

TITLE 7 HEALTH
CHAPTER 4 DISEASE CONTROL
PART 6 REQUIREMENTS GOVERNING THE HARM REDUCTION/SYRINGE EXCHANGE PROGRAM

7.4.6.1 ISSUING AGENCY: Department of Health, Public Health Division, Bureau of Infectious Diseases.
[7.4.6.1 NMAC - Rp, 7.4.6.1 NMAC, 11/29/2022]

7.4.6.2 SCOPE: These regulations govern the operation of harm reduction programs for the purpose of reducing overdose mortality and other negative health consequences associated with substance use.
[7.4.6.2 NMAC - Rp, 7.4.6.2 NMAC, 11/29/2022]

7.4.6.3 STATUTORY AUTHORITY: The statutory authority for adopting these rules is found in Subsection E of Section 9-7-6 NMSA 1978, The Harm Reduction Act, Section 24-2C-1 to 24-2C-6 NMSA 1978, the Public Health Act, Section 24-1-3 NMSA 1978, and Section 30-31-25.1 NMSA 1978 of the Controlled Substances Act.
[7.4.6.3 NMAC - Rp, 7.4.6.3 NMAC, 11/29/2022]

7.4.6.4 DURATION: Permanent.
[7.4.6.4 NMAC - Rp, 7.4.6.4 NMAC, 11/29/2022]

7.4.6.5 EFFECTIVE DATE: November 29, 2022, unless a later date is cited at the end of a section.
[7.4.6.5 NMAC - Rp, 7.4.6.5 NMAC, 11/29/2022]

7.4.6.6 OBJECTIVE: These Regulations implement the requirements of the Harm Reduction Act to establish and regulate the harm reduction program for the purpose of reducing overdose mortality and other negative health consequences of substance use, including preventing the transmission of infectious diseases and encouraging drug users to seek treatment.
[7.4.6.6 NMAC - Rp, 7.4.6.6 NMAC, 11/29/2022]

7.4.6.7 DEFINITIONS: as used in these regulations:

A. “Blood borne pathogens” means the hepatitis B virus (HBV), hepatitis C virus (HCV), the human immunodeficiency virus (HIV) and any other blood borne disease.

B. “Department” means the New Mexico Department of Health.

C. “Harm Reduction Act” means Section 24-2C-1 to 24-2C-6, NMSA 1978.

D. “Harm Reduction ID Code” means a unique alpha-numeric code assigned to a participant through the process determined by the harm reduction program, this code shall not bear the participant’s full name.

E. “Harm Reduction Participant Card” means a card issued to a participant by the department of health or HRP which verify the participant is enrolled in the harm reduction program, this card shall contain the Harm Reduction ID Code and an expiration date.

F. “Harm Reduction Provider (HRP)” means a public health office, community agency, service provider, individual, or other location which has applied and been accepted by the New Mexico department of health to provide harm reduction activities in accordance with the requirements of the Harm Reduction Act, these regulations and department of health protocols and guidelines.

G. “Harm Reduction Specialist” means an employee or volunteer of an HRP who has completed the department approved harm reduction certification curriculum.

H. “Hepatitis and Harm Reduction Program” means the team of staff members within the department public health division who have the primary responsibility to regulate and implement the provisions of the Harm Reduction Act, these regulations, and related department protocols and guidelines.

I. “Participant” means anyone enrolled for services at any Harm Reduction Provider and may receive supplies, devices or any other service provided by the Harm Reduction Provider.

[7.4.6.7 NMAC - Rp, 7.4.6.7 NMAC, 11/29/2022]

7.4.6.8 GENERAL PROVISIONS GOVERNING THE HRP APPLICATION APPROVAL AND REVOCATION PROCESSES:

A. Any entity, other than HRPs already designated herein, seeking to become a HRP must submit an application to the hepatitis and harm reduction program. The application must include, at a minimum:

- (1) name of the entity;
- (2) primary contact information, including: name, telephone number and email address;
- (3) mailing address;
- (4) definition of the geographic area to be served;
- (5) a statement confirming that if approved, the entity will participate in training and evaluation activities as required by the harm reduction program;
- (6) relevant experience in providing disease prevention services, health care services, social services or substance use treatment services to individuals injecting substances; and
- (7) any other information required by the harm reduction program.

B. The hepatitis and harm reduction program shall review applications to determine whether they meet the statutory and regulatory requirements. Upon approval of the application, the entity will be authorized by the harm reduction program as an HRP.

C. All organizations that provide direct services to individuals who use substances, including law enforcement, emergency medical response, medical providers, substance use treatment programs, and correctional institutes shall be considered an HRP for the sole purpose of providing fentanyl test strips or other devices approved by the department to check for potential adulterants. Organizations utilizing this limited option do not need to meet the HRP requirements outlined in section 7.4.6.9 of these rules.

[7.4.6.8 NMAC - Rp, 7.4.6.8 NMAC, 11/29/2022]

7.4.6.9 HARM REDUCTION PROVIDER REQUIREMENTS:

A. The HRP shall maintain regular and consistent hours of service to ensure participant engagement.

B. The HRP may cancel a harm reduction session in the event of unforeseen circumstances which may impact service delivery such as lack of staffing, severe weather, threats or acts of violence, or other unforeseen emergencies which may create an unsafe environment.

C. The HRP must make available educational materials related to improving the health of individuals who use substances including information on substance use treatment, disease transmission and prevention, and overdose prevention strategies.

D. The HRP must notify the hepatitis and harm reduction program within 72 hours of any concerns or complaints received by community members about the HRP.

