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September 14, 2018

Rulemaking Hearing Crisis Triage
Centers

VIA U.S. Mail and Email

Benito Gomez
Office of General Counsel
New Mexico Department of Health
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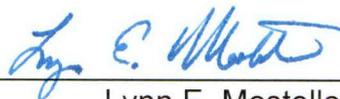
Dear Mr. Gomez:

I enclose the Report and Recommendations of the Hearing Officer and the Official File in the above-referenced matter.

Very truly yours,

SUTIN, THAYER & BROWNE
A Professional Corporation

By



Lynn E. Mostoller
Albuquerque Office

Enclosures
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LEM:lb

REPORT AND RECOMMENDATION OF THE HEARING OFFICER

Public Hearing: New Mexico Department of Health

Proposed Actions in Question: Adoption of Proposed Rule: 7.30.13 NMAC "Crisis Triage Centers"

Hearing Date: May 30, 2018 **Report Date:** September 14, 2018

RECOMMENDATION: See attached Report and Recommendations of the Hearing Officer

The Hearing Officer recommends adopting the Proposed Rule, 7.30.13 NMAC Crisis Triage Centers ("CTC") as revised by the Department in its August 22, 2018, draft (Exhibit 13), with the following recommended changes:

1. **7.30.13.7(C):** Revise the definition of "Applicant" to further clarify that it is an individual or owner of a legal entity who applies to have a particular program within a facility licensed, whether or not the applicant owns, leases, or provides services in a facility. The Hearing Officer recommends the following language: **"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."

2. The Hearing Officer recommends that the Department use the terms "CTC" and "facility" more consciously and consistently throughout the Proposed Rule. Depending on the Department's intent, Hearing Officer recommends that the Department generally use the term "CTC" instead of "facility" to make it clearer that it is the CTC that is licensed to provide services in a particular physical space ("facility") as opposed to the physical space or owner of the physical space being the licensee.

3. The Hearing Officer recommends that the Department add a definition for "detoxification center" so as to more clearly distinguish those centers from CTCs. From the comments, it appears that there is quite a bit of overlap in how services are currently provided and that clients who would seek services from a CTC might also be in need of detoxification services. Because it is not the Department's intent to have detoxification centers covered by the Proposed Rule, it would be helpful if the Department were clearer in defining the differences between a CTC and a detoxification center.

4. **7.30.13.7(W):** Correct typographical error in the definition of "Level III.7-D: Medically Monitored Inpatient Detoxification" to use the correct designation, rather than "Level III.&-D". More importantly, the definition the Department provided in its revised Proposed Rule references and incorporates Level IV-D, which appears to be a higher level of care suitable for severe unstable withdrawal that requires medically managed intensive inpatient detoxification in a hospital setting. The Hearing Officer recommends that the Department review the definition of

“Level III.7-D: Medically Monitored Inpatient Detoxification” to clarify that definition captures the Department’s intent with respect to the level of care a CTC may provide, given the revision to 7.30.13.9(C)(2), which provides: “the CTC shall not provide detoxification services beyond Level III.7-D: Medically Monitored Inpatient Detoxification services.” Depending on the Department’s intent, the Hearing Officer recommends that the Department either remove the incorporation of Level IV-D from the definition of “Level III.7-D: Medically Monitored Inpatient Detoxification” or clarify that the CTCs are permitted to provide Level IV-D care.

5. Further revise Scope of Services provisions for clarification as follows:

a. **7.30.13.9(A):** Correct the typographical error. The provision should say “14 years of age” rather than “14 years or age” In addition, it appears that the Department intends to allow CTCs to admit clients but not require such admissions to occur 24/7. If that is the case, the word “admission” should not be struck from this section. Only the words “24 hours a day, seven days a week” should be deleted.

b. **7.30.13.9(C)(2):** See recommendation above for **7.30.13.7(W)**. If the Department intends for CTCs to not provide services beyond Level III.7-D, the definition set forth in 7.30.13.7(W) should not incorporate Level IV-D into that definition, which currently appears to be the case.

c. **7.30.13.9(C)(9):** Correct the citation in the new provision to be NMSA 1978, § 43-1-15(M), which addresses the administration of psychotropic medication. The current citation, § 43-1-15(G), does not appear to apply to this provision.

6. **7.30.13.9(C)(5):** Because several commenters raised thoughtful and well-reasoned concerns, the Hearing Officer recommends that the Department reconsider requests that CTCs be permitted to provide residential services for up to 14 days, rather than 8 calendar days.

7. **7.30.13.9(C)(7):** Because several commenters raised thoughtful and well-reasoned concerns, the Hearing Officer recommends that the Department reconsider requests that the CTCs be permitted to have more than 16 short-term residential beds, as the statute does not appear to expressly supports such a restriction, NMSA 1978, § 24-1-2(B).

8. **7.30.13.22(U):** Delete the term “seclusion” from the list of safety plan management items to be consistent with the Department’s intent to prohibit seclusion as set forth in 7.30.13.24(A)-(B) and 7.30.13.79(D)(7)(g).

9. **7.30.13.24(E):** Unless the Department intends for CTCs to be allowed to use physical restraint on people other than clients, the Hearing Officer recommends that the revision use the term “client,” which is a defined term, instead of “individual.”

10. **7.30.13.24(M):** The Hearing Officer recommends cross referencing the statute(s) or rule(s) using the term “restraint/clinician” or defining the term. The only use of the term “restraint/clinician” the Hearing Officer could find in New Mexico law was in NMAC § 7.20.11.

The Hearing Officer recommends using the same definition as set forth in § 7.20.11.7(DP) in the Proposed Rule for added clarity.

11. **7.30.13.25(H):** Please correct the spelling of “applicable” in this provision.
12. **7.30.13.26:** Use “A licensed mental health professional . . .” instead of “An licensed mental health professional . . .”
13. **7.30.13.34:** Use “its” instead of “it’s” in the new language.
14. Generally consider using the defined term “client” when applicable instead of the term “individual” or “patient” for further clarity.



Lynn E. Mostoller



Date

HEARING OFFICER'S REPORT

A public hearing was held on May 30, 2018, at approximately 9:00 a.m. at the Harold Runnels Building Auditorium, 1190 St. Francis Drive, in Santa Fe, New Mexico, for the purpose of considering the adoption of the New Mexico Department of Health's ("Department") new Rule 7.30.13 NMAC "Crisis Triage Centers" ("Proposed Rule"). Lynn E. Mostoller, Esq., presided as Hearing Officer. Witter Tidmore, Assistant General Counsel, represented the Department. Christopher Burmeister, Interim Deputy Director for the Department of Health Improvement, attended the hearing and presented a summary of the proposed Regulations.

At the beginning of the hearing, the Hearing Officer introduced the public hearing, explained that the purpose of the hearing was to allow members of the interested public to comment on the proposed Rule, and requested members of the audience sign the attendance sheet available at the hearing.

I. SUMMARY OF RECORD

A. Documentary Evidence:

Mr. Tidmore described and submitted the following Exhibits, which were admitted and made a part of the hearing record:

1. 7.30.13 NMAC, "Crisis Triage Center" Proposed Rule
2. Hearing Officer Appointment Letter dated April 9, 2018
3. [Transmittal Forms—to be added to the record upon receipt]
4. Notice of Public Hearing
5. Affidavit of Publication for the New Mexico Register, dated April 26, 2018
6. Affidavit of Publication for the Albuquerque Journal, dated April 23, 2018
7. [Request for Copy of the Rule—none received]
8. Written Public Comments
 - a. Santa Fe Recovery Center
 - b. New Mexico Solutions
 - c. County of Santa Fe
 - d. Hidalgo Medical Services
 - e. Disability Rights New Mexico
 - f. County of Bernalillo
9. Visitor sign-in sheet
10. Recording of Hearing

B. Recording of Hearing:

The hearing was recorded on a digital recorder. A CD containing a copy of the recording of the hearing is part of the record, as noted above.

C. Statements Presented at Hearing

On behalf of the Department, Mr. Burmeister briefly summarized the purpose of the Proposed Rule.

No other statements were presented at the hearing.

D. Written Comments Presented

One additional written comment was received by the Department during the hearing on May 30, 2018, from Bernalillo County, which has been added to the record as Exhibit 8.f.

E. Additional Correspondence

Included as part of the record is the following correspondence:

11. June 15, 2018, Letter from Lynn E. Mostoller, Esq. to Witter Tidmore, Esq. inviting the Department to respond to certain public comments
12. August 22, 2018, letter from Witter Tidmore, Esq. responding to public comments addressed in the June 15, 2018, letter

F. Revised Draft of Proposed Rule

13. Post-Hearing Comment Draft of Proposed Rule 7.30.13 NMAC, received from the Department on August 22, 2018

G. Public Comments

During the May 30, 2018, public hearing, oral comments were received from:

Rachel O'Conner, Directory of Community Services Department for the Santa Fe County
Alex Dominguez, Santa Fe County
Tasia Young, Contract Lobbyist for the New Mexico Association of Counties
Nancy Koenigsberg, Senior Attorney from Disability Rights New Mexico
David Ley, New Mexico Solutions
Katrina Lopez, Director of Behavioral Services for Bernalillo County
Dr. Kevin Foley, Na'Nizhoozhi Center in Gallup, New Mexico
Lupe Salazar, Barrios Unidos

The public comments received before and during the May 30, 2018, hearing regarding the Proposed Rule centered on issues that were raised in the Hearing Officer's July 15, 2018, letter to the Department (Exhibit 11), and incorporated by reference. These issues include:

1. Requests for clarification of numerous definitions, 7.30.13.7;

2. Requests for additional defined terms, 7.30.13.7;
3. Questions and concerns about the General Scope of Services, 7.30.13.9(A);
4. Questions and concerns about various Limitation on Scope of Services, 7.30.13.9(C), including:
 - a. Whether CTCs are required to do admissions 24/7;
 - b. Whether CTCs are required to serve youth (ages 14-18) clients;
 - c. Whether CTCs may provide services on only a voluntary basis;
 - d. Whether the prohibition on CTCs providing acute medical alcohol withdrawal management is too restrictive;
 - e. Whether CTCs may co-locate with other service providers;
 - f. Whether the restrictions on CTCs providing medical care unrelated to crisis triage intervention services beyond basic medical care of first aid and CPR were too restrictive;
 - g. Whether the limitation on CTCs providing residential services beyond 8 days was too restrictive; and
 - h. Whether the limitation on 16 short-term residential beds was too restrictive;
5. Questions and concerns about License Required provisions, 7.30.13.9(D);
6. Requests for clarification of provisions for Existing or Renovated Construction, 7.31.13.10(E);
7. Requests that Program Description be internally consistent and clear, 7.30.13.10(G);
8. Addition of citations to Reporting of Incidents, 7.30.13.20;
9. Clarification of Governing Body provision, 7.30.13.21;
10. Numerous concerns and questions regarding Risk Assessment provisions, 7.30.13.24;
11. Concerns and questions as to whether CTCs will be required to provide admission and discharge services 24 hours a day/7 days a week, 7.30.13.25;
12. Questions and concerns over the authority of legal guardians to make mental health decisions, 7.30.13.25;
13. Numerous concerns and questions regarding other admission and discharge issues, 7.30.13.25;
14. Concerns about requiring client assessment by an independently licensed mental health provider, 7.30.13.26;

15. Numerous concerns and questions regarding client rights, 7.30.13.27;
16. Numerous concerns and questions regarding staffing requirements and staff training, 7.30.13.29 & .32;
17. Request that nutrition requirements be clarified to only apply to residential programs, 7.30.13.34;
18. Concerns, questions, and request for clarifications regarding the use of medications on clients in emergency situations, 7.30.13.34;
19. Suggested changes to Client Transfer provisions, 7.30.13.39(B);
20. Request for clarification regarding business hours to allow for CTCs to operate less than 24/7, 7.30.13.40;
21. Suggestion that custodial closets be required to be locked, 7.30.13.47;
22. Suggestion that pharmacy grade locked medication carts be sufficient to meet the staff station requirement, 7.30.13.52;
23. Concerns regarding the requirement for private or semi-private housing for co-located detox centers, 7.30.13.58;
24. Suggestion that CTCs housing adults and youth have separate mealtimes for the two populations, 7.30.13.61;
25. Suggestion that provisions of the Children's Code be incorporated into the restraint procedures for youth clients, 7.30.13.80;
26. Commenters generally requested that the Department take a more flexible approach to facility requirements, as requirements for residential facilities may not be necessary to license non-residential programs;
27. Commenters also raised significant concern regarding the application of the Proposed Rule to existing similar programs, such as detox and public inebriate programs that have been effective in their communities but might have difficulties meeting the licensing requirements; and
28. Commenters requested that facilities with federal accreditation have deemed status with respect to the Proposed Rule's standards.

H. Department Responses to Comments and Revisions to the Proposed Rule

On June 15, 2018, the Hearing Officer sent a letter to the Department inviting the Department to respond to certain and oral and written comments, questions, and concerns raised by the public.

In a letter dated August 22, 2018, the Department addressed those comments, questions, and concerns (Exhibit 12) and provided the Hearing Officer with a revised Proposed Rule in response to many of the public comments (Exhibit 13).

The Department stated that it would make the following revisions to the Proposed Rule in response to the public comments received:

1. The Department revised the definition of the following terms:
 - a. The definition of “Acute medical alcohol detoxification” was replaced with the definition of “Level III. &-D Medically Monitored Inpatient Detoxification”
 - b. The definition of “Applicant” was revised to clarify that the “Applicant” should be the legal owner of the legal entity applying for the license.
 - c. In response to concerns regarding the definition of “High risk behavior,” the Department responded by keeping the definition of “High risk behavior” but added a provision that prohibits the use of emergency medications, 7.9.13.9(C)(9).
 - d. The Department clarified the definition “Licensed mental health professional” to indicate that each of the listed professionals shall have the training in behavioral health and shall be licensed in the state of New Mexico.
 - e. The Department clarified the definition of “Management company” to indicate that the company that manages the CTC, as opposed to the “facility.”
 - f. The Department revised the definition of “Physical restraint” to indicate that any use of physical force must be in compliance with federal and state laws and regulations.
 - g. The Department considered the requests for additional defined terms and either revised the Rule to eliminate the use of some of the terms or otherwise determined that no further defined terms were needed.
2. The Department revised 7.30.13.9(A) to clarify that CTCs are not required to do admissions 24/7.
3. The Department revised 7.30.13.9 (C)(2) to prohibit CTCs from providing services beyond Level III.7-D: Medically Monitored Inpatient Detoxification services.
4. The Department revised 7.30.13.9(C)(5) to clarify that CTCs may not provide residential services in excess of eight calendar days.
5. The Department considered and rejected the request to increase the restriction on 16 residential beds set forth in 7.30.13.9(C)(7), stating that expanding beyond that 16-bed capacity was not consistent with the “residential” structure of the facility as designed and required by statute.
6. The Department revised 7.30.13.9(C)(9) to prohibit the use of emergency psychotropic medications by CTCs.

