

TITLE 7 HEALTH
CHAPTER 25 STATE HEALTH INSTITUTIONS
PART 2 DRUG AND ALCOHOL TESTING OF EMPLOYEES

7.25.2.1 ISSUING AGENCY: New Mexico Department of Health.
[7.25.2.1 NMAC - N, 10/15/2012]

7.25.2.2 SCOPE: This rule applies to all employees providing direct health care services in state health facilities as defined in NMSA 1978, Section 9-7-18.
[7.25.2.2 NMAC - N, 10/15/2012]

7.25.2.3 STATUTORY AUTHORITY: Section 9-7-18 of the Department of Health Act, NMSA 1978, Sections 9-7-1 through 9-7-18.
[7.25.2.3 NMAC - N, 10/15/2012]

7.25.2.4 DURATION: Permanent.
[7.25.2.4 NMAC - N, 10/15/2012]

7.25.2.5 EFFECTIVE DATE: October 15, 2012, unless a later date is cited at the end of a section.
[7.25.2.5 NMAC - N, 10/15/2012]

7.25.2.6 OBJECTIVE: To protect the health and welfare of those served in state health care facilities operated by the department of health by ensuring that employees providing direct health care are not impaired by any illegal or prescription drug, or alcohol, while providing services.
[7.25.2.6 NMAC - N, 10/15/2012]

7.25.2.7 DEFINITIONS:

- A.** “Direct care” means health care providers authorized or permitted to offer health care services directly to a patient without another employee’s assistance or presence.
 - B.** “Department” means the department of health.
 - C.** “For cause” means upon reasonable suspicion of impairment as set forth in 1.7.8 NMAC.
 - D.** “Health care provider” means any health care staff member who is licensed, certified or otherwise authorized or permitted by law to provide direct, unsupervised health care to a patient.
 - E.** “Illegal or prescription drug” means a substance listed in any of Schedules I through V of the Controlled Substances Act.
 - F.** “State health care facility” means a hospital, an entity providing services for the developmentally disabled, a shelter care home, a free-standing hospice or a home health agency operated by the department.
- [7.25.2.7 NMAC - N, 10/15/2012]

7.25.2.8 TESTING REQUIREMENTS:

- A.** All direct care health care providers shall be deemed employed in safety-sensitive positions to be tested for drug or alcohol abuse prior to employment, and subject to both random and for cause drug and alcohol testing thereafter pursuant to the rules promulgated by the state personnel board set forth at 1.7.8 NMAC, which rules are hereby incorporated by reference.
- B.** Any safety-sensitive employee may be tested without prior notice for drug or alcohol abuse upon reasonable suspicion of impairment.
 - (1) All reports of suspected drug or alcohol impairment while working shall be investigated by the allegedly impaired employee’s supervisor, and if believed credible based upon direct observation of the factors listed in Subsection C of 1.7.8.11 NMAC, the employee shall be tested immediately upon approval of the next level supervisor as set forth in that section.
 - (2) The immediate supervisor must provide a succinct memorandum of the factors which led him or her to conclude the allegation was credible to the department’s substance abuse coordinator or designee within 24 hours of testing.
- C.** Drug or alcohol test results shall be reported in writing only to the department’s substance abuse coordinator or designee. Positive test results will be provided in writing to the prospective new hire or employee along with a copy of this rule including 1.7.8 NMAC.

[7.25.2.8 NMAC - N, 10/15/2012]

HISTORY OF 7.25.2 NMAC: [RESERVED]