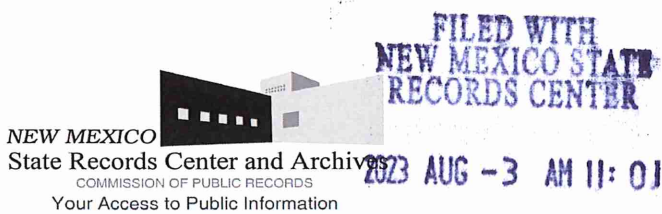


NMAC

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: New Amendment Repeal Emergency Renumber (ALD Use) 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:

This emergency rulemaking by the Secretary of the Dept. of Health is made in accordance with the following authorities: Sections 9-7-6, 24-1-2, 24-1-3, 24-1-5, 14-4-5.6 NMSA 1978.

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

Concise Explanatory Statement For Rulemaking Adoption:

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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.

The findings in support of this emergency rule adoption are as stated in the attached letter from Cabinet Secretary Patrick Allen dated July 27, 2023, which is hereby incorporated by reference.

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

Name:

Chris D. Woodward

Check if authority has been delegated

Title:

New Mexico Dept. of Health Assistant General Counsel

Signature: (BLACK ink only OR Digital Signature)

Date signed:

Christopher
Woodward

Digitally signed by
Christopher Woodward
Date: 2023.08.02 16:36:12
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8/02/2023



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MICHELLE LUJAN GRISHAM
Governor

PATRICK M. ALLEN
Cabinet Secretary

July 27, 2023

State Records and Archives
Attn: Pamela Lujan y Vigil
Rules Management Analyst
Administrative Law Division
Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, NM 87505

Re: Emergency Rule Amendments filing 7.30.13 NMAC

Dear Ms. Lujan y Vigil,

The New Mexico Department of Health (Department) is filing emergency rule amendments under part 13 of Chapter 30 Title 7 NMAC titled "Crisis Triage Centers". These emergency rule amendments are necessary to ensure the continued operation of some crisis triage centers in the state of New Mexico and to comply with recent statutory changes in the state of New Mexico.

The purpose of these emergency rule amendments is twofold. One purpose is to have the rule 7.30.13 NMAC reflect the recent changes to 43-1-1 et al. NMSA entitled "Mental Health and Developmental Disabilities Code" which now defines a crisis triage center (CTC) and includes CTCs in the definition of "evaluation facility". An "evaluation facility" is one capable of performing a mental status evaluation adequate to determine the need for involuntary treatment, if meeting all the requirements of the existing 43-1-10 NMSA. To comply with the revised statute, 7.30.13.7 NMAC must be amended to include the statutory definition of a crisis triage center; and 7.30.13.9(A) and (C) NMAC must be amended to include the phrase "and involuntary basis", and to state that the requirements of 43-1-1 NMSA must be met if an involuntary admission is accepted.

Second, 7.30.13.29 NMAC is being amended to remove the requirement that a CTC shall have an RN present on-site 24 hours a day, seven days a week or as long as clients are present in programs that do not offer residential services, to provide direct nursing services. The section must be amended to remove this requirement for CTCs offering 23 hour or less non-residential services. This section is also amended to provide that adequate staffing and record-keeping be provided for involuntary admissions. This emergency amendment is necessary to keep CTCs operational in order to protect the immediate health and safety of individuals who are seeking treatment or have been brought involuntarily for treatment at a non-residential CTC.

If the rule is not immediately amended, the health, safety and welfare of state residents who seek care or need care at these types of facilities is in imminent peril because the CTCs cannot operate in compliance with the rule without being able to use telehealth for immediate connection to an RN or higher-level provider by on-site lower-level medical professionals.

OFFICE OF THE SECRETARY

1190 St. Francis Dr., Suite N4100 • P.O. Box 26110 • Santa Fe, New Mexico • 87502
(505) 827-2613 • FAX: (505) 827-2530 • www.nmhealth.org

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Pursuant to 14-4-5.6 NMSA 1978, the Department is authorized to promulgate emergency rule amendments in the event that compliance with the ordinary rulemaking procedures of the State Rules Act would cause an imminent peril to the public health, safety or welfare, cause the unanticipated loss of funding for an agency program, or would place the agency in violation of law. Adoption of the rule amendments through ordinary rulemaking procedures might place the Department in violation of state law and might place state residents in need of CTC services in imminent peril if facilities cannot remain operational for those seeking 23 hour or less services. These timeframes do not allow for rulemaking by the Department through ordinary procedures, and thus emergency rule amendments are required.

