

From: [Julia Ruetten](#)
To: [Apodaca, Sheila, DOH](#)
Subject: [EXTERNAL] Public Comment re: 7.4.8 NMAC Proposed Rule
Date: Friday, July 22, 2022 1:43:14 PM
Attachments: [image001.png](#)
[7.22.22 NMHA 7.4.8 NMAC Proposed Rule Comment Letter.pdf](#)

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Good afternoon, Ms. Apodaca,

On behalf of the New Mexico Hospital Association and its President and CEO, Troy Clark, please find attached our comment letter regarding the proposed rule 7.4.8 NMAC.

Should there be any questions regarding our comments please reach out to me or Troy.

Thank you,
Julia

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SENT VIA EMAIL

July 22, 2022

New Mexico Department of Health
c/o Sheila Apodaca
Office of General Counsel
1190 St. Francis Drive, Suite N-4095
Santa Fe, NM 87505

Sent to Sheila.Apodaca@state.nm.us

RE: Proposed Rule – 7.4.8 NMAC – Maternal Mortality and Severe Maternal Morbidity Review

To Whom It May Concern:

On behalf of our 47 New Mexico hospital members, the New Mexico Hospital Association submits for your consideration the following comments regarding proposed rule 7.4.8 NMAC – Maternal Mortality and Severe Maternal Morbidity Review (proposed rule).

We applaud the State Legislature, Governor Lujan Grisham, and New Mexico Department of Health (Department) officials for refocusing efforts on maternal mortality by advocating for and implementing updates to the Maternal Mortality and Morbidity Prevention Act (Act). The health and wellbeing of the patients our member hospitals serve, including those expecting and postpartum, is of utmost importance and we appreciate the opportunity to provide the following feedback as we work together to improve maternal outcomes in our state.

Potentially duplicative or conflicting provisions with current rule

As you are aware, 7.4.5 NMAC – Maternal, Fetal, Infant and Child Death Review – governs the current maternal mortality review process, including requirements and procedures for reporting and reviewing maternal deaths, as well as membership of the current maternal mortality review team. It is our understanding that the proposed rule is intended to replace portions of 7.4.5 NMAC, however, unfortunately, the notice of proposed rulemaking published in the June 12, 2022, New Mexico Register did not include a notice to repeal portions of 7.4.5 NMAC.

We respectfully request the Department propose repealing the material and relevant portions of 7.4.5 NMAC that duplicate or conflict with the proposed rule. Additionally, we request that the Department delay the effective date for the final rule until after the repeal of 7.4.5 NMAC.

Doing so will ensure clarity regarding the obligations of healthcare providers and the Department.

Include definition of “pregnancy-associated death” (7.4.8.7(P) NMAC)

The term “pregnancy-associated death” is used in the proposed rule at 7.4.8.12(F) but that term is not defined. We request a definition of “pregnancy-associated death” be added to the rule prior to finalization.

Committee membership (7.4.8.10 NMAC)

We recognize and respect the importance of ensuring that the Maternal Mortality Review Committee membership reflects the communities that have disproportionately experienced poorer maternal outcomes. Likewise, to ensure alignment with evidence-based medical best practices, we request that the committee’s operational staff and the administrative co-chair make sure that the committee’s membership includes appropriate medical and healthcare clinical representation.

Committee member reimbursement (7.4.8.10(F)(1) NMAC)

As proposed, it is unclear if the critical income reimbursement limit of \$300 is per meeting or aggregate per year/term. We suggest the following language be added in accordance with the Act. This clarification may encourage more qualified individuals from across the state to apply for committee membership by reassuring applicants that they could receive reimbursement for attending all committee meetings.

7.4.8.10(F)(1) – Members who must forsake critical income to attend meetings may, with the approval of the department, be reimbursed for loss of that income in an amount not to exceed three hundred dollars (\$300.00) **per meeting**.

Duty to report (7.4.8.12(A) NMAC)

Currently, maternal deaths are reported to the Office of the Medical Investigator (OMI) (falling under broad categories of 7.3.2.10(B) NMAC), which then reports the deaths to the Department’s maternal mortality review team. The requirement to report some, if not all, maternal deaths to OMI will remain after 7.4.8 NMAC becomes effective. However, the Act and proposed rule create a new duplicative reporting requirement to the Department. To prevent an additional administrative reporting burden on hospitals, we ask that the Department coordinate with the OMI to establish a single reporting mechanism that alerts both the OMI and Department.

Substance use disorder treatment record confidentiality (7.4.8.12(B) NMAC)

Hospitals and healthcare providers are subject to 42 CFR Part 2, which is the federal regulation governing the confidentiality of patient records regarding substance use disorder treatment. Of particular importance are 42 CFR §2.12(c) and 42 CFR §2.53(g). We request that the final rule not establish a conflicting obligation with the federal regulation. With that said, we ask that the Department make the following language changes to 7.4.8.12(B):

B. Authority to collect information: except as otherwise ~~provided by law restricted or prohibited by state or federal statute or regulation~~, designated operational staff may access medical records and other information relating to an incident of maternal mortality at any time within five years of the date of the incident.

Virtual meetings and physical confidential record handling (7.4.8.15(G) NMAC)

Section 7.4.8.15(G) provides for the distribution of and destruction of electronic materials for virtual meetings. The provision does not address the handling of hard copy records if committee members print the materials. We request that this section be amended to include language that prohibits the printing of the confidential materials or provides instructions for the proper and secure destruction of paper records that are created if printed.

Thank you for the opportunity to comment on the proposed rule. We fully support the objectives outlined in it and hope the reconfigured Maternal Mortality Review Committee is able to offer suggestions that ultimately lead to fewer deaths and improved maternal outcomes in our state. As the committee commences its work, please do not hesitate to contact me at tclark@nmhsc.com; our association welcomes the opportunity to be a resource and partner in this work.

Sincerely,



Troy Clark
President and CEO