

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the proposed repeal and replacement of rule, 16.11.2 NMAC, “Certified Nurse Midwives”. The public hearing will be held on September 25, 2018 at 9:30 a.m. in the auditorium of the Harold Runnels Building, located at 1190 St. Francis Drive in Santa Fe, New Mexico.

This hearing will be conducted to receive public comment regarding the proposed repeal and replacement of the current rule concerning the licensing, scope of practice, and disciplining of certified nurse midwives. The hearing will be conducted to receive public comments regarding the proposed repeal and replacement of the rule, 16.11.2 NMAC, including the following rule parts:

1. Amended Subsection B of 16.11.2.10 NMAC-Certified Nurse-Midwife: added to Subsection B the ability to prescribe through electronic health record (EHR) and added a requirement that a CNM is to prescribe, provide samples of and dispense any dangerous drug to a patient only if the CNM is in a valid CNM-client relationship with a patient; and, inserted new Subsection D of 16.11.2.10 NMAC-Certified Nurse-Midwife, the Prescription Monitoring Program (PMP) requirements. The PMP Requirements change is part of a state-wide initiative for all practitioners to obtain and review a report from the state’s prescription monitoring program prior to prescribing or dispensing an opioid for the first time to a patient, pursuant to Section 26-1-16.1 NMSA 1978 (2017).
2. Removed Paragraph (2) and (5) of Subsection B of 16.11.2.10 NMAC-Certified Nurse-Midwife: the provision had allowed CNMs to prescribe controlled substances in emergency situations to family/household/self.
3. Removed Subsection E of 16.11.2.10 NMAC-Certified Nurse-Midwife “Limitation of physician liability”: this provision stated that any consultative relationship between a CNM and a physician shall not by itself provide the basis for finding a physician liable for any acts or omissions of the CNM.
4. Amended 16.11.2.11 NMAC-Certified Nurse-Midwife, License Denial, Suspension, or Revocation; Disciplinary Action: Added more specific language to give clearer guidance for the appeal process in cases of non-disciplinary proceedings; to make it clear that final administrative decisions are reported to the National Practitioner Data Base (NPDB), as required; adds as grounds for discipline the falsifying or altering of personnel records; lengthens to 20 business days the time in which a CNM may report in writing to the division any complaint or claim against the CNM’s practice as a registered, certified or licensed health care provider in any jurisdiction; provides for a settlement process in lieu of hearing, if appropriate; and, to clarify the requirements for reinstatement of a revoked license.
5. Amended 16.11.2.7 NMAC-Certified Nurse-Midwife Definitions: Added definition “AMCB”, American midwifery certification board – this is the certifying body, to distinguish from “ACNM”, American college of nurse-midwives, which is the professional organization; updated the definition of a “Valid CNM-client relationship” to clarify it is a professional relationship for the purpose of maintaining the client’s well-being.
6. Amended Paragraph (5) of Subsection C of 16.11.2.9 NMAC-Certified Nurse-Midwife, Licensure: specifying the right to an appeal hearing if licensure is denied; Amended Subsection E of 16.11.2.9 NMAC - Certified Nurse-Midwife to change the fees section to reflect a slightly higher penalty for late renewals, and added clarification of when applications are due; Amended Paragraph (2) and (3) of Subsection C of 16.11.2.9 NMAC - Certified Nurse-Midwife to add clarification for license requirements, especially continuing education (CE) requirements and which options may be accepted in lieu of CE contact hours.
7. Amended 16.11.2.12 NMAC-Certified Nurse-Midwife, “Advisory Board”: Added more details to description of the “public” and “division employee” Advisory Board membership qualifications.

The legal authority authorizing the proposed repeal and the adoption of the replacement rule by the Department is at Subsection E of Section 9-7-6, Subsections B and D of Section 24-1-2, Subsection J of Section 24-1-3 and Section 24-1-5 NMSA 1978.

The foregoing are summaries of the proposed rule. The proposed rule includes various additional substantive revisions not identified here. Free copies of the full text of the proposed rule may be obtained online 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. Written public comments may also be submitted prior to the date of the hearing. Please submit any written comments regarding the proposed rule to the attention of:

Catherine Avery
Maternal Health Program Manager
Family Health Bureau/Public Health Division
2040 S. Pacheco (Colgate Building)
Santa Fe, New Mexico 87505
Catherine.Avery@state.nm.us
(505) 476-8866

All written comments must be received by 5 pm MST on September 23, 2018. 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 Samantha Baca by telephone at (505) 827-2997. The Department requests at least ten (10) days advance notice to provide requested special accommodations.