Therefore, in accordance with the State Rules Act at NMSA 1978, Section 14-4-5.6, the Department now enacts rule amendments to 7.30.13 NMAC titled "Crisis Triage Centers" sections 7.30.13.7 NMAC, 7.30.13.9 (A) and (C) NMAC, and 7.30.13.29 NMAC via emergency rulemaking. These emergency rule amendments are temporary and will expire in 180 days pursuant to NMSA 1978, Section 14-4-5.6 unless permanent rule amendments are adopted under the normal rulemaking process in that period.

The Department intends to hold a public hearing before January 2024, and will provide notice of such hearing pursuant to the State Rules Act.

Sincerely,



Patrick M. Allen
Cabinet Secretary

2023 AUG -3 AM 11: 01

This is an emergency amendment to 7.30.13 NMAC, Sections 7, 9 & 29 effective, 8/3/2023.

7.30.13.7 DEFINITIONS:

- **A.** — “**Administrator**” means the person who is delegated the administrative responsibility for interpreting, implementing, and applying policies and procedures at the crisis triage center. The administrator is responsible for establishing and maintaining safe and effective management, control and operation of the CTC and all of the services provided at the CTC including fiscal management. The administrator must meet the minimum administrator qualifications in these regulations.
- **B.** — “**Advanced practice registered nurse**” means a registered nurse that includes a certified nurse practitioner, or a clinical nurse specialist as defined and licensed under the Nursing Practice Act, as amended, and related regulations, and is currently in good standing.
- **C.** — “**Applicant**” means the individual or legal entity that applies for a CTC license to provide services in a particular facility. If the applicant is a legal entity, the individual signing the license application on behalf of the legal entity must have written legal authority from the legal entity to act on its behalf and execute the application. The license applicant must be the legal owner of the entity providing services, but not necessarily the facility.
- **D.** — “**Basic life support**” (**BLS**) means training and current certification in adult cardiopulmonary resuscitation equivalent to American heart association class C basic life support and in emergency treatment of a victim of cardiac or respiratory arrest through cardiopulmonary resuscitation and emergency cardiac care.
- **E.** — “**Caregivers criminal history screen**” means pursuant to the criminal history screening for Caregivers Act, Section 29-17-1 through Section 29-17-5 NMSA 1978, the process for health facilities and medicaid home and community-based waiver providers to complete a caregiver criminal history screening for all caregivers no later than 20 calendar days after the employment hire date. The screening or background check includes the submission of fingerprints required for obtaining state and federal criminal history used to conduct the fitness determination. The caregiver’s criminal history screening program receives and processes background check applications for criminal history screenings from care providers in the state of New Mexico. Caregivers may be prohibited from employment if the caregiver has a disqualifying condition.
- **F.** — “**Chemical restraint**” means a drug or medication when it is used as a restriction to manage a client’s behavior or restrict a client’s freedom of movement and is not a standard treatment or dosage for a client’s condition. If a drug or medication is used as a standard treatment to address the assessed current symptoms and needs of a client with a particular medical or psychiatric condition, its use is not considered a chemical restraint.
- **G.** — “**CLIA**” means clinical laboratory improvement amendments of 1988 as amended.
- **H.** — “**Client**” means any person who receives care at a crisis triage center.
- **I.** — “**Compliance**” means the CTC’s adherence to these regulations, as well as all other applicable state and federal statutes and regulations. Compliance violations may result in sanctions, civil monetary penalties and revocation or suspension of the CTC license.
- **J.** — “**Crisis stabilization services**” means behavioral health services that are provided to help the client return his baseline level of functioning before the crisis.
- **K.** — “**CYFD**” means the New Mexico children youth and families department.
- **L.** — “**CYFD criminal records and background checks**” means pursuant to the Criminal Offender Employment Act, Section 28-2-1 to Section 28-2-6 NMSA 1978, the New Mexico Children’s and Juvenile Facility Criminal Records Screening Act, Section 32A-15-1 to Section 32A-15-4 NMSA 1978, amended, and Section 8.8.3 NMAC, the process of conducting a nationwide criminal history records check, background check and employment history verification on all operators, staff and employees and prospective operators, staff and employees of treatment facilities and programs with the objective of protecting children/youth and promoting the children’s/youth’s safety and welfare while receiving service from the facilities and programs. The process shall include submission of electronic fingerprints for those individuals to the department of public safety and the federal bureau of investigation for the purpose of conducting a criminal history and background check; identification of information in applicants’ background bearing on whether they are eligible to provide services; a screening of CYFD’s information databases in New Mexico and in each state where the applicant resided during the preceding five years; and any other reasonably reliable information about an applicant in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply.
- **M.** — “**Deficiency**” means a violation of or failure to comply with any provision(s) of these regulations.
- **N.** — “**Department**” means the New Mexico department of health.
- **O.** — “**Employee**” means any person who works at the CTC and is a direct hire of the owner entity or management company, if applicable.

