assistance for the purpose of evaluating, in consultation with the department, the applicant’s qualifications and proposed enterprise development project or projects for types of enterprise assistance which may be provided by the authority under the act.

**C.** “Authority” means the New Mexico finance authority.

**D.** “Board” means the opportunity enterprise review board created by the Act.

**E.** “Bylaws” means the bylaws of the board adopted on August 24, 2022, as amended and supplemented from time to time.

**F.** “Department” means the economic development department.

**G.** “Economic development opportunities” means the advancement of an environmentally sustainable economic development goal of the state as determined by the authority, in coordination with the department, and includes the creation of jobs, the provision of needed services and commodities to diverse communities across the state and the increase of tax and other revenue collections resulting from the enterprise development project.

**H.** “Enterprise assistance” means opportunity enterprise financing, an opportunity enterprise lease or an opportunity enterprise loan.

**I.** “Enterprise development project” means the purchase, planning, designing, building, surveying, improving, operating, furnishing, equipping or

maintaining of land, buildings or infrastructure to create or expand economic development opportunities within the state.

**J.** “Fund” means the opportunity enterprise revolving fund.

**K.** “Opportunity enterprise partner” means a domestic corporation, a general partnership, a limited liability company, a limited partnership, a public benefit corporation, a nonprofit entity or other private business entity or combination thereof that the authority determines is or will be engaged in an enterprise that creates or expands economic development opportunities within the state and is eligible for enterprise assistance pursuant to the act.

**L.** “Project review committee” means a standing committee, appointed by the chairman of the board from the members of the board pursuant to the bylaws to review proposed enterprise development projects to be recommended for funding from the fund.

**M.** “State” means the state of New Mexico.

[2.93.1.7 NMAC – N, x/x/2023]

**2.93.1.8 ELIGIBILITY AND PRIORITIZATION POLICIES FOR ENTERPRISE DEVELOPMENT PROJECTS:**

The board will develop and consider a variety of factors in reviewing and evaluating enterprise development project proposals to determine which enterprise development projects to recommend to the authority for enterprise assistance from the fund. Board policies shall give priority to projects that demonstrate:

**A.** local support and financial need,

**B.** create or expand economic development opportunities within the state, and

**C.** other means of financing a proposed enterprise development project are unavailable or insufficient.

The board shall establish policies to consider in prioritizing enterprise development projects.

[2.93.1.8 NMAC – N, x/x/2023]



**2.93.1.9 ENTERPRISE DEVELOPMENT PROJECT PROPOSAL, REVIEW, PRIORITIZATION AND APPROVAL PROCESS:**

**A.** The board and the department will administer an outreach program to local governments and potential opportunity enterprise partners for the purpose of making recommendations to the authority regarding enterprise assistance, and to notify applicants that enterprise development project proposals are being accepted for review by the project review committee and the board for prioritization and recommendation for funding to the authority.

**B.** The authority will provide forms and guidelines for enterprise development project proposals and applications for enterprise assistance. The authority may consider the recommendations and priorities of the board.

**C.** Applications for enterprise assistance shall describe the scope and plans of the enterprise development project or proposed use of leased property, demonstrate that the enterprise development project or lease will create or expand economic development opportunities within the state, demonstrate that the enterprise development project or lease will comply with all applicable state and federal law, provide sufficient evidence that other means of financing a proposed enterprise development project are unavailable or insufficient, and include any other documentation or certifications that the authority deems necessary.

**D.** Department staff will complete an initial evaluation of the application for enterprise assistance and enterprise development project proposals promptly following receipt. Such evaluation will include recommendations regarding suitability for enterprise assistance. The department may obtain input and information relevant to carrying out the purposes of the act from rely upon the advice of outside consultants in evaluating enterprise development project proposals and applications

for enterprise assistance. The department will then forward to the project review committee for review the relevant application and the corresponding recommendation of the department, along with all third-party input and information compiled by the department.