7. The Department considered and rejected requests to define parameters and timelines for the review and approval of building plans and specifications required to be submitted under 7.30.13.10(C) and (E).
8. The Department removed the 24/7 requirement for staffing plans in 7.30.13.10(G)(4)(d).
9. The Department revised the Proposed Rule to remove the requirement for operating agreements with aftercare agencies, 7.30.13.10(G)(4)(e).
10. The Department considered and rejected the request that 7.30.13.20 cite to statutes and regulations governing serious incident reporting.
11. In response to comments regarding the risk assessment section of the Proposed Rule, the Department revised 7.30.13.24 to allow only necessary force and removed references to seclusions, except for those provisions prohibiting seclusion.
12. The Department considered and rejected the request that prone restraint be expressly prohibited under the Proposed Rule, 7.31.13.24(E), opting instead to generally allow only use of only reasonable force necessary to protect from imminent and serious physical harm.
13. The Department responded to concerns about provisions referencing chemical restraints in 7.30.13.24(H) by prohibiting the use of emergency medications in 7.30.13.9(C)(9).
14. The Department revised 7.30.13.24(J) to require the client to be present for debriefing following a physical restraint, if possible.
15. In response to questions about the use of the term “restraint/clinician” the Department responded that it was purposefully using that term as it is the term used in statute.
16. The Department revised 7.30.13.24(N)(4) to allow for suicide risk assessment by a medical, psychiatric or independently licensed mental health provider.
17. The Department revised 7.30.13.25 to remove the requirement to accept admissions 24/7, removed references to guardians, and added a requirement that admissions of youth conform with state and federal law.
18. The Department considered and rejected the request that inspections for contraband and weapons not be limited to admission to residential care 7.30.13.25(I).
19. The Department removed references to guardian in 7.30.13.25(K).
20. The Department revised 7.30.13.25(L) to require documentation for continued care.

21. The Department removed the requirement that an independently licensed mental health professional assess the stabilization needs of the client from 7.30.13.26.
22. The Department responded to comments on 7.30.13.27 by stating: “The information about a nourishing diet is in another section of the rule on Nutrition. The other suggestions are beyond the scope of the rule, this is not meant to be an exhaustive list of all state and federal rights regarding client rights, such as the right to access protection and advocacy, those requirements are in Federal law and are not needed to be repeated in the rule.”
23. The Department adjusted 7.30.13.29(A) to allow for an RN to be on-site when clients are present for CTCs that do not offer residential services and to allow for consultation by prescribing psychologist in addition to psychiatrists.
24. The Department revised 7.30.13.29(B) in accordance with commenter suggestions, including removing the requirement that all employees be tested for tuberculosis.
25. The Department considered and rejected suggestions that the Proposed Rule include training on peer-delivered services and recovery supports and information about locally available services.
26. The Department revised 7.30.13.34 to only require a CTC to provide meals if it is treating clients for 8 or more hours.
27. The Department revised 7.30.13.35 to remove the use of medication to protect the safety of clients and other persons and added a provision requiring CTCs to have a plan for the transfer of clients who do not have the capacity to consent to medications.
28. The Department removed the requirement that only physicians or advanced practice registered nurses be involved in client transfer. The revised Proposed Rule, 7.30.13.39, allows the CTC to delegate transfer functions to a variety of professionals.
29. The Department revised 7.30.13.40 to not require CTCs to be open 24/7.
30. The Department revised 7.30.13.47 to require that custodial closets be locked and restricted from client access.
31. The Department revised 7.30.13.52(B) to allow for the use of a pharmacy grade, locked medication cart for the storage of drugs at staff stations.
32. The Department revised 7.30.13.58(B) to allow for dormitory-style resident rooms, depending on the needs of the client and clarified that primary detoxification centers are not licensed as CTCs.

33. The Department revised 7.30.13.61 to require CTCs to feed adult and youth clients separately.

34. The Department revised 7.30.13.79 to allow for separation of adult and youth resident and restrooms in areas that are separated by sight and sound barriers.

35. The Department revised 7.30.13.80 to require debriefing with the client following an incident of restraint.

29. The Department considered and rejected the request that facilities with federal accreditation have deemed status with respect to the Proposed Rule's standards, noting that such a provision was not appropriate because federal accreditation uses different standards and criteria.

I. Department's Interpretation of the Proposed Rule Provisions

1. The Department stated in its response letter that provision 7.30.13.9(A) permits but does not require CTCs to provide services to youth.

2. The Department clarified that under the Proposed Rule, CTCs may only provide services on a voluntary basis. The Department stated that clients cannot be ordered to receive CTC services.

3. Regarding the restrictions on the provision of medical care in 7.30.13.9(C)(3), the Department stated that CTCs may co-locate with other service providers, but only the space or square-footage being used as a CTC will be licensed as a CTC. Other providers in the co-located services would not have to comply with the Proposed Rule, but might have other licensing requirements, depending on the services being offered. Under the Proposed Rule, CTCs provide behavioral and mental health services and are not designed or staffed to provide medical services.

4. Regarding the restriction against CTCs providing ongoing outpatient behavioral health treatment in 7.30.13.9(C)(6), the Department stated that there is no restriction on CTC clients receiving such services from co-located services, as those services are not part of the CTC licensed program.

5. In response to comments concerned about 7.30.13.9(D), the Department stated that the Proposed Rule is not intended to apply to detoxification centers and confirmed that programs offering services not fitting within the scope of CTC services are not required to be licensed as a CTC and will not be impacted by this Proposed Rule.

6. The Department, through its revision of the definition of "Applicant," indicated that 7.30.13.21 refers to the governing body of the entity licensed as a CTC and not the governing body of the entity owning the facility.

7. The Department acknowledged that 42 U.S.C. § 10805(a)(3) and 42 C.F.R. §§ 51.31(d)(1) and 51.42 require the CTC to grant representatives from the state's designated protection and advocacy system access to clients.

8. The Department stated that the Proposed Rule does not require on-site meal preparation.

III. HEARING OFFICER'S RECOMMENDATION

The Hearing Officer recommends adopting the Proposed Rule, 7.30.13 NMAC Crisis Triage Centers ("CTC"), as revised by the Department in its August 22, 2018, draft (Exhibit 13), with the following recommended changes:

1. **7.30.13.7(C)**: Revise the definition of "Applicant" to further clarify that it is an individual or owner of a legal entity who applies to have a particular program within a facility licensed, whether or not the applicant owns, leases, or provides services in a facility. The Hearing Officer recommends the following language: **"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."

2. The Hearing Officer recommends that the Department use the terms "CTC" and "facility" more consciously and consistently throughout the Proposed Rule. Depending on the Department's intent, the Hearing Officer recommends that the Department generally use the term "CTC" instead of "facility" to make it clearer that it is the CTC that is licensed to provide services in a particular physical space ("facility") as opposed to the physical space or owner of the physical space being the licensee.

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4. **7.30.13.7(W)**: Correct typographical error in the definition of "Level III.7-D: Medically Monitored Inpatient Detoxification" to use the correct designation, rather than "Level III.&-D". More importantly, the definition the Department provided in its revised Proposed Rule references and incorporates Level IV-D, which appears to be a higher level of care suitable for severe unstable withdrawal that requires medically managed intensive inpatient detoxification in a hospital setting. The Hearing Officer recommends that the Department review the definition of "Level III.7-D: Medically Monitored Inpatient Detoxification" to clarify that definition captures the Department's intent with respect to the level of care a CTC may provide, given the revision to 7.30.13.9(C)(2), which provides: "the CTC shall not provide detoxification services beyond Level

III.7-D: Medically Monitored Inpatient Detoxification services.” Depending on the Department’s intent, the Hearing Officer recommends that the Department either remove the incorporation of Level IV-D from the definition of “Level III.7-D: Medically Monitored Inpatient Detoxification” or clarify that the CTCs are permitted to provide Level IV-D care.

5. Further revise Scope of Services provisions for clarification as follows:

a. **7.30.13.9(A):** Correct the typographical error. The provision should say “14 years of age” rather than “14 years or age” In addition, it appears that the Department intends to allow CTCs to admit clients but not require such admissions to occur 24/7. If that is the case, the word “admission” should not be struck from this section. Only the words “24 hours a day, seven days a week” should be deleted.

b. **7.30.13.9(C)(2):** See recommendation above for **7.30.13.7(W)**. If the Department intends for CTCs to not provide services beyond Level III.7-D, the definition set forth in 7.30.13.7(W) should not incorporate Level IV-D into that definition, which currently appears to be the case.

c. **7.30.13.9(C)(9):** Correct the citation in the new provision to be NMSA 1978, § 43-1-15(M), which addresses the administration of psychotropic medication. The current citation, § 43-1-15(G), does not appear to apply to this provision.

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11. **7.30.13.25(H):** Please correct the spelling of “applicable” in this provision.

12. **7.30.13.26:** Use “A licensed mental health professional . . .” instead of “An licensed mental health professional . . .”

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New Mexico Department of Health
Proposed New Rule 7.30.13 NMAC “Crisis Triage Centers”
Hearing: May 30, 2018

19405-092

Lynn E. Mostoller
SUTIN THAYER  BROWNE
A PROFESSIONAL CORPORATION
LAWYERS

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3.	Transmittal Forms (to be added upon receipt)	
4.	Notice of Public Hearing	
5.	Affidavit of Publication and Proof of Publication in the NM Registrar Journal	
6.	Affidavit of Publication and Proof Publication in the Albuquerque Journal	
7.	Request for Copy of the Rule (none received)	
8.	Public Comments a. Santa Fe Recovery Center b. New Mexico Solutions c. County of Santa Fe d. Hidalgo Medical Services e. Disability Rights New Mexico f. County of Bernalillo	
9.	Visitor Sign-In Sheets	
10.	5.30.18 Audio Recording of Hearing	
11.	June 15, 2018 letter from Lynn E. Mostoller, Esq. to Witter Tidmore, Esq. inviting the Department to respond to certain public comments	
12.	August 22, 2018 letter from Witter Tidmore, Esq. responding to public comments addressed in the June 15, 2018 letter	
13.	Post-Hearing Comment Draft of Proposed Rule 7.30.13 NMAC, received from the Department on August 22, 2018	
14.	Report and Recommendation of the Hearing Officer	

TAB 1

TITLE 7 HEALTH
CHAPTER 30 FAMILY AND CHILDREN HEALTH CARE SERVICES
PART 13 CRISIS TRIAGE CENTERS

7.30.13.1 ISSUING AGENCY: New Mexico Department of Health (DOH), Division of Health Improvement (DHI).
[7.30.13.1 NMAC - N, xx/xx/2018]

7.30.13.2 SCOPE: These regulations apply to public, profit and not for profit crisis triage centers providing the services specified in these regulations. Any crisis triage center providing services specified in these regulations must be licensed under these regulations.
[7.30.13.2 NMAC - N, xx/xx/2018]

7.30.13.3 STATUTORY AUTHORITY: The regulations set forth herein are promulgated by the secretary of the New Mexico department of health, pursuant to the general authority granted under Subsection E of Section 9-7-6, NMSA 1978; and the authority granted under Subsection D of Section 24-1-2, Subsection I of Section 24-1-3 and Section 24-1-5, NMSA 1978.
[7.30.13.3 NMAC - N, xx/xx/2018]

7.30.13.4 DURATION: Permanent.
[7.30.13.4 NMAC - N, xx/xx/2018]

7.30.13.5 EFFECTIVE DATE: xx/xx/2018, unless a later date is cited at the end of a section.
[7.30.13.5 NMAC - N, xx/xx/2018]

7.30.13.6 OBJECTIVE:

A. To establish minimum standards for licensing crisis triage centers that provide quality crisis stabilization services outside of a hospital setting.

B. To ensure the provision of quality services which maintain or improve the health and quality of life to the clients.

C. To monitor compliance under these regulations through surveys and to identify any facility areas which could be dangerous or harmful.

[7.30.13.6 NMAC - N, xx/xx/2018]

7.30.13.7 DEFINITIONS:

A. “**Acute medical alcohol detoxification**” means cessation or reduction in alcohol use that has been heavy and prolonged with two or more of the following developing within several hours to a few days after the cessation of or reduction in alcohol use:

- (1) autonomic hyperactivity;
- (2) increased hand tremor;
- (3) insomnia;
- (4) nausea or vomiting;
- (5) transient visual, tactile, or auditory hallucinations or illusions;
- (6) psychomotor agitation;
- (7) anxiety; or
- (8) generalized tonic-clonic seizures causing clinically significant distress or impairment in

social, occupational, or other important areas of functioning. The signs and symptoms are not attributable to another medical condition and are not better explained by another mental disorder, including intoxication or withdrawal from another substance. This condition is of sufficient severity to require primary medical and nursing care services including 24-hour observation, monitoring, and treatment.

B. “**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 facility and all of the services provided at the facility including fiscal management. The administrator must meet the minimum administrator qualifications in these regulations.

C. **“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.

D. **“Applicant”** means the individual or legal entity that applies for a license. If the applicant is a legal entity, then 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 facility.

E. **“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.

F. **“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.

G. **“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.

H. **“CLIA”** means clinical laboratory improvement amendments of 1988 as amended.

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

J. **“Compliance”** means the facility’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 facility license.

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

L. **“CYFD”** means the New Mexico children youth and families department.

M. **“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.

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

O. **“Department”** means the New Mexico department of health.

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

Q. **“Employee”** means any person who works at the facility and is a direct hire of the owner entity or management company, if applicable.

R. **“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.

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

T. **“HSD”** means the NM human services department.

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

V. "Incident management system" means the written policies and procedures adopted or developed by the licensed health facility for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

W. "Incident report form" means the reporting format issued by the department for the reporting of incidents or complaints.

X. "Licensee" means the person(s) or legal entity that operates the physical premises and facility and in whose name the facility license has been issued and who is legally responsible for compliance with these regulations.

Y. "Licensing authority" means the New Mexico department of health.

Z. "Licensed mental health professional" means a psychologist, social worker, physician, psychiatrist, physician assistant, registered nurse, practical nurse, advanced practice registered nurse, with behavioral health training, licensed in the state of New Mexico.

AA. "Management company" means the legal entity that manages the facility, if different from the legal owner of the facility.

BB. "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.

CC. "NMSA" means the New Mexico Statutes Annotated 1978 compilation and all subsequent amendments, revisions and compilations.

DD. "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.

EE. "Physical restraint" means the use of physical force 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.

FF. "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.

GG. "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.

HH. "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 facility license, including to prove licensee compliance violations or failures.

II. "Policy" means a written statement that guides and determines present and future facility decisions and actions.

JJ. "Premises" means all of the facility including buildings, grounds and equipment.

KK. "Primary source verification" means the act of obtaining credentials directly from the original or primary source(s).

LL. "Procedure" means the action(s) that must be taken in order to implement a written policy.

MM. "Quality assurance" means the licensed health care facility's on-going comprehensive self-assessment of compliance with these regulations and other applicable statutes and regulations.

NN. "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.

OO. "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.

PP. “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.

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

RR. “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.

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

TT. “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.

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

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

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

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

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

ZZ. “Variance” means a written decision, made at the licensing authority’s sole discretion, to allow a facility to deviate from a portion(s) or a provision(s) of these regulations for a period that expires upon remodel of the facility or change of ownership, providing the variance does not jeopardize the health, safety or welfare of the facility’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.

AAA. “Waiver” means a written decision, made at the licensing authority’s sole discretion, to allow a facility 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 facility’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.

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

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

DDD. “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.

[7.30.13.7 NMAC - N, xx/xx/2018]

7.30.9.8 STANDARD OF COMPLIANCE: The degree of compliance required throughout these regulations is designated by the use of the words “shall” or “must” or “may”. “Shall” or “must” means mandatory compliance. “May” means permissive compliance. The words “adequate”, “proper”, and other similar words mean the degree of compliance that is generally accepted throughout the professional field by those who provide services to the public in facilities.

