



MICHELLE LUJAN GRISHAM
Governor

DAVID R. SCRASE, M.D.
Acting Cabinet Secretary

September 30, 2021

Craig T. Erickson, Esq.
Utton & Kery, P.A.
500 Tijeras Ave., NW
Albuquerque, NM 87102

Re: Hearing Officer Appointment, Rulemaking Hearing on the proposed Amendments to 7.34.2.7 NMAC, 7.34.2.8 NMAC and 7.34.3 NMAC.


Dear Mr. Erickson:

Pursuant to NMSA 1978, § 9-7-6(E), I hereby appoint you to serve as the hearing officer to preside at the Department of Health's public hearing on November 12, 2021. This rulemaking hearing is scheduled for 9:00 a.m. and will be conducted via Cisco Webex online and via telephone, per the attached Notice of Public Hearing.

The hearing will be conducted to receive public comment regarding the proposed amendments to 7.34.2.7 NMAC, 7.34.2.8 NMAC and 7.34.3 NMAC. An exhibit binder will be provided to you prior to the date of the hearing.

Thank you for accepting this appointment.

Sincerely,

DocuSigned by:

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

Oct 1, 2021 | 5:07 PM MDT

Date

cc: Chris Woodward, Assistant General Counsel

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health (“Department”) will hold a public hearing on proposed amendments to 7.34.2.7 NMAC, 7.34.4.28 NMAC, and various sections of 7.34.3 NMAC. The hearing will be held on November 12, 2021 at 9:00 a.m. via an Internet-based video conference (Cisco Webex), and via telephone, due to the ongoing public health emergency concerning the threatening contagious disease COVID-19; in accordance with Governor Michelle Lujan Grisham’s Executive Order 2020-004 and subsequent Executive Orders which declared a Public Health Emergency. Members of the public who wish to submit public comment regarding the proposed rule changes will be able to do so via video conference and via telephone during the course of the hearing, and by submitting written comment before the conclusion of the hearing.

The purpose of the proposed rules is to specify regulatory standards for the New Mexico Medical Cannabis Program.

The proposed rule revisions include but are not limited to the following:

1. Amendments to definitions sections at 7.34.2.7 and 7.34.3.7 NMAC. These primarily include revisions based upon changes effectuated by the Cannabis Regulation Act, NMSA 1978, Section 26-2C-1 *et seq.*, which transferred authority for the licensure and regulation of commercial cannabis establishments to the Cannabis Control Division of the Regulation and Licensing Department (RLD).
2. Amendments to 7.34.3.9 NMAC, consisting of an increase to the “adequate supply” limit, and the removal of the “medical exception”. The amendments to this section also include new text to explain the significance of the “adequate supply” limit in light of changes in law resulting from enactment of the Cannabis Regulation Act during the 2021 Special Legislative Session.
3. Amendments to 7.34.3.11 NMAC. These include the replacement of a reference to “producer” with the term “licensee”; and revisions to clarify that a registry identification card expires three years after the date of its issuance.
4. Amendments to 7.34.3.13 NMAC, consisting of the deletion of a sentence specific to transfer of cannabis to an approved laboratory. This is proposed to be removed due to the fact that the Cannabis Control Division now licenses testing laboratories and will determine who may transfer cannabis to those licensees.
5. Amendments to 7.34.3.19 NMAC, to include references to “reciprocal participants”, to include the ability to transfer cannabis as described in the Cannabis Regulation Act at Paragraph (3) of Subsection A of Section 26-2C-25 NMSA 1978, and to make other revisions consistent with the recent transfer of the licensing authority to the Cannabis Control Division.
6. Addition of a new section 7.34.3.22 NMAC. This section primarily duplicates the “Reciprocity” provisions contained at rule 7.34.4.28 NMAC, but is revised to reflect the increase to the reciprocal limit (consistent with the increase to the adequate supply limit). This new section also includes revisions to explain the significance of the reciprocal limit in light of changes in law resulting from enactment of the Cannabis Regulation Act during the 2021 Special Legislative Session.
7. Removal of the existing rule section 7.34.4.28 NMAC. The proposed new section 7.34.3.22 NMAC is proposed to be substituted for this existing reciprocity section, in anticipation that all of 7.34.4 NMAC will ultimately be repealed due to the transfer of responsibilities for the licensure of commercial cannabis establishments to the Cannabis Control Division of RLD.

The legal authority for the proposed rule amendments is at Subsection E of Section 9-7-6 NMSA 1978, and Subsections A, I, and J of Section 26-2B-7 NMSA 1978.

Free copies of the full text of the proposed rule amendments can be obtained online from the New Mexico Department of Health’s website at <http://nmhealth.org/about/asd/cmo/rules/> or from Andrea Sundberg using the contact information below.

The public hearing will be conducted to receive public comment on the proposed rule amendments described above. Any interested member of the public may attend the hearing and submit data, views, or arguments either orally or in writing on the proposed rule amendments during the hearing. To access the hearing by telephone: please call 1-844-992-4726, and enter the access code below. Your telephone comments will be recorded. To access the hearing via the Internet: please go to <http://www.webex.com>; click the “Join” button; click the “Join a Meeting” button; enter the following meeting number and password where indicated on the screen: Meeting Number (Access Code): 2487 817 2396 #, Meeting Password: St5aKNmcx68 and then click the “OK” button.

Written public comment regarding the proposed rule amendments can be submitted by either mailing the comment to the following address:

Andrea Sundberg
NM Department of Health
Medical Cannabis Program
P.O. Box 26110
Santa Fe, NM 87502-6110

Or e-mailing the comment to the e-mail address MCP.comment@state.nm.us

Written comments must be received by the close of the public rule hearing on November 12, 2021. All written comments will be published on the agency website at <http://nmhealth.org/about/asd/cmo/rules/> within 3 days of receipt, and will be available at the New Mexico Department of Health Medical Cannabis Program for public inspection.

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Andrea Sundberg by telephone at (505) 827-2318. The Department requests at least ten (10) days advance notice to provide requested special accommodations.