**E.** The project review committee will consider the proposed enterprise development project and may confer with outside parties, including any person familiar with the proposed enterprise development project, as necessary to obtain more information on the feasibility, merit, and cost of the proposed enterprise development project. The project review committee will make a recommendation to the board on each enterprise development project proposal.

**F.** Upon the recommendation of the project review committee, the board will prioritize the proposed enterprise development projects for recommendation to the authority for consideration of enterprise assistance.

**G.** After completion of the review process by the project review committee and the board and receipt of a favorable recommendation on the enterprise development project proposal, the prioritized enterprise development projects will be recommended by the board to the authority for consideration of enterprise assistance.

**H.** NMFA may request an additional application from recommended enterprise assistance projects.

**I.** A member of the board or employee of the authority with an interest, either direct or indirect, in an application or contract relating to enterprise assistance, shall disclose his or her interest to the authority and the board in writing and shall not participate in actions by the board or the authority with respect to that conflict.

[2.93.1.9 NMAC – N, x/x/2023]

**2.93.1.10 ENTERPRISE DEVELOPMENT PROJECTS AND ELIGIBLE COSTS:**

**A.** The board may recommend to the authority that enterprise assistance from the fund should be made available for enterprise development projects as provided by Section 6-34-6, NMSA 1978.

**B.** Enterprise assistance from the fund shall be made only for eligible items, a determined by the authority, which includes:

- (1) opportunity enterprise financing;
- (2) opportunity enterprise loans;
- (3) acquiring title or other interest in an enterprise development project;
- (4) paying the reasonably necessary administrative costs, payments in lieu of taxes and other costs and fees incurred by the authority in carrying out the provisions of the act.

[2.93.1.10 NMAC – N, x/x/2023]

**2.93.1.11 ENTERPRISE DEVELOPMENT PROJECT FINANCING:**

The authority may recommend structured enterprise assistance packages that include opportunity enterprise financing, opportunity enterprise leases, opportunity enterprise loans, any other type of assistance authorized by the authority and the board, if applicable. The structure, terms and conditions of the financial assistance will be determined by the authority. Upon completion of an enterprise development project, the authority shall allow the opportunity enterprise partner responsible for the completion of that project an opportunity to obtain an opportunity enterprise lease for that property, provided that any breach of the terms of any enterprise assistance may preclude that opportunity enterprise partner from leasing the property, and in that event, the property shall be made available for lease to other opportunity enterprise partners.

[2.93.1.11 NMAC – N, x/x/2023]

**2.93.1.12 FINANCING APPROVAL REQUIREMENTS:**

Based on the priority and evaluation factors set forth in Sections 8, 9, and 10, as well as the requirements of the Act, the board may recommend to the authority enterprise development projects for consideration of enterprise assistance. Board recommendations may be considered by the authority but shall not be binding on the authority. A member of the board or employee of the authority with an interest, either direct or indirect, in an application or contract relating to enterprise assistance, shall disclose his or her interest to the authority and the board in writing and shall not participate in actions by the board or the authority with respect to that conflict.  
[2.93.1.12 NMAC – N, x/x/2023]

**2.93.1.13 RECONSIDERATION OF BOARD DECISIONS:** Any applicant affected by a decision of the board may request reconsideration of the decision of the board by notifying the board in writing within 15 days following the meeting at which the decision was made. Notice of a decision made in an open meeting of the board is deemed to be given on the date of the meeting, and the time for notification of a request for reconsideration shall run from that date, regardless of whether any written notice of the decision is given by the board. A request for reconsideration shall state with particularity the grounds for reconsideration, including any factual or legal matter on which the applicant believes that there was an error by the board. Upon receiving a timely and proper request for reconsideration, the chair of the board will set the matter for reconsideration at the board's next regularly scheduled meeting or at a special meeting called for the purpose, at the chairman's discretion. Upon reconsideration by the board, the board will notify the applicant of the board's decision, in writing, within five working days of the decision. The decision of the board on reconsideration is final. A request for reconsideration not timely or

properly made will not be considered by the board.  
[2.93.1.13 NMAC – N, x/x/2023]