[7.30.13.8 NMAC - N, xx/xx/2018]

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. The CTC

provides emergency behavioral health triage, evaluation, and admission 24 hours a day, seven days a week on a voluntary basis. The CTC may serve individuals 14 years or 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 shall not accept involuntary commitments or individuals who are not voluntarily seeking treatment;
- (2) the CTC shall not provide acute medical alcohol withdrawal management;
- (3) the CTC shall not provide medical care not related to crisis triage intervention services beyond basic medical care of first aid and CPR;
- (5) the CTC shall not provide residential services in excess of eight days;
- (6) the CTC shall not provide ongoing outpatient behavioral health treatment;
- (7) the CTC shall not exceed 16 short-term residential beds, including adults and youth, in a single licensed provider and shall not exceed the capacity for which the facility is licensed;
- (8) 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.

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 facility 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, xx/xx/2018]

7.30.13.10 INITIAL LICENSE PROCEDURES: These regulations should be thoroughly understood and used by the applicant, when applying for the initial CTC license. The applicant for an initial facility license under these regulations must follow these procedures when applying for a license.

A. Notification and letter of intent: The owner shall advise the licensing authority of its intent to open a crisis triage center pursuant to these regulations by submitting a letter of intent. The letter of intent must be on the applicant's letterhead and signed by a person with authority to make legal decisions for the owner and the facility and at a minimum, include the following:

- (1) the name of facility;
- (2) the name of the legal owner and licensee and the type of legal entity under which the facility shall be owned;
- (3) the name of the management company, if any;
- (4) the type of facility license requested;
- (5) the name and resume of the proposed administrator;
- (6) the anticipated number of residential and non-residential clients to be served;
- (7) the intended population and age range of the clients to be served;
- (8) the number of residential beds in the proposed facility;
- (9) the physical address of facility including building name or suite number;
- (10) the mailing address, if different from physical address;
- (11) the applicant's contact name(s), address, e-mail address, and telephone number(s);
- (12) the anticipated payers and sources of reimbursement; and
- (13) a list of all services to be provided at the facility location which is requesting the license.

B. License application and fees: After review by the department of the letter of intent for general compliance with these regulations and verification that an application is appropriate under these regulations, the owner shall be required to complete a license application on a form provided by the department. Prior to any construction, renovation or addition to an existing building and after review and approval of the letter of intent by the department, the applicant must submit to the licensing authority an application form provided by the department, fully completed, printed or typed, dated, signed, and notarized accompanied by the required fee. If electronic filing of license applications is available at the time of application, the applicant will be required to follow all electronic filing requirements, and may forgo any notary requirements, if specifically allowed under the applicable electronic filing statutes, regulations and requirements. The licensing authority will provide current fee schedules. The department reserves the right to require additional documentation to verify the identity of the applicant in order to verify whether any federal or state exclusions may apply to the applicant. Fees must be paid in the form of a certified check, money order, personal, or business check, or electronic transfer (if available), made payable to the state of New Mexico, and are non-refundable. The applicant must also attach to the application and submit to the department, a set of building plans which includes all of the information required by these rules, accompanied by proof of zoning approvals by the applicable building authority.

C. Building plans: The facility building plans must be of professional quality, prepared and stamped by an Architect licensed by the state of New Mexico pursuant to Subsection B of Section 61-15-9 NMSA 1978. One copy of the building plans must be submitted, printed on substantial paper measuring at least 24" x 36", and drawn to an accurate scale of at least 1/8 inch to 1 foot. The building plans for renovated or building additions to an existing building must include sufficient information to clearly distinguish between new and existing construction, for the department to make a compliance determination. The following plans are the minimum required for all facilities in new and /or renovated construction:

(1) **Site plan:** showing the location of the building on a site/plot plan to determine surrounding conditions, driveways, all walks and steps, ramps, parking areas, handicapped and emergency vehicle spaces, accessible route to the main entrance, secure yard for clients, any permanent structures, including notes on construction materials used.

(2) **Life safety and code compliance plan:** noting applicable code requirements and compliance data, locations of rated fire walls, smoke partitions (if any), exit paths & distances, fire extinguishers locations.

(3) **Floor plans:** showing location use of each room, (e.g., waiting room, examination room, office, client (resident) rooms, kitchen, common elements, door locations (swings), window locations, restrooms, locations of all restrooms, plumbing fixtures (sinks, toilets, tubs-showers; location a of all level changes within and outside the building (e.g. steps or ramps, etc.); and all other pertinent explanatory information addressing the requirements in applicable regulations.

(4) **Dimensioned floor plan:** showing all exterior and interior dimensions of all rooms, spaces, and corridors, etc.

(5) **Exterior building elevations:** noting all building heights, locations of exterior doors, and any operable and fixed windows (sill heights).

(6) **Building and wall sections:** showing at least one building or wall section showing an exterior and interior wall construction section including the material composition of the floor, walls, and ceiling/roof construction.

(7) **Schedule sheets:** room finish: noting all room finishes, (e.g., carpet, tile, gypsum board with paint, etc); door schedule; noting door sizes/thickness, door types & ratings; window schedule, noting sizes, type and operation; skylight schedule, noting size, type.

(8) **Special systems plan:** location of fire extinguishers, heat and smoke detectors, nurse call systems, and operational elements of alarm system.

(9) **Mechanical plans:** noting location of heating units, furnaces, hot water heaters, and fuel type and source; all heating, ventilating and air conditioning/cooling systems including locations of fire dampers.

(10) **Plumbing plan:** noting all plumbing fixture locations, fixture types.

(11) **Electrical plan:** noting power and lighting layouts, exit lighting, emergency lighting fixtures, emergency power systems (if any), electrical panel information.

(12) **Other plans:** As necessary (ie; phasing plan) to describe compliance with the other requirements in applicable regulations.

D. New construction: Building plans must be submitted, and will be reviewed by the department for compliance with these licensing regulations, and applicable building and fire safety codes. If the department approves the facility's building plans and local building officials have issued a construction permit, construction may begin.

This provision is an ongoing requirement and applies to, and includes all construction at the facility, which occurs before and after issuance of the initial license. This provision does not generally apply to maintenance and repair. However, if the maintenance or repair impacts or alters any of the facility requirements under these regulations, the applicant or licensee must notify the department and verify ongoing compliance with these regulations. The department shall not be liable for any costs or damages incurred by the applicant relating to construction in the event the applicant incurs costs or damages in order to comply with these regulations or to obtain a license under these regulations. For all new and proposed construction, the applicant or licensee must submit for building plan approval by the department before construction begins.

E. Existing or renovated construction: If the proposed facility includes any remodeling, renovations or additions or new construction of any type, the building plans and specifications covering all portions of the proposed work delineating all existing construction and all new or proposed construction shall be and submitted to the department for review and approval. Submit phasing plan if project construction will be phased. New facilities proposed for licensure in existing buildings must comply with all requirements building requirements as if it were completely new construction. If the CTC is located within another licensed facility such as a hospital, the life safety inspection will still be required for compliance with 7.30.13 NMAC requirements. For residential CTC programs, the bed count must be separate from the licensed bed count of the original licensed facility. If a CTC is a separate building associated with an existing license, requirements of this regulation apply to that building.

F. Completed construction: All new or renovated construction completed shall comply with the plans and specifications approved by the department in the plan review process and prior to construction, these rules, and all other applicable rules and codes; and any of the department's approval(s) shall not waive any other rules or other applicable building and code requirements enforceable by other authorities having jurisdiction. Applicant must receive initial life safety code approval and a temporary license from this department prior to accepting or admitting any clients into the facility.

G. Additional documents required for license application: The department reserves the right to require an applicant to provide all additional documents, as part of its license application, in order for the department to determine whether the applicant and the facility are in full compliance with these regulations, as well as all other applicable statutes and regulations. At minimum, additional documents required to be provided as part of the initial licensure process prior to the issuance of a temporary license, include, but are not limited to:

(1) Building approvals: The applicant must submit all building approvals required for the facility to operate in the jurisdiction in which it is located, including but not limited to:

- (a)** written zoning approval, building permit final approval, or certificates of occupancy from the appropriate authority (state, city, county, or municipality) for business occupancy; and
- (b)** written fire marshal approvals from the fire safety authority having jurisdiction.

(2) Environment department approvals: If applicable or required, the applicant must provide written approval from the New Mexico environment department for the following:

- (a)** private water supply;
- (b)** private waste or sewage disposal;
- (c)** kitchen/food service;
- (d)** x-ray equipment (if any).

(3) Board of pharmacy approvals: A copy of facility's drug permit issued by the state board of pharmacy must be provided.

(4) Program description: The applicant must submit with its license application a program outlines consistent with these regulations which includes at a minimum, the following information:

- (a)** a list and description of all services and the scope of those services to be provided by the proposed facility;
- (b)** projected number of clients to be served monthly, both residential and non-residential;
- (c)** a list of staffing and personnel requirements and duties to be performed;
- (d)** proposed 24/seven staffing plans for both residential and non-residential programs;
- (e)** photocopies of operating agreements with the following: treatment facilities for behavioral health and physical health care needs that are beyond the scope of the facility; and behavioral health agencies for follow-up appointments for individuals discharged from the licensed facility;
- (f)** admission and discharge criteria; and
- (g)** an organizational structure diagram or chart including the administrator, governing body, clinical director, director of nursing, direct care staff, and other staff.

(5) **Policies and procedures:** The applicant must submit with its license application a copy of the facility's policies and procedures with a crosswalk to these regulations to show compliance. [7.30.13.10 NMAC - N, xx/xx/2018]

7.30.13.11 LICENSE TYPES, VARIANCES & WAIVERS:

A. Temporary license:

(1) The licensing authority may, at its sole discretion, issue a temporary license prior to the initial survey, or when the licensing authority finds partial compliance with these regulations.

(2) The licensing authority may, at its sole discretion, issue a temporary license before clients are admitted, provided that the facility has:

- (a) submitted a license application, with required supporting documents;
- (b) has met all of the applicable life safety code requirements; and
- (c) its program, policies, and procedures have been reviewed and approved for

compliance with these regulations.

(3) a temporary license is not guaranteed under these regulations and shall be limited and restricted to:

- (a) a period, not to exceed 120 days, during which the facility must correct all specified deficiencies;
- (b) no more than two consecutive temporary licenses shall be issued in accordance with applicable statutes and regulations;
- (c) a finding that the applicant is qualified and in full compliance with life safety code requirements;
- (d) the facility being allowed to accept clients and provide care services, subject to any requirements and restrictions attached to the temporary license;
- (e) a statement from the applicant that they are qualified and in full compliance with these regulations and the owner has requested an initial health survey from the licensing authority.

B. Annual license: An annual license is issued for a one-year period to a facility which has met all requirements of these regulations. If a temporary license is issued, once the department has issued a written determination of full compliance with these regulations, an annual license will be issued with the renewal date of the annual license based upon the initial date of the first temporary license.

C. Amended license: A licensee must apply to the licensing authority for an amended license when there is a change of administrator or when there is a change of name for the facility, but an amended license shall only be issued if the administrator is not an owner. If the administrator is also the owner, a new license application must be submitted as provided in this regulation. The amended license application must:

- (1) be on a form, or filed electronically if available, as required by the licensing authority;
- (2) be accompanied by the required fee for the amended license; and
- (3) be submitted within 10 working days of the change.

D. Variances and waivers: At the licensing authority's sole discretion, an applicant or licensee may be granted variances and waivers of these regulations, provided the granting of such variance or waiver shall not jeopardize the health, safety or welfare of the facility's clients, patients and staff and is not in violation of other applicable state and federal statutes and regulations. Variances and waivers are non-transferrable. Waivers and variances 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.

(1) all variances shall be in writing, attached to the license and shall expire upon remodel of the facility or change of ownership;

(2) all waivers shall be in writing, attached to the license and shall be limited to the term of the license. Upon renewal of a license, waivers shall only be extended or continued at the sole discretion of the licensing authority.

[7.30.13.11 NMAC - N, xx/xx/2018]

7.30.13.12 LICENSE RENEWAL:

A. Licensee must submit a renewal application, electronically, if available, or on forms authorized by the licensing authority, along with the required license fee at least 30 days prior to expiration of the current license. The applicant shall certify that the facility complies with all applicable state and federal regulations in force at the time of renewal and that there has been no new construction or remodeling or additions, which differ from the plans provided and reviewed with the prior license application. If there has been any construction, remodeling, or

additions to the facility since issuance of the last license, and the construction has not been previously approved by the department, the license renewal applicant shall be required to comply with all construction documentation requirements under these regulations when applying for the license renewal. The department reserves the right to require that a renewal applicant provide all additional documents, including any necessary proof of current compliance, as part of its license renewal application for the department to determine whether the applicant and the facility are in full compliance with these regulations.

B. Upon receipt of the renewal application and the required fee, the licensing authority will issue a new license effective the day following the date of expiration of the current license, if the facility is in substantial compliance with these regulations and all other applicable state and federal regulations.

C. If the existing license expires and the licensee has failed to submit a renewal application, the department may charge the applicant a civil monetary penalty of one hundred dollars (\$100) for each day, in accordance with Section 24-1-5.2 NMSA 1978, as amended, that the facility continues to operate without a license providing that during such time the facility remains in full compliance with these regulations. If the facility does not renew its license and continues to operate without paying civil monetary penalties and without being in full compliance with these regulations, the facility shall cease operations until it obtains a new license through the initial licensure procedures, and shall still be required to pay civil monetary penalties. Under Section 24-1-5 NMSA 1978, as amended, no crisis triage center shall be operated without a license and any such failure may subject the operators to various sanctions and legal remedies, including at a minimum the imposition of civil monetary penalties.

D. It shall be the sole responsibility and liability of the licensee to be aware of the status, term and renewal date of its license. The licensing authority shall not be responsible to notify the facility of the renewal date or the expiration date of the facility's license.

E. After issuance of the initial license, if there has been no construction, remodeling or additions to the facility and the facility is in substantially the same condition as the plans on file with the department, and the facility is in substantial compliance with these regulations and provides an application and fee the facility may be issued a license renewal. The department, at its sole discretion, reserves the right to require additional documentation of compliance with these regulations and all applicable state and federal statutes and regulations by the licensee at the time of license renewal.

[7.30.13.12 NMAC - N, xx/xx/2018]

7.30.13.13 POSTING OF LICENSE: The facility's official license must be posted in a conspicuous place on the licensed premises in an area visible to the public.

[7.30.13.13 NMAC - N, xx/xx/2018]

7.30.13.14 NON-TRANSFERABLE RESTRICTION ON LICENSE: A license granted under these regulations is not transferable to any other owner, whether an individual or legal entity, or to another location. The department shall not guarantee or be liable for or responsible for guaranteeing the transfer of the license to any other owner or other location. The existing license shall be void and must be returned to the licensing authority when any one of the following situations occurs:

- A.** any ownership interest in the facility changes;
- B.** the facility changes location;
- C.** the licensee of the facility changes; or
- D.** the facility discontinues operation.