2023 AUG -3 AM 11:01

- _____ **P.** “**Facility**” means the physical premises, building(s) and equipment where the crisis triage center services are provided, whether owned or leased and which is licensed pursuant to these regulations.
- _____ **Q.** “**High risk behavior**” means behaviors that place clients, staff or visitors’ physical and mental health and safety at risk.
- _____ **R.** “**HSD**” means the NM human services department.
- _____ **S.** “**Incident**” means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.
- _____ **T.** “**Incident management system**” means the written policies and procedures adopted or developed by the CTC for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.
- _____ **U.** “**Incident report form**” means the reporting format issued by the department for the reporting of incidents or complaints.
- _____ **V.** “**Level III.7-D: Medically Monitored Inpatient Detoxification**” means the types of detoxification services described by American Society of Addiction Medicine (ASAM) in its *Patient Placement Criteria, Second Edition, Revised* (PPC-2R) Level III & D includes 24-hour medically supervised detoxification services requiring 24-hour nursing care and physician visits as necessary, unlikely to complete detox, without medical, nursing monitoring and more intensive detoxification services.
- _____ **W.** “**Licensee**” means the person(s) or legal entity that operates the CTC and in whose name the CTC license has been issued and who is legally responsible for compliance with these regulations.
- _____ **X.** “**Licensing authority**” means the New Mexico department of health.
- _____ **Y.** “**Licensed mental health professional**” means a psychologist, social worker, physician, psychiatrist, physician assistant, registered nurse, practical nurse, advanced practice registered nurse, each shall have behavioral health training and shall be licensed in the state of New Mexico.
- _____ **Z.** “**Management company**” means the legal entity that manages the CTC program, if different from the legal owner of the facility.
- _____ **AA.** “**NFPA**” means the national fire protection association which sets codes and standards for fire and life safety. NFPA 101 and related standards, current edition as required by the department.
- _____ **BB.** “**NMSA**” means the New Mexico Statutes Annotated 1978 compilation and all subsequent amendments, revisions and compilations.
- _____ **CC.** “**Outpatient services**” means immediate crisis stabilization services provided to clients who are not admitted to the residential setting. Outpatient crisis stabilization services are not ongoing behavioral health treatment services.
- _____ **DD.** “**Physical restraint**” means the use of physical force, consistent with State and Federal laws and regulations, without the use of any device or material that restricts the free movement of all or a portion of a body, but does not include: briefly holding a client in order to calm or comfort the client; holding a client's hand or arm to escort the client safely from one area to another; or intervening in a physical fight.
- _____ **EE.** “**Physician**” means a licensed individual, currently in good standing, authorized to practice medicine as defined and licensed under the New Mexico Medical Practice Act, Section 61-6-1 to Section 61-6-34 NMSA 1978, as amended, and related regulations or osteopathic medicine as defined and licensed under Section 61-10-1 to Section 61-10-22 NMSA 1978, as amended, and related regulations.
- _____ **FF.** “**Physician's assistant**” means an individual, currently in good standing, who is licensed and authorized to provide services to patients under the supervision and direction of a licensed physician under the Physician Assistant Act, Section 61-6-7 to Section 61-6-10 NMSA 1978, as amended and related regulations, or is authorized and licensed to provide services to patients under the supervision and direction of a licensed osteopathic physician under the Osteopathic Physicians' Assistants Act, Section 61-10A-1 to Section 61-10-7 NMSA 1978 as amended, and related regulations.
- _____ **GG.** “**Plan of correction**” (POC) means the plan submitted by the licensee or its representative(s) addressing how and when deficiencies identified through a survey or investigation will be corrected. A plan of correction is a public record once it has been approved by the regulatory authority and is admissible for all purposes in any adjudicatory hearing and all subsequent appeals relating to a CTC license, including to prove licensee compliance violations or failures.
- _____ **HH.** “**Policy**” means a written statement that guides and determines present and future CTC decisions and actions.
- _____ **II.** “**Premises**” means all of the CTC including buildings, grounds and equipment.
- _____ **JJ.** “**Primary source verification**” means the act of obtaining credentials directly from the original or primary source(s).
- _____ **KK.** “**Procedure**” means the action(s) that must be taken in order to implement a written policy.