**2.93.1.14 ENTERPRISE ASSISTANCE CONTRACT:**

**A.** The authority and opportunity enterprise partner awarded enterprise assistance will enter into a contract to establish the terms and conditions of enterprise assistance from the authority. The contract to provide enterprise assistance shall:

- (1) define the roles and responsibilities of the authority and the opportunity enterprise partner;
- (2) provide clawback or recapture provisions, if applicable, that protect the public investment in the event of a default on the contract;
- (3) provide a finance plan detailing the financial contributions and obligations of the authority and opportunity enterprise partner;
- (4) require an opportunity enterprise partner to provide guarantees, letters of credit or other acceptable forms of security, as determined by the authority;
- (5) specify how rents, if applicable, will be collected and accounted for;
- (6) specify how debts incurred on behalf of the opportunity enterprise partner will be repaid; and
- (7) provide that, in the event of a default, the authority may (a) elect to take possession of the property, including the succession of all right, title and interest in the enterprise development project; and (b) terminate the lease or cease any further funding and exercise any other rights and remedies that may be available.

**B.** The interest rate on any enterprise assistance extended, if applicable, shall be determined by the authority

**C.** The contract will contain provisions which require enterprise assistance recipients to

comply with all applicable federal, state and local laws and regulations.

**D.** The authority will monitor terms of the contract and enforce or cause to be enforced all terms and conditions thereof, including prompt notice and collection. In the event of default under an enterprise assistance contract by an applicant, the authority may enforce its rights by suit or mandamus and may utilize all other available remedies under state and applicable federal law.

**E.** All contracts for enterprise assistance shall be provided to the board by the authority no later than thirty days from the execution of that contract. The board shall review contracts from time to time and determine whether the use of enterprise assistance is a prudent expenditure of public funds and report to the legislature annually on that determination. The board shall also make recommendations to the authority of potential rulemaking, application or lending changes to ensure transparent and efficient processes for carrying out the provisions of the Act.  
[2.93.1.14 NMAC – N, x/x/2023]

**HISTORY OF 2.93.1 NMAC: [RESERVED]**

Copies of the proposed rule may be accessed online at <https://www.nmfinance.com/opportunity-enterprise-review-board> or contact Board staff at [OGC@nmfa.net](mailto:OGC@nmfa.net), (505) 984-1454, or toll free 1-800-ASK-NMFA (1-877-275-6632).

The Board will accept written public comments on the proposed rule beginning January 31, 2023. Please submit written comments on the proposed changes to the NMFA, attention Daniel C. Opperman, Chief Legal Officer, via electronic mail at [OGC@nmfa.net](mailto:OGC@nmfa.net), or by regular mail at 207 Shelby Street, Santa Fe, NM 87501. Written comments must be received no later than 5 p.m. on March 7, 2023. Comments received prior to the rule hearing will be posted to the Board website at <https://>

[www.nmfinance.com/opportunity-enterprise-review-board](http://www.nmfinance.com/opportunity-enterprise-review-board). Persons will also be given the opportunity to present their comments at the rule hearing.

Individuals who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact the Board Staff as soon as possible at [OGC@nmfa.net](mailto:OGC@nmfa.net), (505) 984-1454, or toll free 1-800-ASK-NMFA (1-877-275-6632). The Board requests advance notice to provide required special accommodations at least one week prior to the meeting or as soon as possible.