[7.30.13.14 NMAC - N, xx/xx/2018]

7.30.13.15 CHANGE OF OWNERSHIP: When a change of ownership occurs, an initial license application must be submitted by the new owner per the requirements in this section. The new owner must demonstrate compliance with these regulations the instant it takes responsibility of the facility. The licensing authority may, at its sole discretion, approve a change of ownership. In addition to the requirements in Section 7.30.13.10 NMAC - application for licensure, the new owner must submit the following at least 60 days prior to completion of the change of ownership:

- A.** An explanation of terms of the change of ownership and the date the ownership will change.
- B.** Documents evidencing the change of ownership such as proof of sale or donation, lease of any portion of the facility or other relevant documents.
- C.** Building plans of the current structure with any modifications known to the current or new owner.
- D.** A continuity of care transition plan that describes how the new owner will maintain the provision of services and continuity of care, keep residential clients safe and meet the requirements of these regulations at the

instant it takes responsibility of the facility. The plan must state the actions that will occur, the party responsible for taking each action, and the expected date of completion for each action. The plan must include the following:

- (1) list of all residential clients at the time of notice to the licensing authority;
- (2) review and update of all residential client assessments. All assessments must be current and accurate;
- (3) review and update of all crisis intervention plans for clients receiving service at the time of transition and for all residential clients. All plans must be current and accurate;
- (4) staffing as required in Section 7.30.13.29 NMAC of these rules and the number and positions of current staff that will be hired by the new owner;
- (5) staff training as required in Section 7.30.13.32 NMAC;
- (6) identification of all waivers or variances held by the current owner, and submission of any necessary waivers or variances. All waivers or variances held by the current owner are void upon the change of ownership;
- (7) signed transfer agreements as required in Section 7.30.13.22 NMAC of these rules.
- (8) Failure by any individual or entity to apply for and obtain a new license while continuing to operate under these regulations, shall be considered in violation of these regulations and 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.

[7.30.13.15 NMAC - N, xx/xx/2018]

7.30.13.16 AUTOMATIC EXPIRATION OR TERMINATION OF LICENSE: An existing license shall automatically expire at midnight on the day indicated on the license, unless it is renewed sooner, or it has been suspended or revoked.

A. If a facility discontinues operation, is sold, leased or otherwise changes any ownership interest or changes location, the existing license shall automatically expire at midnight on the date of such action.

B. Failure by any owner or new owner to apply for a renewal or new license, while continuing to operate under these regulations, shall be considered a violation and subject to the imposition of civil monetary penalties, sanctions or other actions for operating without a license, allowed under these regulations and all other applicable statutes and regulations.

[7.30.13.16 NMAC - N, xx/xx/2018]

7.30.13.17 ENFORCEMENT:

A. Suspension of license without prior hearing: If immediate action is required to protect human health and safety, the licensing authority may act in accordance with Section 24-1-5 NMSA 1978, as amended, and suspend a license pending a hearing, provided such hearing is held within five working days of the suspension, unless waived by the licensee.

B. An initial license application or a renewal license application may be denied, or an existing license may be revoked or suspended, or intermediate sanctions or civil monetary penalties may be imposed, after notice and opportunity for a hearing, for any of the following:

- (1) failure to comply with any provision of these regulations;
- (2) failure to allow access to the facility and survey(s) by authorized representatives of the licensing authority;
- (3) allowing any person to work at the facility while impaired physically or mentally or under the influence of alcohol or drugs in a manner which harms the health, safety or welfare of the clients, staff or visitors;
- (4) allowing any person, subject to all applicable statutes and regulations, to work at the facility if that person is listed on the employee abuse registry, nurse aid registry, or considered an unemployable caregiver or has a disqualifying conviction under the caregiver's criminal history screen act, as amended,]and related regulations, as amended.
- (5) the list above shall not limit the department from imposing sanctions and civil monetary penalties under all applicable statutes, regulations and codes.

[7.30.13.17 NMAC - N, xx/xx/2018]

7.30.13.18 HEARING PROCEDURES: Hearing procedures for an administrative appeal of an adverse action taken by the department against a facility's license will be held in accordance with applicable rules relating to adjudicatory hearings, including but not limited to, Section 7.1.2 NMAC, as amended. A copy of the above

regulations will be furnished at the time an adverse action is taken against a facility's license by the licensing authority, if the regulations cannot be obtained from a public website.
[7.30.13.18 NMAC - N, xx/xx/2018]

7.30.13.19 FACILITY SURVEYS:

A. Application for licensure, whether initial or renewal, shall constitute permission for unrestricted entry into and survey of a facility by authorized licensing authority representatives at times of operation during the pendency of the license application, and if licensed, during the licensure period.

B. Surveys may be announced or unannounced at the sole discretion of the licensing authority.

C. Upon receipt of a report of deficiency from the licensing authority, the licensee or his/her representative shall be required to submit a plan of correction to the licensing authority within 10 working days stating how the facility intends to correct each violation noted and the expected date of completion. All plans of correction for deficiencies, if any, shall be disclosed in compliance with applicable statutes and regulations. A plan of correction is not confidential once it has been approved and is admissible for all purposes in any adjudicatory hearing and all subsequent appeals relating to a facility license, including to prove licensee compliance violations. The plan of correction must contain the following:

(1) what measures will be put into place or what systematic changes will be made to ensure the deficient practice does not recur;

(2) the anticipated implementation date (a reasonable time-frame is allowed);

(3) how the corrective action will be monitored to ensure compliance;

(4) what quality assurance indicators will be put into place;

(5) who will be responsible to oversee their monitoring; and

(6) plan of correction shall be signed and dated by the administrator or authorized representative.

D. The licensing authority may at its sole discretion accept the plan of correction as written or require modifications of the plan by the licensee.

[7.30.13.19 NMAC - N, xx/xx/2018]

7.30.13.20 REPORTING OF INCIDENTS: All facilities licensed under these regulations must comply with all incident intake, processing, training and reporting requirements under these regulations, as well as with all other applicable statutes and regulations. All facilities shall report to the licensing authority any serious incidents or unusual occurrences which have threatened, or could have threatened the health, safety and welfare of the clients, including but not limited to:

A. fire, flood or other man-made or natural disasters including any damage to the facility caused by such disasters and any incident which poses or creates any life safety or health hazards;

B. any outbreak of contagious diseases and diseases dangerous to the public health;

C. any human errors by staff and employees which may or has resulted in the death, serious illness, hospitalization, or physical impairment of a client or staff; and

D. abuse, neglect, exploitation, and injuries of unknown origin and other reportable incidents in accordance with 7.1.13 NMAC, as may be amended from time to time.

[7.30.13.20 NMAC - N, xx/xx/2018]

7.30.13.21 GOVERNING BODY: All facilities licensed under these regulations must have a formally constituted governing body or operate under the governing body of the legal entity, which has ultimate authority over the facility.

A. The governing body shall:

(1) establish and adopt bylaws that govern its operation;

(2) approve policies and procedures;

(3) appoint an on-site administrator or chief executive officer/administrator for the facility;

and

(4) review the performance of the administrator/chief executive officer at least annually.

B. The governing body may appoint committees consistent with the size and scope of the facility.

[7.30.13.21 NMAC - N, xx/xx/2018]

7.30.13.22 POLICIES AND PROCEDURES: The facility shall establish written policies and procedures that are reviewed annually and approved by the governing body, which govern the facility's operation. The

administrator shall ensure that these policies and procedures are adopted, administered and enforced to provide quality services in a safe environment. At a minimum, the facility's written policies and procedures shall include how the facility intends to comply with all requirements of these regulations and address:

- A. the establishment, composition, and responsibilities of the governing body;
- B. administration including the minimum qualifications of the administrator, the process to hire an administrator, and define the administrator's authority, responsibility, and accountability including plans for the administrator's absence;
- C. quality assurance and improvement systems;
- D. incident management system;
- E. the maintenance of the facility, equipment and supplies; inspection and maintenance of emergency equipment; maintenance of emergency supplies; maintenance, upkeep and cleaning of the building(s) and equipment; fire and emergency evacuation procedures; and proper disposal of waste liquids used for cleaning contaminated areas;
- F. quality of care and services including appropriate and inappropriate admission and discharge criteria; and client risk assessment;
- G. referral of clients for services; transfer of clients to a hospital or other facility or program; ambulance transfer services; and emergency procedures and resuscitative techniques;
- H. infectious waste and biohazard disposal in accordance with all applicable statutes and regulations;
- I. infection control and prevention;
- J. staffing plan, personnel records, and personnel including written job descriptions for all staff with necessary qualifications consistent with these rules; minimum staffing; and staff development;
- K. maintenance of the client health record including protection of client confidentiality and privacy as required by law; secure release of medical information and records; and safe handling and storage of client records including appropriate document destruction procedures;
- L. the retention, maintenance, security and destruction of client, personnel and facility records;
- M. research procedures for any research being conducted at the facility in compliance with these regulations;
- N. dietary services including: meal service; staff in-service training; dietary records; clean and sanitary conditions; and food management;
- O. housekeeping services to keep the facility safe, clean, and free of hazards and clutter;
- P. laundry services for the facility's laundry and resident's laundry including handling, process and storage of clean and dirty laundry;
- Q. pharmacy practices including the storage, administration, and disposal of medications; medication management; and documentation;
- R. laboratory services;
- S. client's personal belongings including locked storage and contraband;
- T. client rights;
- U. safety management plan including, but not limited to, risk assessment, control of potentially injurious items, crisis prevention and intervention, seclusion, physical restraint, and mitigation of high risk behaviors including suicide and assault. The safety plan shall follow a least to most restrictive sequence;
- V. authorized entry to or exit from the facility including the residential and outpatient components;
- W. withdrawal management services; and
- X. primary source verification of licenses, credentials, experience and competence of staff.

[7.30.13.22 NMAC - N, xx/xx/2018]

7.30.13.23 QUALITY IMPROVEMENT SYSTEMS: Each facility shall establish and maintain quality improvement systems including policies and procedures for quality assurance and quality improvement and have a quality committee.

A. The facility shall establish a quality committee comprised at a minimum of the administrator, clinical director, director of nursing, licensed mental health professional, certified peer support worker, and psychiatrist. Other committee members may be specified by rules governing payor requirements. Members may participate on the quality committee by teleconference. The committee shall establish and implement quality assurance and quality improvement systems that monitor and promote quality care to clients. The systems are approved by the governing body and updated annually.

- (1) the quality improvement systems must include:
 - (a) chart reviews;

(b) annual review of policies and procedures;
(c) data collection, and other program monitoring processes;
(d) data analyses;
(e) identification of events, trends and patterns that may affect client health, safety or treatment efficacy;
(f) identification of areas for improvement;
(g) intervention plans, including action steps, responsible parties, and completion time; and,
(h) evaluation of the effectiveness of interventions.

(2) when areas of concern or potential problems are identified by the committee, the facility shall act as soon as possible to avoid and prevent risks to clients.

(3) the quality committee shall take and maintain meeting minutes.

B. The quality committee shall review at a minimum, the following:

(1) high-risk situations and critical incidents (such as suicide, death, serious injury, violence and abuse, neglect and exploitation) within 24 hours;

(2) medical emergencies;

(3) medication variance;

(4) infection control;

(5) emergency safety interventions including any instances of seclusion or physical restraints; and

(6) environmental safety and maintenance.

C. The quality committee is responsible for the implementation of quality improvement processes.

D. The quality committee shall submit a quarterly report to the governing body for review and approval.

E. The governing body shall evaluate the facility's effectiveness in improving performance.

[7.30.13.23 NMAC - N, xx/xx/2018]

7.30.13.24 RISK ASSESSMENT:

A. The facility shall develop policies and procedures addressing risk assessment and mitigation including, but not limited to: assessments, crisis intervention plans, treatment, approaches to supporting, engaging, and problem solving, staffing, levels of observation and documentation. The policies and procedures must prohibit seclusion and address physical restraint, if used, and the facility's response to clients that present with imminent risk to self or others, assaultive and other high-risk behaviors.

B. Use of seclusion is prohibited. The use of physical restraint must be consistent with federal and state laws and regulation.

C. Physical restraint, as defined in these regulations, shall be used only as an emergency safety intervention of last resort to ensure the physical safety of the client and others, and shall be used only after less intrusive or restrictive interventions have been determined to be ineffective.

D. Physical restraint shall not be used as punishment or for the convenience of staff.

E. Physical restraint are implemented only by staff who have been trained and certified by a CYFD or HSD recognized body in the prevention and use of physical restraint. This training emphasizes de-escalation techniques and alternatives to physical contact with clients as a means of managing behavior. Clients and youth do not participate in the physical restraint of other clients and youth.

F. Crisis intervention plans must document the use of physical restraints and address: the client's medical condition(s); the role of the client's history of trauma in his/her behavioral patterns; specific suggestions from the client regarding prevention of future physical interventions.

G. All clients physically restrained shall be afforded full privacy away from other clients receiving services.

H. A chemical restraint shall not be utilized under any circumstance. A chemical restraint is a drug or medication when it is used as a restriction to manage the client's behavior or restrict the client's freedom of movement, and is not a standard treatment or dosage for the 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.

I. Mechanical restraint shall not be utilized under any circumstances. Mechanical restraint is the use of a mechanical device(s) to physically restrict a client's freedom of movement, performance of physical activity or normal access to his or her body and is distinct from physical restraint.

J. The staff implementing the physical restraint shall conduct a debriefing immediately following the incident to include the identification of the precipitating event, unsafe behavior and preventive measures with the intent of reducing or eliminating the need for future physical restraint. The debriefing shall be documented in the client's record.

K. The client's crisis intervention plan shall be updated: within 24 hours of admission or prior to discharge, whichever comes first; and following physical restraint use to incorporate the debriefing and changes needed to lessen the chance of the situation reoccurring.

L. Each incident of physical restraint shall be documented in the client's record including:

- (1) the less intrusive interventions that were attempted or determined to be inappropriate prior to the incident;
- (2) the precipitating event immediately preceding the behavior that prompted the use of physical restraint or seclusion;
- (3) the behavior that prompted the use of a physical restraint;
- (4) the names of the mental health professional who observed the behavior that prompted the use of the physical restraint;
- (5) the names of the staff members implementing and monitoring the use of physical restraint; and
- (6) a description of the of the physical restraint incident, including the type and length of the use of physical restraint, the client's behavior during and reaction to the physical restraint and the name of the supervisor informed of the use of physical restraint.

M. Physical restraints orders are issued by a restraint/clinician within one hour of initiation of physical restraint and include documented clinical justification for the use of physical restraint.

(1) if the client has a treatment team physician or advanced practice registered nurse and he or she is available, only he or she may order physical restraint;

(2) if physical restraint is ordered by a restraint clinician, not the client's treatment team physician or advanced practice registered nurse, the restraint clinician will contact the client's treatment team physician or advanced practice registered nurse as soon as possible to inform him or her of the situation requiring the physical restraint, and document in the client's record the date and time the treatment team physician or advanced practice registered nurse was consulted and the information imparted;

(3) if the order for physical restraint is verbal, the verbal order must be received by a restraint/clinician or a New Mexico licensed registered nurse (RN) or practical nurse (LPN). The restraint/ clinician must verify the verbal order in a signed, written form placed in the client's record within 24 hours after the order is issued;

(4) each order for physical restraint must be documented in the client's record and must include:

- (a) the name of the restraint/clinician ordering the physical restraint;
- (b) the date and time the order was obtained;
- (c) the emergency safety intervention ordered, including the length of time;
- (d) the time the emergency safety intervention began and ended;
- (e) the time and results of one-hour assessment(s), if ordered;
- (f) the emergency safety situation that required the client to be physically restrained; and
- (g) the name, title, and credentials of staff involved in the emergency safety intervention.