2025 AUG -3 AM 11:01

LL. “Quality assurance” means the CTC’s on-going comprehensive self-assessment of compliance with these regulations and other applicable statutes and regulations.

MM. “Quality committee” means a committee comprised at a minimum of the administrator, clinical director, director of nursing, licensed mental health professional, and psychiatrist. Other committee members may be specified by rules governing payor requirements. The committee shall establish and implement quality assurance and quality improvement systems that monitor and promote quality care to clients.

NN. “Quality improvement system” means systematic and continuous actions that lead to measurable improvement in services and focus on reduction and stabilization of crises for clients.

OO. “Registered nurse” means an individual, currently in good standing, who is licensed and authorized to provide nursing services under the Nursing Practice Act, Section 61-3-1 to Section 61-3-30 NMSA 1978, as amended, and related regulations.

PP. “Residential services” means any crisis stabilization services provided to a client admitted to the residential setting.

QQ. “Restraint clinician” means a New Mexico licensed medical doctor, doctor of osteopathy, advanced practice registered nurse, clinical nurse specialist, physician assistant or doctoral level psychologist (Psy.D., Ph.D., or E.D.), who is trained in the use of emergency safety interventions.

RR. “Sanitize clothes” means the use of water at a temperature of 212 degrees or use of a disinfectant agent to wash clothes.

SS. “Scope of practice” means the procedures, actions, and processes that a healthcare practitioner is permitted to undertake under the terms of their professional license. The scope of practice is limited to that which the applicable law allows for specific education, training, experience and demonstrated competency.

TT. “Seclusion” means the involuntary confinement of a client alone in a room where the client is physically prevented from leaving.

UU. “Short-term residential stay” means the limit of a client’s stay is eight days for the residential setting.

VV. “Staff” means any person who works at the CTC, and includes employees, contracted persons, independent contractors and volunteers who perform work or provide goods and services at the CTC.

WW. “U/L approved” means approved for safety by the national underwriter’s laboratory.

XX. “Violation” means all actions or procedures by the CTC or licensee that are not in compliance with these regulations and all other applicable state and federal statutes and regulations.

YY. “Variance” means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a period that expires upon remodel of the CTC or change of ownership, providing the variance does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A variance can be renewed upon approval of the licensing authority. A variance may be revoked at the discretion of the licensing authority due to changes in state or federal regulations and statutes, or change of circumstances that may jeopardize the health, safety or welfare of clients.

ZZ. “Waiver” means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a limited and specified time period not to exceed the duration of the license, providing the waiver does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A waiver can be renewed on an annual basis upon approval of the licensing authority. A waiver may be revoked at the discretion of the licensing authority due to changes in state or federal regulations, or change of circumstances that may jeopardize the health, safety or welfare of clients.

AAA. “Withdrawal management” means the immediate psychological stabilization, diagnosis and treatment of a client who is intoxicated, incapacitated, or experiencing withdrawal of alcohol or drugs.

BBB. “Youth” means residents 14 years of age and older up to age 18.

CCC. “Youth Staff” means a person who has contact with youth in a licensed facility and includes the owner, operator or director of a program, volunteers, full-time, part-time, and contract employees.]

A. Definitions beginning with “A”:

(1) “Administrator” means the person who is delegated the administrative responsibility for interpreting, implementing, and applying policies and procedures at the crisis triage center. The administrator is responsible for establishing and maintaining safe and effective management, control and operation of the CTC and all of the services provided at the CTC including fiscal management. The administrator must meet the minimum administrator qualifications in these regulations.

2023 AUG -3 AM 11: 01

(2) **“Advanced practice registered nurse”** means a registered nurse that includes a certified nurse practitioner, or a clinical nurse specialist as defined and licensed under the Nursing Practice Act, as amended, and related regulations, and is currently in good standing.

