

VIA E-MAIL

November 5, 2020

Craig T. Erickson, Esq.
500 Tijeras Ave. NW
Albuquerque, NM 87102
E-mail: craig@uttonkery.com

RE: Repeal and Replacement of 16.11.2 NMAC; revisions based on public comments received

Dear Mr. Erickson:

The Department of Health (Department) is writing to respond to various public comments received by the Department concerning the proposed repeal and replacement of rule 16.11.2 NMAC. I have attached a revised version of the Rule with changes made in response to public comments for your review and consideration. I have also provided explanation in response to comments in the body of the letter below

Prior to the hearing, the Department received written comments from Mr. Chris Mechels and Ms. Julie G. Gorwoda, Also written comments were received from Mr. Marshall Martinez with Equality New Mexico Foundation and Ms. Sandra Roeuny with Planned Parenthood of the Rocky Mountains, relating to a requested change to one new subsection in the proposed published rule.

The Department has adopted several publicly suggested changes to the proposed rule. These adopted changes include removing the phrase “fetal demise” in proposed new section 16.11.2.10 (E) NMAC and replacing it with the word “stillbirths” to clarify the review procedure; and changing the term “he/she” in 16.11.2.10 (E) NMAC to “provider” to reflect a neutral term as suggested by the public.

The Department feels the changes made to the proposed rule after the hearing pursuant to public comment are a logical outgrowth of the rule process, and members of the public had a reasonable opportunity to comment on them and could reasonably anticipate that they would be adopted. The changes made were in the written comments posted to the public and fall within the scope of the rulemaking proceeding.

The Department has also made clerical and formatting changes including changed the term “patients” to “client/patients” when referenced in the rule to be consistent throughout the rule; corrected formatting errors in the headings of several sections to bold the text; corrected 16.11.2.9 (D) NMAC to clarify the type of license application for that section; updated terms of “you’re” to “the” where referenced in the text of 16.1.2.9 (D) and (E) NMAC; corrected formatting, spelling

OFFICE OF GENERAL COUNSEL

1190 St. Francis Dr., Room N4095 • P.O. Box 26110 • Santa Fe, New Mexico • 87502-6110
(505) 827-2997 • Fax: (505) 827-2930 • www.nmhealth.org



and numbering in 16.11.2.10 NMAC and 16.11.2.11 NMAC; and in 16.11.2.11 NMAC inserted references to specific fee paragraphs within the rule.

Sincerely,

/s/ Ann H. Washburn

Ann H. Washburn
Assistant General Counsel

Attachments: 2