

2019 DEC -5 PM 5:12

**NMAC**

**Transmittal Form**

NEW MEXICO  
Commission of Public Records  
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Volume:  Issue:  Publication date:  Number of pages:  (ALD Use Only)  Sequence No.

Issuing agency name and address:  Agency DFA code:

Contact person's name:  Phone number:  E-mail address:

Type of rule action:  New  Amendment  Repeal  Emergency  Renumber  (ALD Use Only)  Most recent filing date:

Title number:  Title name:

Chapter number:  Chapter name:

Part number:  Part name:

Amendment description (If filing an amendment):   
Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes  No  Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes  No  Public domain

**Specific statutory or other authority authorizing rulemaking:**

This emergency rulemaking by the Secretary of the Department of Health is made in accordance with the following authorities: Sections 9-7-6, 24-1-2, 24-1-3, 24-1-5, and 14-4-5.6 NMSA 1978.

Notice date(s):  Hearing date(s):  Rule adoption date:  Rule effective date:

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**Concise Explanatory Statement For  
Rulemaking Adoption:**

**Findings required for rulemaking adoption:**

**Findings MUST include:**

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

The findings in support of this emergency rule are as stated in the attached letter from Cabinet Secretary Kathyleen M. Kunkel dated December 4, 2019, which is incorporated by reference.

**Issuing authority (If delegated, authority letter must be on file with ALD):**

**Name:**

Kathyleen M. Kunkel

Check if authority has been delegated

XX

**Title:**

Cabinet Secretary

**Signature: (BLACK ink only)**

*Kathyleen M Kunkel*

**Date signed:**

12/4/19

December 4, 2019

State Records and Archives  
Attn: Pamela Lujan y Vigil  
Rules Management Analyst  
Administrative Law Division  
Commission of Public Records  
1205 Camino Carlos Rey  
Santa Fe, NM 87505

**Regarding Emergency Rule filing 7.8.4 NMAC, GENERAL REQUIREMENTS FOR BOARDING HOMES**

Dear Ms. Lujan y Vigil,

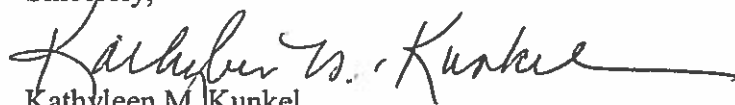
The New Mexico Department of Health (Department) is filing an emergency rule under part NMAC titled "General Requirements for Boarding Homes". This emergency rule is necessary to ensure the protection of individuals residing in boarding homes in the state of New Mexico.

The purpose of this emergency rule is to protect the immediate health and safety of individuals who reside in boarding homes and who may be vulnerable to abuses and poor living conditions. A boarding home is generally defined as any facility that provides 24-hour a day assistance with instrumental activities of daily living or assistance with the coordination of community services, for two (2) or more adults age 18 or older, not related to the owner, and that admits residents discharged from any mental or behavioral health care institution. Without regulation the health, safety and welfare of boarding home residents is in imminent peril.

Therefore, in accordance with the State Rules Act at NMSA 1978, Section 14-4-5.6, the Department now enacts rule 7.X.X NMAC "General Requirements for Boarding Homes" via emergency rulemaking. For the reasons stated, the Department finds that the time required to complete the procedures of the State Rules Act would cause an imminent peril to the public health, safety, and welfare. This emergency rule is temporary and will expire in 180 days pursuant to NMSA 1978, Section 14-4-5.6 unless a permanent rule is adopted under the normal rulemaking process in that period.

The Department intends to hold a public hearing in February of 2020 and will provide notice of such hearing pursuant to the State Rules Act.

Sincerely,

  
Kathyleen M. Kunkel  
Cabinet Secretary

OFFICE OF GENERAL COUNSEL

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