

From: [Chris Mechels](#)
To: [Burmeister, Christopher, DOH](#)
Cc: [craig](#)
Subject: [EXT] The 7.28.2 Hearing Comments #3
Date: Thursday, September 17, 2020 4:02:42 PM

Dear Sir,

This email is written after the very brief, and disappointing, Rules Hearing on 7.28.2. Once again, the Dept of Health (DOH) showed its utter contempt for meaningful public input, and the Rules Act.

The Hearing Officer refused to allow any questions of those proposing the changes, thus blocking a discussion which would have exposed the merit of the proposed changes. As stated in my previous comments, the only Reason provided for the changes was "compliance" with the federal CFRs. In fact, those CFR changes are optional, and contingent on certain provisions defined within the CFR, provisions which the DOH proposal does not address, or meet. This concern "could" have been addressed during the hearing, but was not allowed. The Hearing Officer would not allow discussion, only comments. No questions. In other words, no meaningful discussion was allowed.

Other New Mexico departments DO allow discussion during Rules Hearings, yet the DOH does not. They seem intent on foreclosing a meaningful exchange, on these matters, and "bulling ahead" with their proposal, and daring the public to sue them. The same behavior from the same hearing officer, Mr. Erickson, was displaying during the recent hearing on 7.1.30. Clearly, Mr. Erickson is on the the DOH payroll to Block any public input, and ensure that the DOH proposal will be accepted, without regard to its merits, or problems. Mr. Erickson is well paid to act as a shill.

I suggested that attention be paid to providing the required "Concise Explanatory Statement" for the current hearing, as it was not provided for the 7.1.30 hearing, which Erickson presided over. He cut off that comment as irrelevant. Once again, it seems the DOH will proceed with illegal rules, and process, and dare the public to sue them. This is called Malfeasance, but here in New Mexico, it is called normal.

I also pointed out the over reliance of Emergency Rule Making, such as 7.28.2, which blocks any public input to the emergency rule, then presents that rule as established fact to a regular Rules Hearing. This is a very clever way of skirting public input. It has become much worse under the current Governor, who seems "beyond" such legal concern. The average use of emergency rule making during the 7 years 2012-2018 was 10 per year. In 2019, the first year of the present administration, there were 23 emergency rules. To date in 2020, there have been 26 emergency rules. Clearly, there is no respect for good practices or the law, as overuse of emergency rules defeats those. It seems an administration of scofflaws, with the DOH one of the worst.

I urge you to consider your actions. It seems you have lost sight of your responsibility to the public, as sworn public servants. This is morally repugnant.

This particular proposal threatens the public interest, as it lowers the standards of care providers. Physicians are NOT equivalent to physicians assistants, and they are not interchangeable. You are putting the public, esp the elderly and sick public, to greater risk for no reason given, other than "compliance" which is not required, but optional. This SHOULD be justified by facts on the ground, yet this is refused.

This is ugly, irresponsible. governance. It explains why New Mexico continues to rank as "worst government". YOU are the reason.

Please reflect on your actions. You are NOT serving the New Mexico citizens you are sworn to serve.

Regards,

Chris Mechels

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