(3) **“Applicant”** means the individual or legal entity that applies for a CTC license to provide services in a particular facility. If the applicant is a legal entity, the individual signing the license application on behalf of the legal entity must have written legal authority from the legal entity to act on its behalf and execute the application. The license applicant must be the legal owner of the entity providing services, but not necessarily the facility.

B. Definitions beginning with “B”: **“Basic life support” (BLS)** means training and current certification in adult cardiopulmonary resuscitation equivalent to American heart association class C basic life support and in emergency treatment of a victim of cardiac or respiratory arrest through cardiopulmonary resuscitation and emergency cardiac care.

C. Definitions beginning with “C”:

(1) **“Caregivers criminal history screen”** means pursuant to the criminal history screening for Caregivers Act, Section 29-17-1 through Section 29-17-5 NMSA 1978, the process for health facilities and medicaid home and community-based waiver providers to complete a caregiver criminal history screening for all caregivers no later than 20 calendar days after the employment hire date. The screening or background check includes the submission of fingerprints required for obtaining state and federal criminal history used to conduct the fitness determination. The caregiver’s criminal history screening program receives and processes background check applications for criminal history screenings from care providers in the state of New Mexico. Caregivers may be prohibited from employment if the caregiver has a disqualifying condition.

(2) **“Chemical restraint”** means a drug or medication when it is used as a restriction to manage a client’s behavior or restrict a client’s freedom of movement and is not a standard treatment or dosage for a client’s condition. If a drug or medication is used as a standard treatment to address the assessed current symptoms and needs of a client with a particular medical or psychiatric condition, its use is not considered a chemical restraint.

(3) **“CLIA”** means clinical laboratory improvement amendments of 1988 as amended.

(4) **“Client”** means any person who receives care at a crisis triage center.

(5) **“Compliance”** means the CTC’s adherence to these regulations, as well as all other applicable state and federal statutes and regulations. Compliance violations may result in sanctions, civil monetary penalties and revocation or suspension of the CTC license.

(6) **“Crisis stabilization services”** means behavioral health services that are provided to help the client return his baseline level of functioning before the crisis.

(7) **“Crisis triage center”** means a health facility that:

(a) is licensed by the department of health; and

(b) provides stabilization of behavioral health crises and may include residential and nonresidential stabilization.

(8) **“CYFD”** means the New Mexico children youth and families department.

(9) **“CYFD criminal records and background checks”** means pursuant to the Criminal Offender Employment Act, Section 28-2-1 to Section 28-2-6 NMSA 1978, the New Mexico Children’s and Juvenile Facility Criminal Records Screening Act, Section 32A-15-1 to Section 32A-15-4 NMSA 1978, amended, and 8.8.3 NMAC, the process of conducting a nationwide criminal history records check, background check and employment history verification on all operators, staff and employees and prospective operators, staff and employees of treatment facilities and programs with the objective of protecting children/youth and promoting the children’s/youth’s safety and welfare while receiving service from the facilities and programs. The process shall include submission of electronic fingerprints for those individuals to the department of public safety and the federal bureau of investigation for the purpose of conducting a criminal history and background check; identification of information in applicants’ background bearing on whether they are eligible to provide services; a screening of CYFD’s information databases in New Mexico and in each state where the applicant resided during the preceding five years; and any other reasonably reliable information about an applicant in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply.

D. Definitions beginning with “D”:

(1) **“Deficiency”** means a violation of or failure to comply with any provision(s) of these regulations.

(2) **“Department”** means the New Mexico department of health.

E. Definitions beginning with “E”: **“Employee”** means any person who works at the CTC and is a direct hire of the owner entity or management company, if applicable.

2023 AUG -3 AM 11: 01

F. Definitions beginning with “F”: **“Facility”** means the physical premises, building(s) and equipment where the crisis triage center services are provided, whether owned or leased and which is licensed pursuant to these regulations.

G. Definitions beginning with “G”: [RESERVED]

H. Definitions beginning with “H”:

(1) **“High risk behavior”** means behaviors that place clients, staff or visitors’ physical and mental health and safety at risk.

(2) **“HSD”** means the New Mexico human services department.

I. Definitions beginning with “I”:

(1) **“Incident”** means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

(2) **“Incident management system”** means the written policies and procedures adopted or developed by the CTC for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

(3) **“Incident report form”** means the reporting format issued by the department for the reporting of incidents or complaints.