N. Suicide risk interventions must include the following:

(1) a registered nurse or other licensed mental health professional may initiate suicide precautions and must obtain physician or advanced practice registered nurse order within one hour of initiating the precautions;

(2) modifications or removal of suicide precautions shall require clinical justification determined by an assessment and shall be ordered by a physician or advanced practice registered nurse and documented in the clinical record;

(3) staff and client shall be debriefed immediately following an episode of a suicide attempt or gesture, identifying the circumstances leading up to the suicide attempt or gesture;

(4) an evaluation of the client by a medical and psychiatry provider must be done immediately, or the client must be transferred to a higher level of care immediately.

[7.30.13.24 NMAC - N, xx/xx/2018]

7.30.13.25 CLIENT ACCEPTANCE, ADMISSION AND DISCHARGE CRITERIA:

- A.** The facility shall develop admission and discharge criteria related to stabilization of behavioral health crises including out-patient and short-term residential stabilization.
- B.** The facility shall admit 24 hours a day, seven days a week, and discharge seven days a week.
- C.** If a client is not admitted to the facility, the facility shall maintain documentation of the rationale for the denial of services to the individual and any referrals made.
- D.** Admission criteria must be available in writing to all clients and visitors to the facility.
- E.** Materials describing services offered, eligibility requirements and client rights and responsibilities must be provided in a form understandable to the client and legal guardian(s) with consideration of the client's and guardian's primary language, and the mode of communication best understood by persons with visual or hearing impairments, as applicable.
- F.** The facility shall not refuse to admit a client solely on the basis of the individual living in the community on a court ordered conditional release.
- G.** The facility shall conduct an assessment for each client presenting for admission. The admission assessment shall contain an assessment of past trauma or abuse, how the individual served would prefer to be approached should he become dangerous to himself or to others and the findings from this initial assessment shall guide the process for determining interventions.
- H.** Staff shall inspect clients, his clothing, and all personal effects for contraband and weapons before admission to the residential component to ensure the safety of the patient and staff.
- I.** Discharge planning shall begin upon admission.
- J.** Prior to a client returning to a less restrictive environment, staff, with the consent of the client or the client's legal guardian, shall work with the client's support system, as appropriate, to prepare the client for discharge.
- K.** Discharge plan and summary information shall be provided to the client or guardian at the time of discharge that includes:
 - (1) significant findings relevant to the client's recovery;
 - (2) client crisis stabilization plan and progress;
 - (3) recommendations for continued care and appointment times, locations and contact information;
 - (4) recommendations for community services if indicated with contact information for the services;
 - (5) documentation of notification to the client's primary care practitioner, if applicable;
 - (6) evidence of involvement by the client as documented by his signature or refusal to sign; and
 - (7) signatures of all staff participating in the development of plan.
- L.** A copy of the discharge plan shall be provided to post discharge service provider(s).

[7.30.13.25 NMAC - N, xx/xx/2018]

7.30.13.26 PROGRAM SERVICES: An independently licensed mental health professional must assess each individual with the assessment focusing on the stabilization needs of the client. It must be done in a timely manner congruent with the urgency of the presenting crisis, and consistent with the policies and procedures. The assessment must include: medical and mental health history and status, the onset of illness, the presenting circumstances, risk assessment, cognitive abilities, communication abilities, social history and history as a victim of physical abuse, sexual abuse, neglect, or other trauma as well as history as a perpetrator of physical or sexual abuse.

- A.** The CTC shall provide education and clinical programming designed to meet the stabilization needs of each client and implement crisis stabilization plans.
- B.** Crisis stabilization plan - A licensed mental health professional must document a crisis stabilization plan to address needs identified in the assessment.
 - (1) the crisis stabilization plan shall include at a minimum:
 - (a) diagnosis, a problem statement or statement of needs to be addressed;
 - (b) identification of behavioral health crisis leading to intake;
 - (c) goals that address the presenting crisis, and are consistent with the client's needs, realistic, measurable, linked to symptom reduction, and attainable by the client during the client's projected length of stay;

- (d) specific treatment(s) provided, method(s) and frequency of treatment, and staff responsible for delivering treatment;
 - (e) criteria describing evidence of stabilization;
 - (f) discharge planning;
 - (g) evidence of involvement by the client and legal guardian as documented by his signature or refusal to sign; and
 - (h) signatures of all staff participating in the development of plan.
- (2) A copy of the individual crisis stabilization plan shall be provided to the client, and guardian if applicable.
- (3) When program services are offered in a group setting, groups for adults and groups for youth must be separate.
- [7.30.13.26 NMAC - N, xx/xx/2018]

7.30.13.27 CLIENT RIGHTS:

A. All licensed facilities shall understand, protect and respect the rights of all residents. Prior to admission to a facility, a client, parent, legal guardian and legal representative shall be given the applicable written description of the adult's or youth's legal rights, translated into client's preferred language, if necessary, to meet the client's understanding.

B. A written copy of the adult client's legal rights shall be provided to the adult client, the client's legal guardian or agent, if applicable, or to the most significant responsible party in the following order:

- (1) the client's spouse;
- (2) significant other;
- (3) any of the client's adult children;
- (4) the client's parents;
- (5) the client's advocate.

C. The client rights shall be posted in a conspicuous public place in the facility and shall include the telephone numbers to contact the department to file a complaint.

D. To protect client rights, the facility shall:

- (1) treat all clients with courtesy, respect, dignity and compassion;
- (2) not discriminate in admission or services based on gender, gender identity, sex, sexual orientation, client's age, race, color, religion, physical or mental disability, or national origin;
- (3) provide clients written information about all services provided by the facility and their costs and give advance written notice of any changes;
- (4) provide clients with a clean, safe and sanitary living environment;
- (5) provide a humane psychological and physical environment of care for all clients;
- (6) provide the right to privacy, including privacy during assessments, examinations, consultations and treatment;
- (7) protect the confidentiality of the client's clinical record;
- (8) protect the right to personal privacy, including privacy in personal hygiene; privacy during visits with a spouse, family member or other visitor; and reasonable privacy in the client's own room;
- (9) protect the client's right to receive visitors during designated visiting hours except when restricted for good cause pursuant to a physician's order;
- (10) protect the client's right to receive visits from his attorney, physician, psychologist, clergyman, or social worker in private irrespective of visiting hours;
- (11) provide clients the ability to send and receive private correspondence, as well as reasonable private access to telephone calls and, in cases of personal emergencies, reasonable use of long-distance calls;
- (12) ensure that clients:
 - (a) are free from physical and emotional abuse, neglect, and exploitation;
 - (b) are free to participate or abstain from the practice of religion and shall be afforded reasonable accommodations to worship;
 - (c) have the right to reasonable daily opportunities for physical exercise and outdoor exercise and shall have reasonable access to recreational areas and equipment;
 - (d) have the right to voice grievances to the facility staff, public officials, any state agency, or any other person, without fear of reprisal or retaliation;
 - (e) have the right to prompt and adequate medical attention for physical ailments;

- (f) have the right to have their grievance addressed within five days;
- (g) have the right to participate in the development of their crisis stabilization plan;
- (h) have the right to participate in treatment decisions and formulate advance directives such as living wills and powers of attorney;
- (i) have the right to refuse treatment and to be free from unnecessary or excessive medication; and
- (j) have the right to manage and control their personal finances.

[7.30.13.27 NMAC - N, xx/xx/2018]

7.30.13.28 CLIENT CLINICAL RECORD: The client clinical records maintained by a crisis triage center in a paper-based or electronic system shall document the degree and intensity of the treatment provided to clients who are furnished services by the facility. A client's clinical record shall contain at a minimum:

- A. the client's name and address;
- B. name, address, and telephone number of guardian, or representatives;
- C. the source of referral and relevant referral information;
- D. all reports from client assessment (see program services assessment);
- E. the signed and dated informed consent for treatment including all medications and transfers;
- F. all additional medical and clinical documentation;
- G. the original crisis stabilization plan and all revisions;
- H. documentation of all treatment;
- I. laboratory and radiology results, if applicable;
- J. documentation of seclusion or physical restraint observations, if utilized;
- K. a record of all contacts with medical and other services;
- L. a record of medical treatment and administration of medication, if administered;
- M. an original or original copy of all physician medication and treatment orders signed by the physician;
- N. signed consent for the release of information, if information is released;
- O. documentation of guardianship, agent or other legal decision maker other than patient;
- P. discharge plan.

[7.30.13.28 NMAC - N, xx/xx/2018]

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 to provide direct nursing services.
 - (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 shall be available 24 hours a day and may be provided through telehealth.
 - (6) The facility 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 facility, 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 represent.

(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 ensure that all employees are tested for tuberculosis prior to direct contact with clients and are retested annually.

(5) The CTC shall be staffed to ensure the safety of clients when staff are accused of abuse, neglect or exploitation.

[7.30.13.29 NMAC - N, xx/xx/2018]

7.30.13.30 MINIMUM STAFF QUALIFICATIONS:

A. Administrator:

(1) Must be at least 21 years of age.

(2) The administrator shall possess experience in acute mental health and hold at least a bachelor's degree in the human services field or be a registered nurse with experience or training in acute mental health treatment.

B. Clinical director:

(1) Be at least 21 years of age.

(2) Be a licensed independent mental health professional or certified nurse practitioner or certified nurse specialist with experience and training in acute mental health treatment and withdrawal management services, if withdrawal management services are provided.

C. Registered nurse:

(1) Must be at least 18 years of age.

(2) Must have a current NM Registered Nurse license.

(3) Must possess experience and training in acute mental health treatment, and withdrawal management services if withdrawal management services are provided.

D. Direct service staff must be at least 18 years of age.

[7.30.13.30 NMAC - N, xx/xx/2018]

7.30.13.31 PERSONNEL RECORDS:

A. The CTC shall have policies and procedures for managing personnel information and records.

B. Staff scheduling records shall be maintained for at least three years.

C. Employee records shall be kept at the facility and include:

(1) employment application;

(2) training records;

(3) licenses and certifications;

(4) caregiver criminal history screening documentation pursuant to Section 7.1.9 NMAC;

and

(5) employee abuse registry documentation pursuant to Section 7.1.12 NMAC.

[7.30.13.31 NMAC - N, xx/xx/2018]

7.30.13.32 STAFF TRAINING:

A. Training for each new employee and volunteer who provides direct care shall include a minimum of 16 hours of training and be completed prior to providing unsupervised care to clients.

B. At least 12 hours of on-going training shall be provided to staff that provides direct care at least annually; the training and proof of competency shall include at a minimum:

(1) behavioral health interventions;

(2) crisis interventions;

(3) substance use disorders and co-occurring disorders;

(4) withdrawal management protocols and procedures, if withdrawal management is

provided;

(5) clinical and psychosocial needs of the population served;

(6) psychotropic medications and possible side effects;

(7) ethnic and cultural considerations of the geographic area served;

(8) community resources and services including pertinent referral criteria;

(9) treatment and discharge planning with an emphasis on crisis stabilization;

- (10) fire safety and evacuation training;
- (11) safe food handling practices (for persons involved in food preparation), to include:
 - (a) instructions in proper storage;
 - (b) preparation and serving of food;
 - (c) safety in food handling;
 - (d) appropriate personal hygiene; and
 - (e) infectious and communicable disease control.
- (12) confidentiality of records and client information;
- (13) infection control;
- (14) client rights;
- (15) reporting requirements for abuse, neglect or exploitation in accordance with Section

7.1.13 NMAC;

- (16) smoking policy for staff, clients and visitors;
- (17) methods to provide quality client care;
- (18) emergency procedures; and
- (19) adverse medication reactions;
- (20) the proper way to implement a crisis intervention plans.

C. Documentation of orientation and subsequent trainings shall be kept in the personnel records at the facility.

[7.30.13.32 NMAC - N, xx/xx/2018]

7.30.13.33 MINIMUM SAFETY REQUIREMENTS:

A. The CTC shall have policies and procedures regarding authorized entry to or exit from the facility including the residential component.

B. Control of potentially injurious items shall be clearly defined in policy to include:

- (1) prohibition of flammables, toxins, ropes, wire clothes hangers, sharp pointed scissors, luggage straps, belts, knives, shoestrings, or other potentially injurious items;
- (2) management of housekeeping supplies and chemicals, including procedures to avoid access by individuals during use or storage. Whenever practical, supplies and chemicals shall be non-toxic or non-caustic;
- (3) safeguarding use and disposal of nursing and medical supplies including drugs, needles and other “sharps” and breakable items;
- (4) the use of durable materials for furniture not capable of breakage into pieces that could be used as weapons or present a hanging risk.

C. To the fullest extent permitted by law, weapons shall be prohibited at the CTC.

D. All law enforcement officers or other individuals authorized by law to carry firearms shall be asked to leave their firearms locked in their vehicles or placed in a secure lockbox in an area in the CTC which is not accessible to clients.

E. The CTC shall develop and implement policies and procedures that describe interventions that prevent crises, minimize incidents when they occur, and are organized in a least to most restrictive sequence. The written policies and procedures shall:

- (1) emphasize positive approaches to interventions;
- (2) protect the health and safety of the individual served at all times; and
- (3) specify the methods for documenting the use of the interventions.

[7.30.13.33 NMAC - N, xx/xx/2018]

7.30.13.34 NUTRITION: The facility shall provide planned and nutritionally balanced meals from the basic food groups in accordance with the “recommended daily dietary allowance” of the American dietetic association, the food and nutrition board of the national research council, or the national academy of sciences. Meals shall meet the nutritional needs of the residents in accordance with the current USDA dietary guidelines for Americans. vending machines shall not be considered a source of snacks. Dietary services: The facility will develop and implement written policies and procedures that are maintained on the premises. All CTC food service operations for residents shall comply with current federal and state laws and rules concerning food service and shall include:

- A. at least three nutritious meals per day shall be served;
- B. no more than 14 hours may elapse between the end of an evening meal and the beginning of a morning meal;

- C. therapeutic diets shall be provided when ordered by the physician;
 - D. under no circumstances may food be withheld for disciplinary reasons;
 - E. each CTC shall have seating capacity to reflect the licensed capacity, although clients may eat or be served in shifts during daily operations;
 - F. nutritional snacks shall be available to each client; and
 - G. weekly menus shall be posted in the dining area.
- [7.30.13.34 NMAC - N, xx/xx/2018]

7.30.13.35 PHARMACEUTICAL SERVICES:

- A. Pharmacological services shall be provided only on order by a prescribing professional and in accordance with the terms and conditions of such professional's license. These services may be administered or monitored, if self-administered, by nursing staff.
 - B. The CTC shall establish and implement policies, procedures and practices that guide the safe and effective use of medications and shall, at a minimum, address the following:
 - (1) Medications shall be administered upon direct order from a licensed prescriber, and the orders for medications and care shall be written and signed by the licensed prescriber;
 - (2) Medications shall be used solely for the purposes of providing effective treatment and protecting the safety of the individual and other persons.
 - C. There shall be no standing orders for psychotropic medication.
 - (1) Every order given by telephone shall be received by an RN or LPN and shall be recorded immediately and read back to the ordering physician. The order shall include the ordering physician's name and shall be signed by a physician within 24 hours. Such telephone orders shall include a note on the order that an order was made by telephone, and the content of, justification for, and the time and date of the order.
 - (2) Medication management policies and procedures shall follow federal and state laws, rules and regulations, and shall direct the management of medication ordering, procurement, prescribing, transcribing, dispensing, administration, documentation, wasting or disposal and security, to include the management of controlled substances, floor stock, and physician sample medications.
 - (3) The CTC shall develop a policy on informed consent on medication, including the right to refuse medication.
 - (4) The CTC shall develop and implement policies and procedures that describe actions to follow when adverse drug reactions and other emergencies related to the use of medications occur, and emergency medical care that may be initiated by a registered nurse in order to mitigate a life-threatening situation.
 - D. Medication distribution stations shall be in accordance with standards set forth by the New Mexico board of pharmacy.
 - E. Drugs and biologicals must be stored, prepared and administered in accordance to acceptable standards of practice and in compliance with the New Mexico state board of pharmacy.
 - F. Outdated drugs and biologicals must be disposed of in accordance with methods outlined by the New Mexico state board of pharmacy.
 - G. One individual shall be designated responsible for pharmaceutical services to include accountability and safeguarding.
 - H. Keys to the drug room or pharmacy must be made available only to personnel authorized by the individual having responsibility for pharmaceutical services.
 - I. Adverse reactions to medications must be reported to the physician responsible for the patient and must be documented in the patient's record.
- [7.30.13.35 NMAC - N, xx/xx/2018]

7.30.13.36 LABORATORY SERVICES:

- A. Laboratory work and other diagnostic procedures deemed necessary shall be performed as ordered by the physician.
 - B. The facility shall comply with clinical laboratory improvement amendments of 1988 (CLIA) requirements.
 - C. All lab test results performed either at the facility or by contract or arrangement with another entity must be entered into the patient's record.
- [7.30.13.36 NMAC - N, xx/xx/2018]

7.30.13.37 INFECTION CONTROL:

A. The CTC shall develop and implement policies and procedures for infection control and prevention. Policies shall include: educational course requirements; decontamination; disinfection and storage of sterile supplies; cleaning; and laundry requirements, and address the following:

- (1) universal precautions when handling blood, body substances, excretions, secretions;
- (2) proper disposal of biohazards;
- (3) proper hand washing techniques;
- (4) prevention and treatment of needle stick or sharp injuries; and
- (5) the management of common illness likely to be emergent in the CTC service setting and

specific procedures to manage infectious diseases.

