



**State of New Mexico
Human Services Department
Human Services Register**



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT

II. SUBJECT

REPEAL AND REPLACEMENT OF RULES GOVERNING DOH FUNCTIONS THAT ARE BEING TRANSFERRED TO THE HEALTH CARE AUTHORITY AS OF JULY 1, 2024

III. PROGRAM AFFECTED

DOH DHI, DDS AND BEHAVIORAL HEALTH SERVICES

IV. ACTION

PROPOSED RULE REPEALS AND CREATION OF NEW RULES

V. BACKGROUND SUMMARY

On July 1, 2024, the New Mexico Human Services Department (the Department) will become the New Mexico Health Care Authority (“HCA”), pursuant to the passage of S16 during the 2023 NM Legislative Session and signed into law by NM Governor Michelle Lujan Grisham. By statute, certain divisions currently within DOH are being transferred to the HCA, and accordingly, rules and regulations promulgated by DOH to carry out those divisions’ duties must be transferred to the purview of the HCA.

To bring the New Mexico Administrative Code (NMAC) into full alignment with this change, the Department is proposing to repeal within Title 7 of the New Mexico Administrative Code several Department of Health (DOH) rules and to establish HCA authority over certain programs and oversight activities with adoption of new rules within Title 8 of the New Mexico Administrative Code. Change of department name and statutory authority are the only substantive proposed changes to the rules. There are no programmatic or other substantive changes proposed for any new rule.

HSD is following the recommendation of the Administrative Law Division of the NM State Records Center and Archives and moving the involved rules from Title 7 NMAC to Title 8 NMAC. Creating new rules in Title 8 will gather most HSD/HCA rules into one Title of the administrative code. The attached list shows repealed Title 7 rules along with the new locations in Title 8.

Section 9-8-6 NMSA 1978, authorizes the HSD Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions, and DOH has delegated HSD authority to carry out these rule changes on its behalf. (See attached letter.). All the DOH rules HSD proposes to make changes to are listed at the end of this notice.

Notice Date: May 7, 2024

Hearing Date: June 7, 2024

Proposed Adoption Date: June 7, 2024

Effective Date: July 1, 2024

The Department is proposing to change the involved rules as follows:

For each of the rules listed at the end of this notice, the current Title 7 version of the rule will be repealed in its entirety. Each rule will be replaced with a new rule in Title 8. The new Title 8 rules replace Department of Health and DOH with Health Care Authority and HCA, and include other wording changes to reflect the transition. The new rules will follow current State Records Center formatting guidelines. There are no other changes to programs or services.

VI. RULE

The final register and listing of repealed rules is available on the HSD website at: <https://www.hsd.state.nm.us/lookingforinformation/register/>. If you do not have internet access, a copy of the final register and list of rules may be requested by contacting HSD at (505) 709-8865.

VII. EFFECTIVE DATE

These rules will be repealed effective July 1, 2024.

VIII. PUBLIC HEARING

A public hearing to receive testimony on these repeals will be held on **June 7, 2024, at 2:30 pm** Mountain Time (MT). There are three options for attending the hearing:

1. Attend in person by coming to the large conference room at the Administrative Services Division (ASD), 1474 Rodeo Rd., Santa Fe, NM 87505.
2. Join the Zoom webinar on your computer, mobile app or room device:
<https://us02web.zoom.us/j/82263420751?pwd=aVVtZjFGWE41eUZxTXVOdlVaOUx1dz09>

Webinar ID 822 6342 0751
Passcode 144466

3. Or call in (audio only):
+1-719-359-4580,,82263420751# or +1-253-205-0468,,82263420751#

Webinar ID 822 6342 0751
Passcode 144466

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact HSD at (505) 709-8865. The Department requests at least 10 working days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available upon request by providing copies directly to a requestor or by making them available on the Department's website or at a location within the county of the requestor.