J. Definitions beginning with “J”: [RESERVED]

K. Definitions beginning with “K”: [RESERVED]

L. Definitions beginning with “L”:

(1) **“Level III.7-D: Medically monitored inpatient detoxification”** means the types of detoxification services described by American Society of Addiction Medicine (ASAM) in its *Patient Placement Criteria, Second Edition, Revised* (PPC-2R) Level III &-D includes 24-hour medically supervised detoxification services requiring 24-hour nursing care and physician visits as necessary, unlikely to complete detox, without medical, nursing monitoring and more intensive detoxification services.

(2) **“Licensee”** means the person(s) or legal entity that operates the CTC and in whose name the CTC license has been issued and who is legally responsible for compliance with these regulations.

(3) **“Licensing authority”** means the New Mexico department of health.

(4) **“Licensed mental health professional”** means a psychologist, social worker, physician, psychiatrist, physician assistant, registered nurse, practical nurse, advanced practice registered nurse, each shall have behavioral health training and shall be licensed in the state of New Mexico.

M. Definitions beginning with “M”: **“Management company”** means the legal entity that manages the CTC program, if different from the legal owner of the facility.

N. Definitions beginning with “N”:

(1) **“NFPA”** means the national fire protection association which sets codes and standards for fire and life safety. NFPA 101 and related standards, current edition as required by the department.

(2) **“NMSA”** means the New Mexico Statutes Annotated 1978 compilation and all subsequent amendments, revisions and compilations.

O. Definitions beginning with “O”:

(1) **“Onsite medical professional”** means in this regulation a registered nurse, emergency medical service provider, emergency medical technician, licensed practical nurse, medical assistant, mental health technician, and certified nurse assistant.

(2) **“Outpatient services”** means immediate crisis stabilization services provided to clients who are not admitted to the residential setting. Outpatient crisis stabilization services are not ongoing behavioral health treatment services.

P. Definitions beginning with “P”:

(1) **“Physical restraint”** means the use of physical force, consistent with State and Federal laws and regulations, without the use of any device or material that restricts the free movement of all or a portion of a body, but does not include: briefly holding a client in order to calm or comfort the client; holding a client's hand or arm to escort the client safely from one area to another; or intervening in a physical fight.

(2) **“Physician”** means a licensed individual, currently in good standing, authorized to practice medicine as defined and licensed under the New Mexico Medical Practice Act, Section 61-6-1 to Section 61-6-34 NMSA 1978, as amended, and related regulations or osteopathic medicine as defined and licensed under Section 61-10-1 to Section 61-10-22 NMSA 1978, as amended, and related regulations.

(3) **“Physician's assistant”** means an individual, currently in good standing, who is licensed and authorized to provide services to patients under the supervision and direction of a licensed physician under the Physician Assistant Act, Section 61-6-7 to Section 61-6-10 NMSA 1978, as amended and related regulations, or is

2023 AUG -3 AM 11:01

authorized and licensed to provide services to patients under the supervision and direction of a licensed osteopathic physician under the Osteopathic Physicians' Assistants Act, Section 61-10A-1 to Section 61-10-7 NMSA 1978 as amended, and related regulations.

(4) **“Plan of correction”** (POC) means the plan submitted by the licensee or its representative(s) addressing how and when deficiencies identified through a survey or investigation will be corrected. A plan of correction is a public record once it has been approved by the regulatory authority and is admissible for all purposes in any adjudicatory hearing and all subsequent appeals relating to a CTC license, including to prove licensee compliance violations or failures.

(5) **“Policy”** means a written statement that guides and determines present and future CTC decisions and actions.

(6) **“Premises”** means all of the CTC including buildings, grounds and equipment.

(7) **“Primary source verification”** means the act of obtaining credentials directly from the original or primary source(s).

(8) **“Procedure”** means the action(s) that must be taken in order to implement a written policy.

Q. Definitions beginning with “Q”:

(1) **“Quality assurance”** means the CTC’s on-going comprehensive self-assessment of compliance with these regulations and other applicable statutes and regulations.

(2) **“Quality committee”** means a committee comprised at a minimum of the administrator, clinical director, director of nursing, licensed mental health professional, and psychiatrist. Other committee members may be specified by rules governing payor requirements. The committee shall establish and implement quality assurance and quality improvement systems that monitor and promote quality care to clients.

(3) **“Quality improvement system”** means systematic and continuous actions that lead to measurable improvement in services and focus on reduction and stabilization of crises for clients.