B. The CTC's infection control risk assessment and plan is reviewed annually for effectiveness and revision, if necessary.

C. Staff shall be trained in and shall adhere to infection control practices, the release of confidential information and reporting requirements related to infectious diseases.

D. Where cleaning and decontamination of equipment and supplies are performed in the same room where clean or sterile supplies and equipment are stored, there shall be a physical separation of the clean or sterile supplies and equipment.

E. All special waste including blood, body fluids, sharps and biological indicators shall be disposed of in accordance with OSHA and the New Mexico environment department standards for biohazardous waste.

F. Each facility shall have policies and procedures for the handling, processing, storing and transporting of clean and dirty laundry.

[7.30.13.37 NMAC - N, xx/xx/2018]

7.30.13.38 RESEARCH:

A. If a facility is conducting research activities, the facility must have written policies and procedures for conducting research, documentation that the study has received institutional review board (IRB) approval, and a consent form for each client involved in the research in the client's record.

B. When research is conducted by the facility or by the employees or by affiliates of the facility or when the facility is used as a research site, such that the facility's clients and staff are involved in or the subjects of research; the research must be conducted:

- (1) by qualified researchers, having evidence in formal training and experience in the conduct of clinical, epidemiologic or sociologic research;
- (2) in accordance with the written, approved research policies and procedures;
- (3) by staff trained to conduct such research; and
- (4) in a manner that protects the client's health, safety and right to privacy and the facility and its clients from unsafe practices.

[7.30.13.38 NMAC - N, xx/xx/2018]

7.30.13.39 CLIENT TRANSFERS:

A. The CTC shall have policies and procedures to stabilize and transfer clients in need of a higher level of care.

B. The physician or advanced practice registered nurse shall:

- (1) discuss recommendations for transfer with the client or client's legal guardian or agent and upon transfer, notify the client's legal guardian or agent;
- (2) make the determination as to the time and manner of transfer to ensure no further deterioration of the client during the transfer between facilities;
- (3) specify the benefits expected from the transfer in the client's record;
- (4) coordinate care with receiving facility prior to transfer; and
- (5) send a copy of the client's record with the client upon transfer.

[7.30.13.39 NMAC - N, xx/xx/2018]

7.30.13.40 BUSINESS HOURS: The CTC shall provide crisis stabilization and admissions 24 hours a day, seven days a week. Hours shall be posted on signage exterior to the building.

[7.30.13.40 NMAC - N, xx/xx/2018]

7.30.13.41 PHYSICAL ENVIRONMENT AND GENERAL BUILDING REQUIREMENTS:

A. When construction of new buildings, additions, or alterations to existing buildings are contemplated, plans and specifications covering all portions of the work must be submitted to the licensing authority for plan review and approval prior to beginning actual construction. When an addition or alteration is contemplated, plans for the entire facility must be submitted.

B. CTCs licensed pursuant to these regulations must be accessible to and useable by disabled employees, staff, visitors, and clients and in compliance with the American's with Disabilities Act (ADA), current edition.

C. All buildings of the premises providing client care and services will be considered part of the facility and must meet all requirements of these regulations. Where a part of the facility services is contained in another facility, separation and access shall be maintained as described in current building and fire codes.

D. A facility applying for licensure pursuant to these regulations may have additional requirements not contained herein. The complexity of building and fire codes and requirements of city, county, or municipal governments may stipulate these additional requirements. Any additional requirements will be outlined by the appropriate building and fire authorities, and by the licensing authority through plan review, consultation and on-site surveys during the licensing process.

[7.30.13.41 NMAC - N, xx/xx/2018]

7.30.13.42 COMMON ELEMENTS FOR FACILITIES:

A. Public services shall include:

- (1) conveniently accessible wheelchair storage;
- (2) an ADA compliant reception and information counter or desk;
- (3) waiting areas;
- (4) conveniently accessible public toilets; and
- (5) drinking fountain (s) or water dispensers easily accessible to clients or other visitors.

B. Interview space(s) for private interviews related to mental health, medical information, etc., shall be provided.

C. General or individual office(s) for business transactions, records, administrative, and professional staff shall be provided. These areas shall be separated from public areas for confidentiality.

D. Special storage for staff personal effects with locking drawers or cabinets shall be provided.

E. General storage facilities for supplies and equipment shall be provided.

[7.30.13.42 NMAC - N, xx/xx/2018]

7.30.13.43 PROVISIONS FOR EMERGENCY CALLS:

A. An easily accessible hard-wired telephone for summoning help, in case of emergency, must be available in the facility.

B. A list of emergency numbers including, but not limited to, fire department, police department, ambulance services, local hospital, poison control center, and the department's division of health improvement's complaint hotline must be prominently posted by the telephone(s).

[7.30.13.43 NMAC - N, xx/xx/2018]

7.30.13.44 PARKING:

Sufficient space for off-street parking for staff, clients and visitors shall be provided. A designated parking space(s) for one emergency, and one police vehicle shall be provided. Parking should be compliant with local zoning requirements and the 2009 New Mexico commercial building code, or current version.

[7.30.13.44 NMAC - N, xx/xx/2018]

7.30.13.45 MAINTENANCE OF BUILDING AND GROUNDS: Facilities must maintain the building(s) in good repair at all times. Such maintenance shall include, but is not limited to, the following:

A. all electrical, mechanical, water supply, heating, fire protection, and sewage disposal systems must be maintained in a safe and functioning condition, including regular inspections of these systems;

B. all equipment and materials used for client care shall be maintained clean and in good repair;

C. all furniture and furnishings must be kept clean and in good repair; and

D. the grounds of the facility must be maintained in a safe and sanitary condition at all times.

[7.30.13.45 NMAC - N, xx/xx/2018]

7.30.13.46 HOUSEKEEPING:

- A. The facility must be kept free from offensive odors and accumulations of dirt, rubbish, dust, and safety hazards.
 - B. Treatment rooms, waiting areas and other areas of daily usage must be cleaned as needed to maintain a clean and safe environment for the clients.
 - C. Floors and walls must be constructed of a finish that can be easily cleaned. Floor polishes shall provide a slip resistant finish.
 - D. Deodorizers must not be used to mask odors caused by unsanitary conditions or poor housekeeping practices.
 - E. Storage areas must be kept free from accumulation of refuse, discarded equipment, furniture, paper, et cetera.
- [7.30.13.46 NMAC - N, xx/xx/2018]

7.30.13.47 CUSTODIAL CLOSET(S):

- A. Each facility shall have at least one custodial closet.
 - B. Each custodial closet shall contain:
 - (1) a service sink; and
 - (2) storage for housekeeping supplies and equipment.
 - C. Each custodial closet must be mechanically vented to the exterior.
 - D. Custodial closets are hazardous areas and must be provided with one-hour fire separation and one and three quarters (1¾) inch solid core doors which are rated at a 20-minute fire protection rating.
- [7.30.13.47 NMAC - N, xx/xx/2018]

7.30.13.48 HAZARDOUS AREAS:

- A. Hazardous areas include the following:
 - (1) fuel fired equipment rooms;
 - (2) bulk laundries or laundry rooms with more than 100 sq. ft.;
 - (3) storage rooms with more than 50 sq. ft. but less than 100 sq. ft. not storing combustibles;
 - (4) storage rooms with more than 100 sq. ft. storing combustibles;
 - (5) chemical storage rooms with more than 50 sq. ft.; and
 - (6) garages, maintenance shops, or maintenance rooms.
 - B. Hazardous areas on the same floor or abutting a primary means of escape or a sleeping room shall be protected by either:
 - (1) an enclosure of at least one-hour fire rating with self-closing or automatic closing on smoke detection fire doors having a three-quarter hour rating; or
 - (2) an automatic fire protection (sprinkler) and separation of hazardous area with self-closing doors or doors with automatic-closing on smoke detection; or
 - (3) any other hazardous areas shall be enclosed with walls with at least a 20-minute fire rating and doors equivalent to one and three-quarter inch solid bonded wood core, operated by self-closures or automatic closing on smoke detection.
 - C. All boiler, furnace or fuel fired water heater rooms shall be protected from other parts of the building by construction having a fire resistance rating of not less than one hour. Doors to these rooms shall be one and three-quarter inch solid core.
- [7.30.13.48 NMAC - N, xx/xx/2018]

7.30.13.49 FLOORS AND WALLS:

- A. Floor and wall areas penetrated by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.
 - B. Threshold and expansion joint covers shall be flush with the floor surface to facilitate use of wheelchairs and carts.
- [7.30.13.49 NMAC - N, xx/xx/2018]

7.30.13.50 EXITS:

- A. Each floor of a facility shall have exits as required by the New Mexico commercial building code and applicable version of the National fire protection association 101.
- B. Each exit must be marked by illuminated exit signs having letters at least six inches high whose principle strokes are at least three quarters inch wide.

C. Illuminated exit signs must be maintained in operable condition at all times.

D. Exit ways must be kept free from obstructions at all times.

[7.30.13.50 NMAC - N, xx/xx/2018]

7.30.13.51 CORRIDORS:

A. Minimum corridor width shall be five feet except work corridors less than six feet in length may be four feet in width.

B. For facilities contained within existing commercial or residential buildings, less stringent corridor widths may be allowed if not in conflict with building or fire codes. A waiver or variance may be requested but must be approved by the licensing authority prior to occupying the licensed part of the building.

[7.30.13.51 NMAC - N, xx/xx/2018]

7.30.13.52 STAFF STATION:

A. Each client care area in the residential unit shall have a staff station located to provide visual or virtual monitoring of all resident room corridors and access to secured access to outdoor area, equipped with access to residential clients' records, a desk or work counter, a cleaning area with a sink with hot and cold running water, operational telephone, and emergency call system.

B. Locked storage area for drugs.

C. Access to a biohazard disposal unit for needles, and other "sharps," and breakable items.

D. A reliable monitored emergency call system shall be provided for staff use in the event of an emergency.

E. If a kitchen is not open at all times to residents, a nourishment station with sink, hot and cold running water, refrigerator, and storage for serving residents between meal nourishment shall be provided.

F. View of fire alarm control panel, generator panel (if any), and any other life safety code components.

[7.30.13.52 NMAC - N, xx/xx/2018]

7.30.13.53 SECURED ENVIRONMENT/OUTDOOR AREA:

A. The CTC shall provide a secure environment for client safety. A secured environment is a facility and grounds that have secured or monitored exits. A secured environment for facilities that offer residential services may include but is not limited to: double alarm systems; gates connected to the fire alarm; or tab alarms for residents at risk for elopement. Locked areas shall have an access code or key which facility employees shall have on their person or available at all times in accordance with the Life Safety Code, NPFA 101, 2012 or subsequent updates. For a CTC located within an existing licensed facility, a request for waiver may be submitted to the licensing authority containing an alternate plan for providing security for clients, provided that health, safety or welfare of the clients or staff would not be adversely affected.

B. In addition to the interior common areas required by this rule, a facility providing residential services shall provide an outdoor secured environment independently accessible to residents for their year-round use.

(1) Fencing or other enclosures, not less than six feet high, shall protect the safety, security and privacy of the residents and have emergency egress gates that are connected to the emergency call system.

(2) Outdoor area shall not provide access to contact with the public.

[7.30.13.53 NMAC - N, xx/xx/2018]

7.30.13.54 ASSESSMENT ROOMS:

A. general purpose assessment rooms shall meet the following requirements:

B. minimum floor area of 80 square feet, excluding vestibules, toilets, and closets;

C. room arrangement shall permit at least 2'-8" clearance around furniture items used for exam or assessment;

D. a lavatory or sink for hand washing.

[7.30.13.54 NMAC - N, xx/xx/2018]

7.30.13.55 THERAPY/TREATMENT ROOMS:

A. Shall have a minimum floor area of 120 square feet, excluding vestibule, toilet, and closets.

B. All walls shall be constructed to a minimum length of 10 feet.

[7.30.13.55 NMAC - N, xx/xx/2018]

7.30.13.56 ACTIVITY OR MULTIPURPOSE ROOM: The facility shall provide a minimum of 250 square feet for common living area, dining and social spaces, or 40 square feet per resident, whichever is greater.

A. The facility shall have a living or multipurpose room for the use of the residents. The furnishings shall be well constructed, comfortable and in good repair.

B. The activity or multi-purpose room may be used as a dining area.

C. The activity room or multipurpose rooms shall be provided with supplies to reasonably meet the interests and needs of the residents.

D. Each activity room shall have a window area of at least one tenth of the floor area with a minimum of at least 10 square feet.

E. A dining area shall be provided for meals. Facilities shall have tables and chairs in the dining area to accommodate the total number of residents in one sitting. All seating arrangements during meals shall allow clear access to the exits. Lunch times for adults and youth must be separate if there is only one lunch room.

[7.30.13.56 NMAC - N, xx/xx/2018]

7.30.13.57 MEETING ROOM: The facility shall have adequate meeting rooms and office space for use by staff, the interdisciplinary care team and client and family visits. Other rooms may serve as meeting rooms, provided resident confidentiality is maintained. Meeting and treatment rooms must not hold both adults and youth at the same time.

[7.30.13.57 NMAC - N, xx/xx/2018]

7.30.13.58 RESIDENT ROOMS: The regulations in Section 7.30.13.58 NMAC apply to those facilities providing a residential treatment program.

A. A facility providing residential treatment shall not exceed the bed capacity approved by the licensing authority.

B. Resident rooms may be private or semi-private. Semi-private rooms may not house more than two residents.

C. Facilities serving youth and adults must locate youth resident rooms and restrooms in a unit or wing that is physically separated from the adult facilities.