IX. ADDRESS

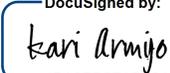
Interested persons may address written comments to:

Human Services Department
Office of the Secretary
ATTN: HSD/HCA Rule Change Public Comments
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Recorded comments may be left at (505) 709-8865. Interested persons may also address comments via electronic mail to: Diane.Bilodeau@hsd.nm.gov. Written mail, electronic mail and recorded comments must be received **no later than 5 p.m. MT on June 7, 2024**. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <https://www.hsd.state.nm.us/2024-comment-period-open/>, along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

X. PUBLICATION

Publication of this rule is approved by:

DocuSigned by:

KARI ARMIJO, SECRETARY
HUMAN SERVICES DEPARTMENT

DOH rules to be repealed and replaced with new part numbers in Title 8:

DOH Rule number to be repealed	New Title 8 rule numbers	New Title 8 Rule names
7.1.2 NMAC	8.370.2 NMAC	Adjudicatory Hearings for Licensed Facilities
7.1.7 NMAC	8.370.3 NMAC	Health Facility Licensure Fees and Procedures
7.1.8 NMAC	8.370.4 NMAC	Health Facility Sanctions and Civil Monetary Penalties
7.1.9 NMAC	8.370.5 NMAC	Caregivers Criminal History Screening Requirements
7.1.10 NMAC	8.370.6 NMAC	Access to Medical Records by Disability Applicants
7.1.11 NMAC	8.370.7 NMAC	Health Facility Receivership Requirements
7.1.12 NMAC	8.370.8 NMAC	Employee Abuse Registry
7.1.13 NMAC	8.370.9 NMAC	Incident Reporting, Intake, Processing and Training Requirements
7.1.14 NMAC	8.370.10 NMAC	Abuse, Neglect, Exploitation, and Death Reporting, Training and Related Requirements for Community Providers
7.1.32 NMAC	8.370.11 NMAC	Long-Term Care Facility Dementia Training
7.7.2. NMAC	8.370.12 NMAC	Requirements for Acute Care, Limited Services and Special Hospitals
7.7.3 NMAC	8.370.13 NMAC	Requirements for Rural Emergency Hospitals
7.8.2 NMAC	8.370.14 NMAC	Assisted Living Facilities for Adults
7.8.4 NMAC	8.370.15 NMAC	General Requirements for Boarding Homes
7.9.2 NMAC	8.370.16 NMAC	Requirements for Long Term Care Facilities
7.10.2 NMAC	8.370.17 NMAC	Requirements for Freestanding Birth Centers
7.11.2 NMAC	8.370.18 NMAC	Requirements for Facilities Providing Outpatient Medical Services and Infirmaries
7.12.2 NMAC	8.370.19 NMAC	Requirements for In home and Inpatient Hospice Care
7.13.2 NMAC	8.370.20 NMAC	Requirements for Adult Day Care Facilities
7.14.2 NMAC	8.370.21 NMAC	Quality Management System and Review Requirements for Providers of Community Based Services
7.28.2 NMAC	8.370.22 NMAC	Requirements for Home Health Agencies
7.36.2 NMAC	8.370.24 NMAC	Requirements for End Stage Renal Disease Facilities
16.12.20 NMAC	8.370.25 NMAC	Hearing Requirements for Certified Nurse Aides
	8.371.1 NMAC	General Provisions [RESERVED]
7.26.2 NMAC	8.371.2 NMAC	Requirements for Intermediate Care Facilities for the Mentally Retarded
7.26.3 NMAC	8.371.3 NMAC	Rights of Individuals with Developmental Disabilities Living in the Community
7.26.4 NMAC	8.371.4 NMAC	Client Complaint Procedures
7.26.5 NMAC	8.371.5 NMAC	Service Plans for Individuals with Developmental Disabilities Living in the Community
7.26.6 NMAC	8.371.6 NMAC	Requirements for Developmental Disabilities Community

