

NMAC

Transmittal Form



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: (ALD Use Only)
New Amendment Repeal Emergency Renumber
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:

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

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.

Please see the attached Statement of Reasons for Adoption of Proposed Amendments to Certain EMS Rule Sections.

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

Name:

Chris Woodward

Check if authority has been delegated

Title:

Assistant General Counsel

Signature: (BLACK ink only)



Date signed:

07/22/2021

**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF HEALTH**

**IN THE MATTER OF PROPOSED
AMENDMENTS TO SECTIONS OF
7.27.2 NMAC AND 7.27.11 NMAC**

**STATEMENT OF REASONS
FOR ADOPTION OF PROPOSED
AMENDMENTS TO CERTAIN
EMS RULE SECTIONS**

The Cabinet Secretary for the New Mexico Department of Health, Tracie C. Collins, M.D. (“Secretary”), adopts the proposed amendments to 7.27.2.11, 7.27.2.12, 7.27.2.14, 7.27.2.16, 7.27.11.2, 7.27.11.8, 7.27.11.9, and 7.27.11.10 NMAC, for the reasons stated below. This decision is based on the rulemaking record in this matter, which includes Exhibits 1 through 8b, the recording of the hearing, and the Report and Recommendation of the Hearing Officer, Christopher Graeser, Esq., dated June 14, 2021.

In support of this action, the Secretary finds the following:

1. The Department of Health is authorized to promulgate regulations as may be necessary to carry out the duties of the Department and its divisions. NMSA 1978, Section 9-7-6(E).
2. Pursuant to the Emergency Medical Services Act (“EMS Act”) at NMSA 1978, § 24-10B-5, the Department is required to “by rule adopt and enforce licensure requirements, including minimum standards for training, continuing education and disciplinary actions consistent with the Uniform Licensing Act, for all persons who provide emergency medical services within the state, irrespective of whether the services are remunerated.”

3. By a letter dated April 21, 2021, the Secretary designated Mr. Graeser to serve as hearing officer for the purpose of conducting the hearing and submitting a recommendation regarding the proposed rules.
4. The purpose of the proposed rule 7.27.2 NMAC is to establish standards for licensing Emergency Medical Services (EMS) personnel.
5. The purpose of the proposed rule 7.27.11 NMAC is to adopt supplemental licensing provisions for EMS personnel, including primarily the Scopes of Practice for EMS licensees.
6. Notice of the June 7, 2021 hearing for the proposed rule amendments was provided to the public in accordance with NMSA 1978, Section 9-7-6(E) and NMSA 1978, § 14-4-5.2, which included publication in the Albuquerque Journal newspaper on May 4, 2021, and publication in the New Mexico Register on the same date.
7. The proposed rule amendments were posted on the New Mexico Sunshine Portal website at http://statenm.secure.force.com/public/SSP_RuleHearingSearchPublic in accordance with NMSA 1978, § 14-4-5.4(A).
8. The proposed rule amendments were also posted on the Department of Health website at <http://www.nmhealth.org/about/asd/cmo/rules/>, and an Internet link to that website was included within the published notice of rulemaking in accordance with NMSA 1978, § 14-4-5.2(C).
9. A public rule hearing was held via the Internet-based video conference platform Cisco Webex on June 7, 2021 in accordance with NMSA 1978, Section 9-7-6(E). The hearing was conducted entirely via video conference, rather than in person, due to the declared public health emergency concerning the novel coronavirus disease COVID-19.

10. Members of the public were afforded the opportunity to submit data, views, and arguments on the proposed rule amendments orally and in writing, and those comments were received by the Hearing Officer until the close of the hearing.

11. No written comments were received; however, oral comments from members of the public were received at the rule hearing, and additional oral comments regarding the proposed rule text were also received from Department staff at that time, and those comments are described in the report of the Hearing Officer.

12. The final rules incorporate revisions that were made after the public hearing based on the comments received, and in consideration of the Hearing Officer's recommendations.

13. The reasons for the changes between the rule amendments as originally proposed and the final rules are as explained on the record of the hearing and in the Hearing Officer's report; and the Secretary finds that the changes are appropriate.

14. A revision that was originally proposed to be made to 7.27.2.11(J) NMAC has been removed, as that revision was included erroneously.

15. The Secretary finds that the finished rules fall within the scope of the rulemaking proceeding, are a logical outgrowth of the notice given and comment received, and that commenters were afforded a fair opportunity to present their views on the contents of the final plan. See 1.24.25.14(C) NMAC; see also N.M. Att'y Gen. Op. 87-59 (1987) (citing *BASF Wyandotte Corp. v. Costle*, 598 F.2d 637, 642 (1st Cir. 1979)); see also *Wylie Bros. Contracting Co. v. Albuquerque-Bernalillo Cty. Air Quality Control Bd.*, 1969-NMCA-089, ¶ 39, 80 N.M. 633, 642.


16. The Secretary finds that the Hearing Officer has appropriately considered the rule amendments and the public comments received, and finds that the recommendations of the Hearing Officer are reasonable and appropriate; and the Secretary adopts the Hearing Officer's recommendations and incorporates the Hearing Officer's Report and Recommendation by this reference.

17. The Secretary finds that the proposed rule amendments are consistent with the statutory purposes of the New Mexico Department of Health, including but not limited to those expressed in the Department of Health Act, NMSA 1978, § 9-7-3; the Public Health Act, NMSA 1978, § 24-1-3; and the EMS Act, NMSA 1978, § 24-10B-2, -4, and -5.

18. The Secretary further finds that the rule promulgation process satisfied the requirements of the State Rules Act, NMSA 14-4-1 through -11 and the New Mexico Attorney General's Default Procedural Rule for Rulemaking at 1.24.25 NMAC.

19. The Secretary has familiarized herself with the rulemaking record, and finds that the amendments to rule sections 7.27.2.11, 7.27.2.12, 7.27.2.14, 7.27.2.16, 7.27.11.2, 7.27.11.8, 7.27.11.9, 7.27.11.10 NMAC, as revised after the public hearing, are appropriate and consistent with the authorizing law; and the amendments are hereby adopted.

NEW MEXICO DEPARTMENT OF HEALTH



Deputy Secretary for
David R. Scrase, M.D.
Acting Cabinet Secretary

7/22/21

Date