(1) Private rooms shall have a minimum of 100 square feet of floor area. The closet and locker area shall not be counted as part of the available floor space.

(2) Semi-private rooms shall have a minimum of 80 square feet of floor area for each resident and shall be furnished in such a manner that the room is not crowded and passage out of the room is not obstructed.

(3) A separate closet, bed (at least 36" wide), chair, towel bar, and non-metal trash receptacle, for each resident shall be provided.

(4) The beds shall be spaced at least three feet apart. Bunk beds, roll away beds, stacked beds, hide-a-beds, or beds with springs, cranks, rails or wheels, are not allowed.

D. Each resident room shall have a window to the outside. The area of the outdoor window shall be at least one tenth of the floor area of the room and allow for emergency egress. Windows may be textured or obscured glass to provide privacy without the use of any window coverings.

E. Resident rooms shall not be less than seven feet in any horizontal direction.

F. There must be no through traffic in resident rooms. Resident rooms must connect directly to hallway or other internal common areas of the facility.

[7.30.13.58 NMAC - N, xx/xx/2018]

7.30.13.59 TOILETS, LAVATORIES AND BATHING FACILITIES:

A. **General Requirements:**

(1) All fixtures and plumbing must be installed in accordance with current state and local plumbing codes.

(2) All toilets must be enclosed and vented.

(3) All toilet rooms must be provided with a lavatory for hand washing.

(4) All toilets must be kept supplied with toilet paper.

(5) All lavatories for hand washing must be kept supplied with disposable towels for hand drying or provided with mechanical blower.

(6) The number of and location of toilets, lavatories and bathing facilities shall be in accordance with International Building Code (IBC) requirements. Toilets for public use shall be located adjacent to the waiting area. Such factors as extent of services provided and size of facility will also dictate requirements.

(7) Facilities serving youth must provide separate toilet and shower facilities for adults and youth.

B. Residential component: Separate facilities shall be provided for male and female patients. Toilet and bathing facilities shall be located appropriately to meet the needs of residents.

(1) Facilities serving youth and adults must locate youth resident rooms and restrooms in a unit or wing that is physically separated from the adult facilities.

(2) A minimum of one toilet, one lavatory and one bathing unit (tub, shower, or combo unit) shall be provided for every eight residents or fraction thereof.

(3) Toilets to be flush meter type (no tank).

(4) Mirrors cannot be glass or polished metal. A polycarbonate mirror, fully secured and flat mounted to the wall is required.

(5) Individual shower stalls and dressing areas shall be provided. The shower head shall be recessed or have a smooth curve from which items cannot be hung.

(6) There shall not be any overhead rods, fixtures or privacy stall supports or protrusions capable of carrying more than a 30-pound load.

C. Staff restroom: The CTC shall provide a separate staff toilet including, lavatory and shower, near staff station.

[7.30.13.59 NMAC - N, xx/xx/2018]

7.30.13.60 COLLECTION/DRAW/LAB AREA: Facilities shall be provided to support laboratory procedures, if provided. Minimum facilities provided on-site shall include space for the following:

A. A urine collection room equipped with a toilet and hand washing sink.

B. Blood collection facilities with space for a chair, work counter, and lavatory.

C. Each facility shall have accommodations for storage and refrigeration of blood, urine and other specimens in a dedicated specimen refrigerator.

[7.30.13.60 NMAC - N, xx/xx/2018]

7.30.13.61 NUTRITION: A facility offering a residential treatment program shall provide planned and nutritionally balanced meals from the basic food groups in accordance with the "recommended daily dietary allowance" of the American dietetic association, the food and nutrition board of the national research council, or the national academy of sciences. Menus must be approved by a licensed nutritionist. Meals shall meet the nutritional needs of the residents in accordance with the current USDA dietary guidelines for Americans. Vending machines shall not be considered a source of snacks.

A. Dietary services. The facility will develop and implement written policies and procedures that are maintained on the premises. All CTC food service operations for residents shall comply with current federal and state laws and rules concerning food service and shall include:

(1) at least three nutritious meals per day shall be served;

(2) no more than 14 hours may elapse between the end of an evening meal and the beginning of a morning meal;

(3) therapeutic diets shall be provided when ordered by the physician;

(4) under no circumstances may food be withheld for disciplinary reasons;

(5) each CTC shall have seating capacity to reflect the licensed capacity, although clients may eat or be served in shifts during daily operations;

(6) nutritional snacks shall be available to each client; and

(7) weekly menus shall be posted in the dining area.

[7.30.13.61 NMAC - N, xx/xx/2018]

7.30.13.62 FOOD SERVICE: Requirements of Section 7.30.13.62 NMAC apply to facilities providing a residential treatment program.

A. The facility shall have either contracted food preparation or prepare food on site.

B. A facility that contracts food preparation shall have a dietary or a kitchen area adequate to meet food service needs and arranged and equipped for the refrigeration, storage, preparation, and serving of food, dish and utensil cleaning and refuse storage and removal.

C. Dietary areas consisting of a food warming and refrigeration area shall comply with the local health or food handling codes. Food preparation space shall be arranged for the separation of functions and shall be located to permit efficient services to residents and shall not be used for non-dietary functions.

D. A facility that provides onsite food preparation shall comply with the New Mexico environment department food preparation regulations.

E. A facility with a kitchen area, whether used for on-site food preparation or not, must adhere to the following requirements:

- (1) limit traffic incidental to the receiving, preparation and serving of food and drink;
- (2) toilet facilities may not open directly into the kitchen;
- (3) food day-storage space shall be provided adjacent to the kitchen and shall be ventilated to the outside;
- (4) a separate hand washing sink with soap dispenser, single service towel dispenser, or other approved hand drying facility shall be located in the kitchen;
- (5) a separate dishwashing area, preferably a separate room, with mechanical ventilation shall be provided;
- (6) at least a three-compartment sink shall be provided for washing, rinsing and sanitizing utensils, with adequate drain boards, at each end. In addition, a single-compartment sink located adjacent to the soiled utensil drain board shall be available for prewashing and liquid waste disposal. The size of each sink compartment shall be adequate to permit immersion of at least fifty percent of the largest utensil used. In lieu of the additional sink for prewashing, a well-type garbage disposal with overhead spray wash may be provided.
- (7) mechanical dishwashers and utensil washers, where provided, shall meet the requirements of the current approved list from the national sanitation foundation or equivalent with approval of the department;
- (8) temperature gauges shall be located in the wash compartment of all mechanical dishwashers and in the rinse water line at the machine of a spray-type mechanical dishwasher or in the rinse water tank of an immersion-type dishwasher. The temperature gauges shall be readily visible, fast-acting and accurate to plus or minus two degrees *Fahrenheit* or one degree *Celsius*;
- (9) approved automatic fire extinguishing equipment shall be provided in hoods and attached ducts above all food cooking equipment;
- (10) the walls shall be of plaster or equivalent material with smooth, light-colored, nonabsorbent, and washable surface;
- (11) the ceiling shall be of plaster or equivalent material with smooth, light-colored, nonabsorbent, washable, and seamless surface;
- (12) the floors of all rooms, except the eating areas of dining rooms, in which food or drink is stored, prepared, or served, or in which utensils are washed, shall be of such construction as to be non-absorbent and easily cleaned;
- (13) an exterior door from a food preparation area shall be effectively screened. Screen doors shall be self-closing;
- (14) all rooms in which food or drink is stored or prepared or in which utensils are washed shall be well lighted;
- (15) rooms subject to sewage or wastewater backflow or to condensation or leakage from overhead water or waste lines shall not be used for storage of food preparation unless provided with acceptable protection from such contamination.

[7.30.13.62 NMAC - N, xx/xx/2018]

7.30.13.63 LAUNDRY SERVICES:

A. General requirements. The facility shall provide laundry services, either on the premises or through a commercial laundry and linen service.

- (1) On-site laundry facilities shall be located in areas separate from the resident units and shall be provided with necessary washing and drying equipment.
- (2) Soiled laundry shall be kept separate from clean laundry, unless the laundry facility is provided for resident use only.
- (3) Staff shall handle, store, process and transport linens with care to prevent the spread of infectious and communicable disease.

(4) Soiled laundry shall not be stored in the kitchen or dining areas. The building design and layout shall ensure the separation of laundry room from kitchen and dining areas. An exterior route to the laundry room is not an acceptable alternative, unless it is completely enclosed.

(5) All linens shall be changed as needed and at least weekly or when a new resident is to occupy the bed.

(6) The mattress pad, blankets and bedspread shall be laundered as needed and when a new resident is to occupy the bed.

(7) Bath linens consisting of hand towel, bath towel and washcloth shall be changed as needed and at least weekly.

(8) There shall be a clean, dry, well-ventilated storage area provided for clean linen.

(9) Facility laundry supplies and cleaning supplies shall not be kept in the same storage areas used for the storage of foods and clean storage and shall be kept in a secured room or cabinet.

(10) CTC shall have a small washer and dryer for immediate unit needs and to wash clients' clothes. These washing and drying units shall be equipped to sanitize clothes as a preventive measure of infection control.

(11) Residents may do their own laundry, if it is their preference and they are capable of doing so.

[7.30.13.63 NMAC - N, xx/xx/2018]

7.30.13.64 WATER:

A. A facility licensed pursuant to these regulations must be provided with an adequate supply of water that is of a safe and sanitary quality suitable for domestic use.

B. If the water supply is not obtained from an approved public system, the private water system must be inspected, tested, and approved by the New Mexico environment department prior to licensure. It is the facility's responsibility to ensure that subsequent periodic testing or inspection of such private water systems be made at intervals prescribed by the New Mexico environment department or recognized authority.

C. Hot and cold running water under pressure must be distributed at sufficient pressure to operate all fixtures and equipment during maximum demand periods.

D. Back flow preventers (vacuum breakers) must be installed on hose bibs, laboratory sinks, service sinks, and on all other water fixtures to which hoses or tubing can be attached.

E. Water distribution systems are arranged to provide hot water at each hot water outlet at all times.

F. Hot water to hand washing facilities must not exceed 120 degrees F.

[7.30.13.64 NMAC - N, xx/xx/2018]

7.30.13.65 SEWAGE AND WASTE DISPOSAL:

A. All sewage and liquid wastes must be disposed of into a municipal sewage system where such facilities are available.

B. Where a municipal sewage system is not available, the system used must be inspected and approved by the New Mexico environment department or recognized local authority.

C. Where municipal or community garbage collection and disposal service are not available, the method of collection and disposal of solid wastes generated by the facility must be inspected and approved by the New Mexico environment department or recognized local authority.

D. All garbage and refuse receptacles must be durable, have tight fitting lids, must be insect and rodent proof, washable, leak proof and constructed of materials which will not absorb liquids. Receptacles must be kept closed and clean.

[7.30.13.65 NMAC - N, xx/xx/2018]

7.30.13.66 ELECTRICAL STANDARDS:

A. All electrical installation and equipment must comply with all current state and local codes.

B. Circuit breakers or fused switches that provide electrical disconnection and over current protection shall be:

(1) enclosed or guarded to provide a dead front assembly;

(2) readily accessible for use and maintenance;

(3) set apart from traffic lanes;

(4) located in a dry, ventilated space, free of corrosive fumes or gases;

(5) able to operate properly in all temperature conditions;

- (6) panel boards servicing lighting and appliance circuits shall be on the same floor and in the same facility area as the circuits they serve; and
 - (7) each panel board will be marked showing the services.
 - C. The use of jumpers or devices to bypass circuit breakers or fused switches is prohibited.
 - D. Light switches and electrical devices in the residential unit shall be secured with tamper resistant screws.
- [7.30.13.66 NMAC - N, xx/xx/2018]

7.30.13.67 LIGHTING:

- A. All spaces occupied by people, machinery, or equipment within buildings, approaches to buildings, and parking lots shall have lighting.
 - B. Lighting will be sufficient to make all parts of the area clearly visible.
 - C. All lighting fixtures must be shielded.
 - D. Lighting fixtures must be selected and located with the comfort and convenience of the staff and clients in mind.
 - E. Lighting fixtures in the residential unit shall be recessed, tamperproof or protective translucent cover.
- [7.30.13.67 NMAC - N, xx/xx/2018]

7.30.13.68 ELECTRICAL CORDS AND RECEPTACLES:

- A. **Electrical cords and extension cords shall:**
 - (1) be U/L approved;
 - (2) be replaced as soon as they show wear;
 - (3) be plugged into an electrical receptacle within the room where used;
 - (4) not be used as a general wiring method; and
 - (5) not be used in series.
 - B. **Electrical receptacles shall:**
 - (1) Be duplex-grounded type electrical receptacles (convenience outlets) and installed in all areas in sufficient quantities for tasks to be performed as needed.
 - (2) Be a ground fault circuit interrupter if located within six feet of a water source.
 - C. The use of multiple sockets (gang plugs) in electrical receptacles is strictly prohibited.
- [7.30.13.68 NMAC - N, xx/xx/2018]

7.30.13.69 EMERGENCY POWER & LIGHTING: Emergency electrical service with an independent power source which covers lighting at attendant stations, exit and corridor lights, boiler room, and fire alarm systems shall be provided.

- A. The service may be battery operated if effective for at least four hours.
 - B. Facilities shall have emergency lighting with a minimum of two bulbs to light exit passageways.
 - C. Independent power source shall be in an exterior area near the exits and activate automatically upon disruption of electrical service.
- [7.30.13.69 NMAC - N, xx/xx/2018]

7.30.13.70 FIRE SAFETY COMPLIANCE: All current applicable requirements of state and local codes for fire prevention and safety must be met by the facility.

[7.30.13.70 NMAC - N, xx/xx/2018]

7.30.13.71 FIRE CLEARANCE AND INSPECTIONS: Each facility must request from the fire authority having jurisdiction an annual fire inspection. If the policy of the fire authority having jurisdiction does not provide for annual inspection of the facility, the facility must document the date the request was made and to whom. If the fire authorities do make annual inspections; a copy of the latest inspection must be kept on file in the facility.

[7.30.13.71 NMAC - N, xx/xx/2018]

7.30.13.72 AUTOMATIC FIRE PROTECTION (SPRINKLER) SYSTEM: Facilities with residential services shall have an automatic fire protection (sprinkler) system. The system shall be in accordance with NFPA 13 or NFPA 13D or its subsequent replacement as applicable. Sprinkler heads in the residential unit shall be of the

protective type, either vandal proof or tamper resistant. Sprinkler systems for facilities without residential services must be in compliance with current state building code requirements regarding a sprinkler system.
[7.30.13.72 NMAC - N, xx/xx/2018]

7.30.13.73 FIRE ALARMS, SMOKE DETECTORS AND OTHER EQUIPMENT: The system shall be in accordance with NFPA 13 or NFPA 13D or its subsequent replacement as applicable.

A. Facilities shall have a manual fire alarm system. The manual fire alarm shall be inspected and approved in writing by the fire authority with jurisdiction.

B. Approved smoke detectors shall be installed on each floor that when activated provides an alarm which is audible in all sleeping areas. Areas of assembly, such as the dining, living or activity room(s) must also be provided with smoke detectors.

(1) Detectors shall be powered by the house electrical service and have battery backup.

(2) Construction of new facilities or facilities remodeling or replacing existing smoke detectors shall provide detectors in common living areas and in each sleeping room.