		Programs
7.26.7 NMAC	8.371.7 NMAC	(Appendix A) Individual Transition Planning Process
7.26.8 NMAC	8.371.8 NMAC	(Appendix B) Dispute Resolution Process
7.26.9 NMAC	8.371.9 NMAC	Admission, Discharge and Transfer of Eligible Recipients for Services in ICF / MR Facilities
7.20.3 NMAC	8.321.6 NMAC	Requirements for Community Mental Health Centers
7.20.4 NMAC	8.321.7 NMAC	Behavioral Health Capital Fund Program
7.32.2 NMAC	8.321.8 NMAC	Admission Criteria for Alcohol and Substance Services
7.32.5 NMAC	8.321.9 NMAC	Procurement of Professional Services for Alcohol and Substance Abuse Services
7.32.8 NMAC	8.321.10 NMAC	Opioid Treatment Programs
7.30.13 NMAC	8.321.11 NMAC	Crisis Triage Centers





Michelle Lujan Grisham
Governor

Patrick M. Allen
Cabinet Secretary

April 26, 2024

Pamela Lujan y Vigil, Management Analyst
Administrative Law Division
Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, New Mexico 87505

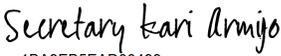
Subject: Issuing Delegated Authority

Dear Ms. Lujan y Vigil,

This letter serves as an update of signatures on file with the Commission of Public Records to comply with 1.24.10.10 NMAC, Issuing Authority. Section 9-7-6(E) NMSA 1978 authorizes the Department of Health (DOH) to adopt and file such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions.

By statute, certain divisions currently within DOH are being transferred to the Health Care Authority (HCA) on July 1, 2024. Accordingly, rules and regulations promulgated by DOH to carry out those divisions' duties must be transferred to the purview of the HCA. The Human Services Department, which will become the HCA on July 1, 2024, is promulgating rules to that effect. I therefore authorize Kari Armijo, Secretary of the Human Services Department, to sign the NMAC Transmittal Form for filing rules identified in the attached list as the signing authority on behalf of the New Mexico Department of Health.

Delegated Authority:

DocuSigned by:

1BA9EB5EAD00499...
Kari Armijo, Cabinet Secretary
Human Services Department

Sincerely,

DocuSigned by:

BCCCB0A6564A457...
Patrick Allen, Cabinet Secretary
Department of Health

NMAC	Title
7.1.2	Adjudicatory Hearings for Licensed Facilities
7.1.4	Data Reporting Requirements for Health Care Facilities
7.1.7	Health Facility Licensure Fees and Procedures
7.1.8	Health Facility Sanctions and Civil Monetary Penalties
7.1.9	Caregivers Criminal History Screening Requirements
7.1.10	Access to Medical Records by Disability Applicants
7.1.11	Health Facility Receivership Requirements
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7.7.3	Requirements for Rural Emergency Hospitals
7.8.2	Assisted Living Facilities for Adults
7.8.4	General Requirements for Boarding Homes
7.9.2	Nursing Homes and Intermediate Care Facilities
7.10.2	Requirements for Freestanding Birth Centers
7.11.2	Requirements for Facilities Providing Outpatient Medical Services and Infirmaries
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7.20.3	Requirements for Community Mental Health Centers
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7.26.6	Requirements for Developmental Disabilities Community Programs
7.26.7	(Appendix A) Individual Transition Planning Process
7.26.8	(Appendix B) Dispute Resolution Process
7.26.9	Admission, Discharge and Transfer of Eligible Recipients for Services in Icf/MR Facilities
7.28.2	Requirements for Home Health Agencies
7.30.8	Requirements for Family Infant Toddler Early Intervention Services
7.30.13	Crisis Triage Centers
7.32.2	Admission Criteria for Alcohol and Substance Services
7.32.5	Procurement of Professional Services for Alcohol and Substance Abuse Services
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16.12.20	Hearing Requirements for Certified Nurse Aides