## STATE AUDITOR, OFFICE OF THE

### NOTICE OF PROPOSED RULEMAKING AND PUBLIC HEARING

The Office of the State Auditor is in the process of amending 2.2.2 NMAC, Requirements for Contracting and Conducting Audits of Agencies (“Audit Rule”). The Audit Rule establishes policies, procedures, rules, and requirements for contracting and conducting financial audits, special audits, attestation engagements, performance audits, and forensic engagements of governmental agencies and local public bodies of the state of New Mexico and is governed by Sections 12-6-1 to 12-6-14 NMSA 1978 (“Audit Act”). The amendments to the Audit Rule are proposed pursuant to the Audit Act, at Section 12-6-12 NMSA 1978 and Subsection A of Section 12-6-3 NMSA 1978. Section 12-6-12 NMSA 1978 states “[t]he state auditor shall promulgate reasonable regulations necessary to carry out the duties of his office, including regulations required for conducting audits in accordance with generally accepted auditing standards.”

A copy of the full text of the proposed amendments to the Audit Rule is

available on the Office of the State Auditor’s website, at <https://www.saonm.org/auditing/financial-audits/state-auditor-rule>. The Office of the State Auditor will consider adopting the proposed new Audit Rule at a public hearing on March 3, 2023, at 1:30 p.m. The hearing will be a virtual meeting and members of the public may attend, listen, and participate via live streaming or telephone. Please see the prior link for additional information on attending the virtual public hearing.

Public comment is allowed prior to and at the public hearing on March 3, 2023. Please e-mail written comments on the proposed Audit Rule to Liza Kerr, Financial Audit Director, at [Liza.Kerr@osa.state.nm.us](mailto:Liza.Kerr@osa.state.nm.us) between January 31, 2023 and March 2, 2023. If you are unable to e-mail comments, you may deliver written comments to the Office of the State Auditor, 2540 Camino Edward Ortiz, Suite A, Santa Fe, New Mexico 87507, as soon as possible and no later than February 24, 2021. All written comments will be posted on the Office of the State Auditor’s website within 3 days of receipt.

Proposed amendments to the Audit Rule include the following: (i) adding or clarifying certain definitions; (ii) removing references to his or him, to make the Audit Rule gender neutral; (iii) removing the phrase comprehensive annual financial report and replacing it with the acronym ACFR; (iv) updating requirements for component unit audits of housing departments of a local government or a regional housing authority to be conducted by the same auditor that does the local government audit, consistent with the language of the Audit Act; (v) adding a requirement for the auditor to review annual reports and performance measures submitted by the agency; (vi) adding a requirement for an SOC 2 audit to be done for the SHARE financial system. To the extent applicable, the full text for relevant technical information that served as a basis for proposed

changes is available at [gasb.org](http://gasb.org), and [gao.gov](http://gao.gov).

If you are an individual with a disability who is in need of auxiliary aid or service to attend or participate in the public hearing, please contact the Office of the State Auditor at least one week prior to the public hearing. Please contact Christopher Hall at 505-476-3800 or [Christopher.Hall@osa.state.nm.us](mailto:Christopher.Hall@osa.state.nm.us) if any such assistance is needed.

At the start of the meeting, the Office of the State Auditor shall announce the names of those members of the public body participating remotely. All members of the Office of the State Auditor participating remotely shall identify themselves whenever they speak and be clearly audible to the other members of the public body and to the public. The Office of the State Auditor shall suspend discussion if the audio or video is interrupted until restored.

## SUPERINTENDENT OF INSURANCE, OFFICE OF

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the Superintendent of Insurance (“OSI” or “Superintendent”) will hold an in-person public hearing regarding the amendment to **13.10.34.5 NMAC - STANDARDS FOR ACCIDENT-ONLY, SPECIFIED DISEASE, HOSPITAL INDEMNITY, DISABILITY INCOME, SUPPLEMENTAL, AND NON-SUBJECT WORKER EXCEPTED BENEFITS**. This hearing will commence on **March 3, 2023, at 10:00 a.m.**

**PURPOSE OF THE PROPOSED RULE:** The purpose of this amendment is to change the current effective date of the rule from July 1, 2023, as previously published in the New Mexico Register Issue 15, 8/9/2022, to January 1, 2024 to give carriers more time to make

the necessary changes to business practices to be in compliance with the rule.

**STATUTORY AUTHORITY:**

Sections 59A-18, 59A-16 and 59A-23G-3 NMSA 1978.