R. Definitions beginning with “R”:

(1) **“Registered nurse”** means an individual, currently in good standing, who is licensed and authorized to provide nursing services under the Nursing Practice Act, Section 61-3-1 to Section 61-3-30 NMSA 1978, as amended, and related regulations.

(2) **“Residential services”** means any crisis stabilization services provided to a client admitted to the residential setting.

(3) **“Restraint clinician”** means a New Mexico licensed medical doctor, doctor of osteopathy, advanced practice registered nurse, clinical nurse specialist, physician assistant or doctoral level psychologist (Psy.D., Ph.D., or E.D.), who is trained in the use of emergency safety interventions.

S. Definitions beginning with “S”:

(1) **“Sanitize clothes”** means the use of water at a temperature of 212 degrees or use of a disinfectant agent to wash clothes.

(2) **“Scope of practice”** means the procedures, actions, and processes that a healthcare practitioner is permitted to undertake under the terms of their professional license. The scope of practice is limited to that which the applicable law allows for specific education, training, experience and demonstrated competency.

(3) **“Seclusion”** means the involuntary confinement of a client alone in a room where the client is physically prevented from leaving.

(4) **“Short-term residential stay”** means the limit of a client’s stay is eight days for the residential setting.

(5) **“Staff”** means any person who works at the CTC, and includes employees, contracted persons, independent contractors and volunteers who perform work or provide goods and services at the CTC.

T. Definitions beginning with “T”: [RESERVED]

U. Definitions beginning with “U”: **“U/L approved”** means approved for safety by the national underwriter’s laboratory.

V. Definitions beginning with “V”:

(1) **“Variance”** means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a period that expires upon remodel of the CTC or change of ownership, providing the variance does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A variance can be renewed upon approval of the licensing authority. A variance may be revoked at the discretion of the licensing authority due to changes in state or federal regulations and statutes, or change of circumstances that may jeopardy the health, safety or welfare of clients.

2023 AUG -3 AM 11:01

(2) **“Violation”** means all actions or procedures by the CTC or licensee that are not in compliance with these regulations and all other applicable state and federal statutes and regulations.

W. Definitions beginning with “W”:

(1) **“Waiver”** means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a limited and specified time period not to exceed the duration of the license, providing the waiver does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A waiver can be renewed on an annual basis upon approval of the licensing authority. A waiver may be revoked at the discretion of the licensing authority due to changes in state or federal regulations, or change of circumstances that may jeopardize the health, safety or welfare of clients.

(2) **“Withdrawal management”** means the immediate psychological stabilization, diagnosis and treatment of a client who is intoxicated, incapacitated, or experiencing withdrawal of alcohol or drugs.

X. Definitions beginning with “X”: [RESERVED]

Y. Definitions beginning with “Y”:

(1) **“Youth”** means residents 14 years of age and older up to age 18.

(2) **“Youth Staff”** means a person who has contact with youth in a licensed facility and includes the owner, operator or director of a program, volunteers, full-time, part-time, and contract employees.

Z. Definitions beginning with “Z”: [RESERVED]

[7.30.13.7 NMAC - N, 10/30/2018; A/E, 8/3/2023]

7.30.13.9 SCOPE OF SERVICES:

A. General scope of services: These regulations apply to crisis triage centers (CTC) which are health facilities offering youth and adult outpatient and residential care services. A CTC provides stabilization of behavioral health crises as outpatient stabilization or short-term residential stabilization in a residential rather than institutional setting, which may provide an alternative to hospitalization or incarceration. The CTC services may vary in array of services offered to meet the specific needs of different communities in New Mexico. A CTC may provide limited detoxification services but is differentiated from a detoxification center in that it does treat individuals who require treatment beyond Level III.7-D: Medically Monitored Inpatient Detoxification. The CTC provides emergency behavioral health triage and evaluation [~~and on a voluntary basis~~]. The CTC may serve individuals 14 years of age or older who meet admission criteria. The CTC shall offer services to manage individuals at high risk of suicide or intentional self-harm. The CTC shall not refuse service to any individual who meets criteria for services.

B. Type of services:

- (1) a CTC structured for less than 24-hour stays providing only outpatient withdrawal management or other stabilization services;
- (2) a CTC providing outpatient and residential crisis stabilization services; and
- (3) a CTC providing residential crisis stabilization services.