E. The HRP must have at least two staff members or volunteers present, or within voice or a direct line-of-sight visual signal range, or one staff member present and one staff member or volunteer able to communicate in real-time via telephone, radio, internet or other means at all times during harm reduction sessions. Staff members and volunteers may not be impaired during harm reduction sessions.

F. All harm reduction specialists shall be fully vaccinated against viral hepatitis or other transmissible disease in accordance with centers for disease control and prevention and department guidelines.

G. Staff and volunteers shall follow these regulations and the United States department of labor occupational safety and health administration standards and hepatitis and harm reduction program guidelines with regard to the proper handling and legal disposal of biohazardous material.

H. The HRP must record harm reduction activities conducted utilizing the forms approved by the hepatitis and harm reduction program and submit the forms to the hepatitis and harm reduction program.

I. The HRP must develop and maintain an accidental needle stick protocol. If a person experiences a needle stick accident, the HRP accidental needle stick protocol should be followed.

J. The HRP must report all unexpected harm reduction session cancellations, needle stick accidents, violent acts, incidents involving law enforcement agents, and arrests of participants or staff during a harm reduction session within 24 hours of the incident via email or phone.

K. The HRP must cooperate with the department in data collection, site visits and inspections, quality assurance, and other efforts to evaluate harm reduction activities.

(1) The HRP must keep all forms used to record and report activities either electronically or in hard copy for three years.

(2) All HRP must provide the harm reduction program with the with forms used to record and report activities monthly in a format determine by the hepatitis and harm reduction program.

L. The HRP must adhere to all other hepatitis and harm reduction guidelines related to program operation.

M. The HRP must comply with these regulations, including safety requirements, participant enrollment procedures, and confidentiality of participant information. Failure to do so is grounds for revocation of the authorization to conduct harm reduction activities.

[7.4.6.9 NMAC - Rp, 7.4.6.9 NMAC, 11/29/2022]

7.4.6.10 SUPPLIES PROVIDED:

Supplies which are permitted to be provided by the HRPs, listed below, include items which have been determined by the department to reduce negative health consequences associated with substance use, to prevent overdose mortality, and items designed to encourage participant engagement in other programming designed to improve overall community health. These items shall include:

A. Safer smoking supplies limited to screens, pipe covers, wooden pushers, copper scrub pads, uncoated foil, cured foil, or any other type of aluminum foil and straws designed to inhale substances.

B. Safer snorting supplies limited to clean spoons for measurement, clean plastic razors, clean flat surfaces.

C. Safer injecting supplies limited to syringes and needles, metal containers for cooking substances, cotton pellets or other filtration devices, twist ties, tourniquets, sterile water and saline, ascorbic acid, and biohazard containers for disposal of used syringes and needles.

D. Supplies or devices used for testing controlled substances or controlled substance analogs for potentially dangerous adulterants, including fentanyl test strips.

[7.4.6.10 NMAC - N, 11/29/2022]

7.4.6.11 PARTICIPANT ENROLLMENT:

A. Each new participant who enrolls for services at an HRP shall be provided a harm reduction Participant card which shall have an expiration date of two years from the initial enrollment.

B. If a participant loses or misplaces their harm reduction participant card they shall be issued a new harm reduction participant card with an expiration date of two years from the day it was issued.

C. Once participants are enrolled at any HRP they enrolled in the statewide program and can participate with any HRP in the state of New Mexico. Participants do not need to re-enroll at each HRP where they seek services.

D. If a participant loses or misplaces their harm reduction participant card, they shall be issued a new harm reduction participant card with an expiration date of two years from the day it was re-issued. At the time of enrollment and re-enrollment participant should be instructed the harm reduction participant card is only for the use of the person to whom the card was issued.

E. Participants shall be informed harm reduction program participation will not prohibit their arrest or prosecution for the possession of residue in the supplies used to consume substances.

F. Individuals do not need to be enrolled as a HRP participant to receive testing supplies or testing devices from a HRP.

[7.4.6.11 NMAC - Rp, 7.4.6.10 NMAC, 11/29/2022]

7.4.6.12 HARM REDUCTION PROGRAM PARTICIPANT REQUIREMENTS:

A. Participants must provide their harm reduction participant card code to staff in order to supplies from the program.

B. Follow the hepatitis and harm reduction program and HRP guidelines, as informed by HRP staff, with regard to handling and disposing of potentially biohazardous material.

C. Participant must not carry weapons on them during a harm reduction session.

D. Refrain from threatening behavior and acts of violence at a harm reduction session. Failure to do so may result in suspension from the program.

[7.4.6.11 NMAC - Rp, 7.4.6.12 NMAC, 11/29/2022]

HISTORY OF 7.4.6 NMAC:

History of Repealed Material:

7.4.6 NMAC, Requirements Governing the Harm Reduction/Syringe Exchange Program, filed 09/17/1999 - Repealed effective 12/30/2016.

7.4.6 NMAC, Requirements Governing the Harm Reduction/Syringe Exchange Program, filed 12/15/2016 - Repealed effective 11/29/2022.

OTHER:

7.4.6 NMAC, Requirements Governing the Harm Reduction/Syringe Exchange Program, filed 09/17/1999 and replaced by 7.4.6 NMAC, Requirements Governing the Harm Reduction/Syringe Exchange Program effective 12/30/2016.

7.4.6 NMAC, Requirements Governing the Harm Reduction/Syringe Exchange Program, filed 12/15/2016 and replaced by 7.4.6 NMAC, Requirements Governing the Harm Reduction/Syringe Exchange Program effective 11/29/2022.