**TO ATTEND THE HEARING:**

This meeting will be held in-person at:

Office of Superintendent of Insurance  
1120 Paseo de Peralta, 4<sup>th</sup> Floor  
Hearing Room  
Santa Fe, NM 87501

The Superintendent designates Lawrence M. Marcus to act as the hearing officer for this rulemaking. Oral comments will be accepted at the public hearing from members of the public and other interested parties. Any updates concerning the hearing date, time, or location will be available by subscribing to the "Rulemaking and Ratemaking" newsletter at: <https://newsletter.osi.state.nm.us/>.

Copies of the Notice of Proposed Rulemaking and proposed new rules are available by electronic download from the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5831> or by requesting a copy by calling (505) 490-7103.

Written comments will be accepted through 4:00 p.m. on March 3, 2023. Responses to written comments or oral comments will be accepted through 4:00 p.m. on March 13, 2023. All comments shall be filed electronically through the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5831> or mailed to:

OSI Records and Docketing  
NM Office of Superintendent of Insurance  
P.O. Box 1689, Santa Fe, NM 87504-1689

For help submitting a filing, please contact [OSI-docketfiling@state.nm.us](mailto:OSI-docketfiling@state.nm.us).

The below docket number must be indicated on filed comments.

Docket No. 2023-0007  
IN THE MATTER OF  
**AMENDMENT TO 13.10.34.5  
NMAC - EXCEPTED BENEFITS**

All filings must be received between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday except on state holidays. The Superintendent will consider all oral comments and will review all timely submitted written comments and responses.

**SPECIAL NEEDS:** Any person with a disability requiring special assistance to participate in the hearing should contact LouElla Pacheco at (505) 490-7103 no later than ten (10) business days prior to the hearing.

DONE AND ORDERED this 31st day of January, 2023.

/S/JENNIFER A. CATECHIS

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## End of Notices of Rulemaking and Proposed Rules

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## Adopted Rules

### Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico Register as provided 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.

### MEDICAL BOARD

**This amendment is to 16.10.5 NMAC, Section 10 effective 1/31/2023.**

#### 16.10.5.10 SUSPENSION OF LICENSE:

**A. Action prior to suspension:** Except as provided in the Impaired Health Care Provider Act, or in a disciplinary order entered after a hearing, or pursuant to Subsection C of 16.10.5.15 NMAC below, prior to suspending any license, the board shall give the licensee written notice and an opportunity to request a hearing pursuant to the Uniform Licensing Act.

**B. Terms of suspension:** The board may suspend a license for ~~either~~ a specified period of time ~~[or indefinitely]~~. A licensee whose license is suspended may not practice in any manner under that license during the period of suspension.

**C. Reinstatement:** Unless otherwise established by the board:

(1) If the board has suspended a license indefinitely, the licensee must apply to the board for reinstatement. If reinstatement is initially denied, the licensee may apply for reinstatement on a yearly basis thereafter.

(2) If the board sets a date after which a license may be reinstated, the board will consider an application for reinstatement only after that date. The licensee may apply for reinstatement on a yearly basis thereafter.

(3) A licensee whose license has been suspended pursuant to the Impaired Health Care Provider Act may apply for reinstatement pursuant to 61-7-9

NMSA, 1978, if the licensee can meet the statutory requirements. If the reinstatement is denied, the licensee may apply for reinstatement on a yearly basis thereafter.

[16.10.5.10 NMAC - Rp 16 NMAC 10.5.11, 4/18/2002; A, 1/1/2009; A, 2/8/2022; A, 1/31/2023]

### PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

**This is an amendment to 2.80.200 NMAC, Section 40, effective 01/31/2023.**

#### 2.80.200.40 BOARD MEETINGS:

**A.** The board shall hold regular meetings on the last Thursday of each month, unless otherwise established by resolution of the board. The board may establish by resolution a different meeting schedule for regular meetings of the board.