C. Limitations on scope of services:

- (1) the CTC may accept voluntary admissions, individuals who are voluntarily seeking treatment, involuntary admissions and individuals who are not voluntarily seeking treatment [~~shall not accept involuntary commitments or individuals who are not voluntarily seeking treatment~~];
- (2) the CTC shall not provide detoxification services beyond Level III.7-D: Medically Monitored Inpatient Detoxification services;
- (3) the CTC shall not provide medical care not related to crisis triage intervention services beyond basic medical care of first aid and CPR;
- (4) the CTC shall not provide residential services in excess of 14 calendar days, unless an involuntary admission is accepted and the CTC shall comply with all hearing and treatment provisions of Section 43-1-1 et.al NMSA;
- (5) the CTC shall not provide ongoing outpatient behavioral health treatment;
- (6) the CTC shall not exceed the capacity for which the CTC is licensed;
- (7) a CTC with both adult and youth occupants must locate youth rooms and restrooms in a unit or wing that is physically separated from the adult facilities;
- (8) A CTC shall not administer emergency psychotropic medications as described in Subsection M of Section 43-1-15 NMSA 1978 if admitting only voluntary admissions. Any use of emergency psychotropic medications for involuntary admissions shall only be done in accordance with Subsection M of Section 43-1-15 NMSA 1978.

2023 AUG -3 AM 11: 01

D. License required:

- (1) a CTC shall not be operated without a license issued by the department;
 - (2) any facility providing the services described in these regulations on the effective date of these regulations, shall apply for a CTC license within 180 days;
 - (3) a CTC licensed under these regulations shall not assert, represent, offer, provide or imply that the CTC is or may render care or services other than the services it is permitted to render under these regulations and within the scope of all applicable professional license(s);
 - (4) if an unlicensed CTC is found to be providing services for which a license is required under these regulations, the secretary may issue a cease-and-desist order, to protect human health or safety or welfare. The unlicensed facility may request a hearing that shall be held in the manner provided under these regulations and all other applicable regulations.
- [7.30.13.9 NMAC - N, 10/30/2018; A/E, 8/3/2023]

7.30.13.29 STAFFING REQUIREMENTS:

A. Minimum staffing requirements:

- (1) The CTC shall have an on-site administrator, which can be the same person as the clinical director.
- (2) The CTC shall have a full time clinical director appropriately licensed to provide clinical oversight.
- (3) The CTC shall have an RN present on-site 24 hours a day, seven days a week or as long as clients are present in programs that do not offer residential services, to provide direct nursing services. This requirement does not apply to CTCs offering 23 hours or less non-residential services; instead these CTCs may have onsite medical professionals who have access to immediate support and supervision by an RN or a higher-level provider in accordance with Section 24-25-1 et al.NMSA 1978 New Mexico Telehealth Act.
- (4) An on-call physician or advanced practice registered nurse shall be available 24 hours a day by phone, and available on-site as needed or through telehealth.
- (5) Consultation by a psychiatrist or prescribing psychologist may be provided through telehealth.
- (6) The CTC shall maintain sufficient staff including direct care and mental health professionals to provide for supervision and the care of residential and non-residential clients served by the CTC, based on the acuity of client needs.
- (7) At least one staff trained in basic cardiac life support (BCLS) and first aid shall be on duty at all times. In addition, one staff trained in the use of the automated external defibrillator (AED) equipment shall also be on duty.

B. Other staff requirements:

- (1) The CTC shall ensure that the type and number of professional staff are:
 - (a) licensed, certified or credentialed in the professional field as required, and practice within the scope of the license;
 - (b) present in numbers to provide services, supports, care, treatment and supervision to clients as required; and
 - (c) experienced and competent in the profession they are licensed or practice.
 - (2) The CTC shall comply with all applicable laws, rules and regulations governing caregivers' criminal history screen requirements and employee abuse registry requirements.
 - (3) The CTC shall ensure that, within the first sixty days of providing direct care to individuals, all staff, volunteers and contractors having direct contact with clients shall receive required training.
 - (4) The CTC shall be staffed to ensure the safety of clients when staff are accused of abuse, neglect or exploitation.
 - (5) In instances of involuntary admission as allowed under amendments to Section 43-1-1 NMSA, Mental Health and Developmental Disabilities Code, adequate staffing must be provided to ensure patient and staff safety, and the CTC must meet medical records requirements for licensure of psychiatric hospitals as set forth, in 7.7.2.40 NMAC.
- [7.30.13.29 NMAC - N, 10/30/2018; A/E, 8/3/2023]