

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the proposed repeal and replacement of rule, 16.11.2 NMAC, “Certified Nurse-Midwives”. The public hearing will be held on February 20, 2024 at 9:00 a.m. MDT via web video conference and telephone. The hearing will be conducted to receive public comments regarding the proposed repeal and replacement of the current rule, 16.11.2 NMAC, concerning the licensing, scope of practice, and disciplining of certified nurse-midwives (CNM).

The proposed replacement rule includes the following amendments and changes to the following rule parts:

1. Amended 16.11.2.7 NMAC Definitions to add definitions for audit, client, continuing education, continuing education unit, substance use disorder, and changing the definition of prescription monitoring program, and valid CNM-client relationship. The purpose of these definition changes is to provide a clear definition of what an audit is to a CNM and to provide a clear understanding to the CNM of what is expected of each licensee for the continuing education requirement. The purpose of the definition change to the prescription monitoring program is to remove any stigmatizing verbiage associated with addiction. The purpose of the change to the definitions to include substance use disorder is to use this phrase in the rule in relation to prescribing activities of a CNM and continuing education requirements, and it follows the National Institute of Mental Health definition. The purpose of the change to the definition of a valid CNM-client relationship is to move the description of the relationship from the definition further into the regulation in the section on the practice of midwives to more appropriately define the prescriptive practice.
2. Amended 16.11.2.9 NMAC Licensure to clear up confusion over the fact that multi-state license regulations have random license expiration dates and some of those licensees in other states do not have a New Mexico nursing license. The purpose of adding Paragraph (3) of Subsection B of 16.11.2.9 NMAC is to provide clarity on refunds on incomplete applications.
3. Amended Subparagraph (c) of Paragraph (3) of Subsection C of 16.11.2.9 NMAC to specify that a new category of continuing education shall focus on health equity topics. The purpose of this amendment is to bring the New Mexico license regulation into line with national competency standards set forth by the American Midwifery Certification Board (AMCB).
4. Amended Item (i) of Subparagraph (d) of Paragraph (3) of Subsection C of 16.11.2.9 NMAC to reflect the current requirements of the New Mexico CNM’s contact hours per licensure period.
5. Added a new Section 16.11.2.10 NMAC Continuing Education to be as descriptive as possible to the licensee as to what is required for continuing education (CE) content. The purpose is to provide clarity to licensees as to what is included in a CE audit, and from what recognized approved bodies CE taken will be approved, and to outline to the licensee the duties in reporting CE to the program.
6. Amended Subsection A of 16.11.2.11 NMAC Practice of the Certified Nurse-Midwife “Scope of Practice” to change the description of those persons whom a CNM may provide services to from “women” and “patients” to “clients”. The purpose of the section change is to clarify that CNMs can provide care to all persons who seek midwifery care regardless of gender identity or sexual orientation.
7. Amended Subsection B of 16.11.2.11 NMAC Practice of the Certified Nurse-Midwife “Prescriptive Authority” to include the language for a CNM-client relationship previously set forth in the definitions section. The purpose of placement of the text in this section is because it is more appropriate in this section of the regulation dealing with the practice of the licensee.
8. Amended Subsection A of 16.11.2.12 NMAC “License, Denial, Suspension, or Revocation: Disciplinary Action. Grounds for action” to specify additional specific actions that may result in disciplinary action. The purpose of these additions is to clarify for licensees the sections of the regulation which non-compliance with may result in a disciplinary action.
9. Amended 16.11.2.13 NMAC Advisory Board to include additional members. The purpose of the changes is to provide more memberships for representatives who are currently practicing and to provide a specific seat on the board for a student who may remain on the board after graduation.

The purpose of the proposed repeal and replacement rule is to adopt the changes and amendments to the rule. The purpose of repeal and replacement is also necessary because the New Mexico Commission of Public Records has stated in its Guide that a repeal and replacement of an existing rule is very helpful when a rule has been substantially rewritten and restructured such that a detailed section by section comparison is not possible and may be confusing to the public.

The legal authority authorizing the proposed rule by the Department is at Subsection E of Section 9-7-6 NMSA 1978, Subsections S and V of Section 24-1-3 NMSA 1978, and 24-1-4.1 NMSA 1978.

The foregoing are summaries of the proposed rule. The proposed rule includes various additional substantive revisions not identified here. Free copies of the full text of the proposed rule may be obtained online from the Department's website at <https://nmhealth.org/publication/regulation/>.

Any interested member of the public may attend the hearing, and anyone may offer public comments on the proposed rule orally at the hearing. To access the hearing by telephone: please call 1-505-312-4308, phone conference i.d. code 749241820 #. To access the hearing via internet: please go to <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>, enter the following meeting i.d. code and passcode where indicated on screen—meeting i.d. code 230 233 080 029, Passcode: ZoTVtA, then click the “Join a meeting” button. All oral comments will be recorded.

Any person may submit written public comment concerning the rule amendments. Written comments may be submitted to the mailing address shown below. Please submit any written comments regarding the proposed rules to the attention of:

Abigail Reese, PhD, CNM
Maternal Health Program Manager
Family Health Bureau/Public Health Division
2040 S. Pacheco (Colgate Building)
Santa Fe, New Mexico 87505
Abigail.reese@doh.nm.gov
(505) 231-6817

Mailed written comments must be received no later than 5:00 p.m. MDT on February 20, 2024, the day of the public hearing. Written comments may also be submitted to the email address shown above through 5:00 pm MDT on the date of the hearing. All written comments will be published on the agency website at <http://nmhealth.org/publication/regulation/> within 3 business days of receipt, and will be available at the Office of the New Mexico Department of Health, at the address above, 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 Christine Guillen by telephone at (505) 709-5538. The Department requests at least ten (10) days' advance notice to provide requested special accommodations.