**B.** A board member may participate in a board or committee meeting by means of a conference telephone or other similar communications equipment after receiving written approval by the board chair or committee chair when it is otherwise difficult or impossible for the member to attend the meeting in person. Participation by such means shall constitute presence in person at a meeting. The authorization of a board member to attend a board or committee meeting by means of a conference telephone or other similar communications equipment must be communicated to all board members by the approving board chair or committee chair. Each member participating must be identified prior to speaking and, if participating virtually, shall remain on

camera throughout the meeting. All participants shall be able to hear any other participant who speaks during the meeting at the same time, and members of the public shall be able to hear any member who speaks during the meeting.

**[B] C.** A majority of the board members shall constitute a quorum at any meeting of the board and each attending member, including the chair, shall be entitled to one vote on each issue.

**[E] D.** No "proxy" votes shall be allowed.

[2.80.200.40 NMAC - Rp, 2.80.200.40 NMAC, 12/30/2015; A, 01/31/2023]

### REGULATION AND LICENSING DEPARTMENT PODIATRY, BOARD OF

The New Mexico Board of Podiatry reviewed at its 12/16/2022 hearing, repealed its rule 16.21.6 NMAC - Licensure for Military Service Members, Spouses and Veterans (filed 2/11/2014). The rule repeal was adopted 1/19/2023 and is effective 1/31/2023.

### End of Adopted Rules

## 2023 New Mexico Register Submittal Deadlines and Publication Dates Volume XXXIV, Issues 1-24

| <b>Issue</b>    | <b>Submittal Deadline</b> | <b>Publication Date</b> |
|-----------------|---------------------------|-------------------------|
| <b>Issue 1</b>  | <b>January 5</b>          | <b>January 18</b>       |
| <b>Issue 2</b>  | <b>January 19</b>         | <b>January 31</b>       |
| <b>Issue 3</b>  | <b>February 2</b>         | <b>February 14</b>      |
| <b>Issue 4</b>  | <b>February 16</b>        | <b>February 28</b>      |
| <b>Issue 5</b>  | <b>March 2</b>            | <b>March 14</b>         |
| <b>Issue 6</b>  | <b>March 16</b>           | <b>March 28</b>         |
| <b>Issue 7</b>  | <b>March 30</b>           | <b>April 11</b>         |
| <b>Issue 8</b>  | <b>April 13</b>           | <b>April 25</b>         |
| <b>Issue 9</b>  | <b>May 4</b>              | <b>May 16</b>           |
| <b>Issue 10</b> | <b>May 18</b>             | <b>May 31</b>           |
| <b>Issue 11</b> | <b>June 1</b>             | <b>June 13</b>          |
| <b>Issue 12</b> | <b>June 15</b>            | <b>June 27</b>          |
| <b>Issue 13</b> | <b>July 7</b>             | <b>July 18</b>          |
| <b>Issue 14</b> | <b>July 20</b>            | <b>July 31</b>          |
| <b>Issue 15</b> | <b>August 3</b>           | <b>August 15</b>        |
| <b>Issue 16</b> | <b>August 17</b>          | <b>August 29</b>        |
| <b>Issue 17</b> | <b>August 31</b>          | <b>September 12</b>     |
| <b>Issue 18</b> | <b>September 14</b>       | <b>September 26</b>     |
| <b>Issue 19</b> | <b>September 28</b>       | <b>October 10</b>       |
| <b>Issue 20</b> | <b>October 12</b>         | <b>October 24</b>       |
| <b>Issue 21</b> | <b>October 26</b>         | <b>November 7</b>       |
| <b>Issue 22</b> | <b>November 9</b>         | <b>November 21</b>      |
| <b>Issue 23</b> | <b>November 22</b>        | <b>December 5</b>       |
| <b>Issue 24</b> | <b>December 7</b>         | <b>December 19</b>      |

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. The *New Mexico Register* is available free online at: <http://www.srca.nm.gov/new-mexico-register/>. For further information, call 505-476-7941