

Notice of Non-Display

The New Mexico Department of Health (“Department”) hereby gives notice that the digital audio recording of the rule hearings conducted on November 22, 2019 and January 16, 2020 concerning proposed amendments to Department rules 7.34.2, 7.34.3, and repeal and replacement of rule 7.34.4 NMAC is inappropriate for public display and cannot practicably be displayed on the NM Sunshine Portal. The audio recording consists of a single digital audio file, which contains statements from public commenters that include protected health information made confidential by federal HIPAA regulations at 45 C.F.R. § 164.502, and which the Department, as a covered entity, is prohibited from disclosing. Pursuant to 45 C.F.R. § 160.103, “disclosure” of protected health information includes “the release, transfer, [or] provision of access to” such information. The Department does not have a mechanism to redact audio recordings. However, if any member of the public would like to obtain a redacted copy of the recording, the Department is willing to utilize an audio redaction service of the requestor’s choice, provided that the vendor first enters into a HIPAA Business Associate Agreement with the Department, and provided that the requestor pays all expenses related to the service, directly to the vendor, prior to redaction of the recording.