(3) Smoke detectors shall be installed in corridors at no more than 30 feet spacing.

(4) Heat detectors shall be installed in all kitchens and also powered by the house electrical service.

[7.30.13.73 NMAC - N, xx/xx/2018]

7.30.13.74 FIRE EXTINGUISHERS: Fire extinguisher(s) must be located in the facility, as approved by the state fire marshal or the fire prevention authority with jurisdiction.

A. Facilities must as a minimum have two 2A10BC fire extinguishers:

(1) one extinguisher located in the kitchen or food preparation area;

(2) one extinguisher centrally located in the facility;

(3) all fire extinguishers shall be inspected yearly, recharged as needed and tagged noting the date of the inspection;

(4) The maximum distance between fire extinguishers shall be 50 feet.

B. Fire extinguishers, alarm systems, automatic detection equipment and other firefighting equipment shall be properly maintained and inspected as recommended by the manufacturer, state fire marshal, or the local fire authority.

[7.30.13.74 NMAC - N, xx/xx/2018]

7.30.13.75 STAFF FIRE AND SAFETY TRAINING:

A. All staff of the facility must know the location of and instructed in proper use of fire extinguishers and other procedures to be observed in case of fire or other emergencies. The facility should request the fire authority having jurisdiction to give periodic instruction in fire prevention and techniques of evacuation.

B. Facility staff must be instructed as part of their duties to constantly strive to detect and eliminate potential safety hazards, such as loose handrails, frayed electrical cords, faulty equipment, blocked exits or exit ways, and any other condition which could cause burns, falls, or other personal injury to the patients or staff.

C. Fire and evacuation drills: The facility must conduct at least one fire and evacuation drill for each work shift for each quarter. When drills are conducted between 9:00 pm and 6:00 am, a coded announcement shall be permitted for use instead of audible alarms. A log must be maintained by the facility showing the date, time, number of staff participating and outlining any problems noted in the conduct of the drill.

[7.30.13.75 NMAC - N, xx/xx/2018]

7.30.13.76 EVACUATION PLAN: Each facility must have a fire evacuation plan conspicuously posted in each separate area of the building showing routes of evacuation in case of fire or other emergencies.

[7.30.13.76 NMAC - N, xx/xx/2018]

7.30.13.77 HEATING, VENTILATION, AND AIR-CONDITIONING:

A. Heating, air-conditioning, piping, boilers, and ventilation equipment must be furnished, installed and maintained to meet all requirements of current state and local mechanical, electrical, and construction codes.

B. The heating, ventilation and air-conditioning system must be able to maintain interior temperatures in all rooms used by clients, staff or visitors with interior temperatures between 65 degrees *Fahrenheit* and 78 degrees *Fahrenheit* year-round.

C. The use of non-vented heaters, open flame heaters or portable heaters is prohibited.

D. An ample supply of outside air must be provided in all spaces where fuel fired boilers, furnaces, or heaters are located to assure proper combustion.

E. All fuel fired boilers, furnaces, or heaters must be connected to an approved venting system to take the products of combustion directly to the outside air.

F. A facility must be adequately ventilated at all times to provide fresh air and the control of unpleasant odors.

G. All gas-fired heating equipment must be provided with a one hundred percent automatic cutoff control valve in event of pilot failure.

H. The facility must be provided with a system for maintaining clients and staff's comfort during periods of hot weather, evaporative cooling is not allowed.

I. All boiler, furnace or heater rooms shall be protected from other parts of the building by construction having a fire resistance rating of not less than one hour. The door must be self-closing with ¾-hour fire resistance.

J. Fireplace or wood burning stoves are prohibited.

K. The ceiling and air distribution devices (supply & return, etc.) in the residential component shall be a tamper resistant type.

[7.30.13.77 NMAC - N, xx/xx/2018]

7.30.13.78 WATER HEATERS:

A. Must be able to supply hot water to all hot water taps within the facility at full pressure during peak demand periods and maintain a maximum temperature of 120 degrees F.

B. Fuel fired hot water heaters must be enclosed and separated from other parts of the building by construction as required by current state and local building codes.

C. All water heaters must be equipped with a pressure relief valve (pop-off valve).

[7.30.13.78 NMAC - N, xx/xx/2018]

7.30.13.79 ADDITIONAL REQUIREMENTS FOR FACILITIES SERVING YOUTH: All requirements in the above rules apply to all facilities. For facilities serving youth, the additional requirements of this section must also be met.

A. Physical environment for general building requirements: Facilities serving adults and youth must locate youth resident rooms and restrooms in a unit or wing that is physically separated from the adult facilities.

B. Enforcement involving suspension of license without prior hearing: Any facility that allows any person, subject to all applicable statutes and regulations, to work at the facility if that person is listed on the CYFD unreasonable risk background check and related regulations, as amended, may be subject to immediate suspension of its license without prior hearing.

C. Reporting of incidents: All facilities licensed under these regulations, must comply with all incident intake, processing, training and reporting requirements under all applicable NM Children's Code, Section 32A-1-1 NMSA 1978, Children's Mental Health and Developmental Disabilities Act, Section 32A-6A-1 NMSA 1978, Section 7.20.11 and Section 7.20.12 NMAC.

D. **Policies And Procedures:** The facility shall establish written policies and procedures that are reviewed annually and approved by the governing body, which govern the facility's operation. The administrator shall ensure that these policies and procedures are adopted, administered and enforced to provide quality services in a safe environment. At a minimum, the facility's written policies and procedures shall include how the facility intends to comply with all requirements of these regulations and address:

(1) immediate reporting of suspected child abuse, neglect or exploitation, pursuant to the NM Children's Code and these licensing regulations;

(2) actions to be taken in case of accidents or emergencies involving a youth, including death;

(3) immediate personnel actions to be taken by the facility if child abuse or neglect allegations are made involving a direct service staff;

(4) confidentiality of youth' records;

(5) management of a youth who is a danger to him/herself or others or presents a likelihood of serious harm to him/herself or others. The facility procedures must specify that immediate actions be taken to prevent such harm. At a minimum, the policies and procedures require that the following actions be taken and documented in the youth's file:

- staff who are endangered;
- emergency discharge;
- and discipline.
- (a) all appropriate actions to protect the health and safety of other youth, clients and
- (b) all appropriate efforts to manage the youth's behavior prior to proposing
- (6) Clinically appropriate and legally permissible methods of youth behavior management
- (7) The facility shall prohibit in policy and practice the following:
- (a) degrading punishment;
- (b) corporal or other physical punishment;
- (c) group punishment for one individual's behavior;
- (d) deprivation of an individual's rights and needs (e.g., food, phone contacts, etc.)
- when not based on documented clinical rationale;
- (e) aversive stimuli used in behavior modification;
- (f) punitive work assignments;
- (g) isolation or seclusion;
- (h) harassment; and
- (i) chemical or mechanical restraints.
- (8) For those CTCs that serve mixed age occupants, the facility shall establish policies and procedures to ensure the health and safety of all residents.
- [7.30.13.79 NMAC - N, xx/xx/2018]

7.30.13.80 RISK ASSESSMENT: Use of physical restraint must be consistent with federal and state laws and regulations and must include the following:

A. Physical restraints of youth are implemented only by staff who have been trained and certified by a state recognized body in the prevention and use of physical restraint. This training emphasizes de-escalation techniques and alternatives to physical contact with clients as a means of managing behavior. Clients and youth do not participate in the physical restraint of other clients and youth.

B. Youth treatment plans document the use of physical restraints and include: consideration of the client's medical condition(s); the role of the client's history of trauma in his/her behavioral patterns; the treatment team's solicitation and consideration of specific suggestions from the client regarding prevention of future physical interventions.

C. Physical restraints orders for youth are issued by a restraint clinician within one hour of initiation of physical restraint and include documented clinical justification for the use of physical restraint.

D. If the youth has a treatment team physician or advanced practice registered nurse and he or she is available, only he or she can order physical restraint.

E. If physical restraint is ordered by someone other than the youth's treatment team physician or advanced practice registered nurse, the restraint clinician will consult with the youth's treatment team physician or advanced practice registered nurse as soon as possible and inform him or her of the situation requiring the youth to be restrained and document in the youth's record the date and time the treatment team physician or advanced practice registered nurse was consulted and the information imparted.

F. The restraint clinician must order the least restrictive emergency safety intervention that is most likely to be effective in resolving the situation.

G. If the order for physical restraint is verbal, the verbal order must be received by a restraint clinician or a New Mexico licensed registered nurse (RN) or practical nurse (LPN). The restraint clinician must verify the verbal order in a signed, written form placed in the youth's record within 24 hours after the order is issued.

H. A restraint clinician's order must be obtained by a restraint clinician or New Mexico licensed RN or LPN prior to or while the physical restraint is being initiated by staff, or immediately after the situation ends.

I. Each order for physical restraint must be documented in the youth's record and will include:

- (1) the name of the restraint clinician ordering the physical restraint;
- (2) the date and time the order was obtained;
- (3) the emergency safety intervention ordered, including the length of time;
- (4) the time the emergency safety intervention actually began and ended;
- (5) the time and results of any one-hour assessment(s) required; and
- (6) the emergency safety situation that required the client to be restrained; and
- (7) the name, title, and credentials of staff involved in the emergency safety intervention.

J. The facility will notify the parent(s) or legal guardian(s) that physical restraint has been ordered as soon as possible after the initiation of each emergency safety intervention. This will be documented in the client's record, including the date and time of notification, the name of the staff person providing the notification, and who was notified.

[7.30.13.80 NMAC - N, xx/xx/2018]

7.30.13.81 CLIENT RIGHTS: All licensed facilities shall understand, protect and respect the rights of all youth demonstrating substantial compliance with all applicable New Mexico Children's Code, Section 32A-1-1 NMSA 1978, including the NM Children's Mental Health and Developmental Disabilities Act, Section 32A-6A-1 NMSA 1978.

[7.30.13.81 NMAC - N, xx/xx/2018]

7.30.13.82 CLIENT CLINICAL RECORD:

The client clinical records maintained by a crisis triage center in a paper-based or electronic system shall document the degree and intensity of the treatment provided to clients who are furnished services by the facility. A client's clinical record shall contain at a minimum all required NM Children's Code documentation defined in Subsection A through Subsection O of Section 32A-6A-10 NMSA 1978 associated with the use of any emergency interventions such as physical restraint.

[7.30.13.82 NMAC - N, xx/xx/2018]

7.30.13.83 STAFFING REQUIREMENTS: Other staff requirements:

A. All CYFD background check requirements governing criminal records clearances must remain in effect while a program is accredited.

B. When a prospective employee that will work with or have access to youth has not lived in the United States continuously for the five years prior to hire, the facility must obtain the equivalent of a criminal records and background clearance from any country in which the prospective employee has lived within the last five years, for a period longer than one year.

C. If the facility receives reliable evidence that indicates that an employee or prospective employee poses an unreasonable risk, as defined or pursuant Subsection A of Section 8.8.3 NMAC, the facility may not hire the prospective employee or retain the employee.

[7.30.13.83 NMAC - N, xx/xx/2018]

7.30.13.84 PERSONNEL RECORDS: Each facility licensed pursuant to these regulations intending to work with youth must maintain a complete record on file for each staff member or volunteer including:

A. Completed CYFD criminal records and background check, including the FBI-approved electronic fingerprint for each employee that serves as direct service staff working with youth including licensed and certified staff. (supervisors, physicians, nurses, therapists, client care workers, coordinators, or other agency personnel who work in immediate direct unsupervised contact with youth.) The agency must have received the background clearance from the CYFD background check unit prior to the employee's direct, unsupervised contact with youth.

B. The date the employee was first employed and dates of transfers or changes in position.

C. Documentation that of a minimum of three references were checked.

D. A clearance letter from CYFD stating the applicant's background check has been conducted with negative results or a signed statement by the administrator, director, or operator attesting to direct supervision of an uncleared employee by a cleared employee until official clearance is received.

E. Documentation that each uncleared employee is identified on the staff schedule.

[7.30.13.84 NMAC - N, xx/xx/2018]

7.30.13.85 STAFF TRAINING: At least 12 hours of on-going training shall be provided to staff that provides direct care at least annually; the training and proof of competency shall include at a minimum: NM Children's Mental Health and Developmental Disabilities Act Section 32A-6A-1 et. seq., NMSA 1978.

[7.30.13.85 NMAC - N, 7.30.13.85 xx/xx/2018]

HISTORY of 7.30.13 NMAC: [RESERVED]

TAB 2

Via Email and U.S. First Class Mail

April 9, 2018

Lynn E. Mostoller, Esq.
Sutin, Thayer & Browne PC
Post Office Box 1945
Albuquerque, NM 87103-1945

**Re: Hearing Officer Appointment – “7.30.13 Crisis Triage Centers”
New Mexico Department of Health (DOH), Division of Health Improvement (DHI)**

Dear Ms. Mostoller:

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 Wednesday, May 30, 2018. This rulemaking hearing is scheduled for 9:00 a.m. in the Harold Runnels Building Auditorium at 1190 St. Francis Drive in Santa Fe, New Mexico.

The hearing will be conducted to receive public comment regarding the proposed adoption of the Crisis Triage Center rule. I am enclosing a copy of the proposed rule 7.30.13 NMAC. An exhibit binder will also be provided to you at the time of the hearing. Thank you for accepting this appointment.

Thank you for accepting this appointment.

Sincerely,


Lynn Gallagher, Cabinet Secretary

4/10/18
Date

cc: Gabrielle Sanchez-Sandoval, Deputy Cabinet Secretary (w/out enclosure)
Joe Foxhood, Deputy Director, DHI (w/out enclosure)
Witter Tidmore, Assistant General Counsel (w/out enclosure)

Via Email and U.S. First Class Mail

April 9, 2018

Lynn E. Mostoller, Esq.
Sutin, Thayer & Browne PC
Post Office Box 1945
Albuquerque, NM 87103-1945

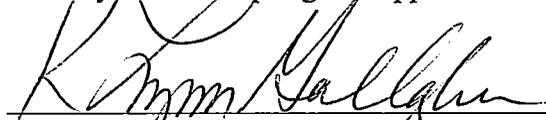
**Re: Adoption of new NMAC rule 7.30.13 "Crisis Triage Centers"
Exemption/Contract No.: 18263**

Dear Ms. Mostoller:

Enclosed please find the Purchase Order ("PO") associated with the above-referenced matter to serve as the Administrative Hearing Officer. The amount of this encumbrance for this assignment is Eight Thousand Dollars (\$8,000.00), which is an estimate of the total attorney fees and expenses you may incur in completing this assignment. The NMDOH believes that the amount should be sufficient to complete this matter. However, should your charges seem likely to exceed this amount, an increase request must be submitted to the Contract Manager and approved prior to performing work for which the total billed amount would exceed the approved budget. Work performed in excess of an approved budget amount will not be paid.

The New Mexico Department of Health ("DOH") Contract Manager for DOH/DHI for this appointment is Jeanette Vasquez, ASB Chief. Ms. Vasquez can be reached at (505) 467-8931 or by email, jeanette.martinezvasquez@state.nm.us

Thank you for accepting this appointment.



Lynn Gallagher, Cabinet Secretary



Date

cc: Jeanette Vasquez, ASB Bureau Chief, DHI
Witter Tidmore, Assistant General Counsel, OGC
Joe Foxhood, Division Director, DHI



TAB 3

TAB 4

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the adoption of a new rule, 7.30.13 NMAC, "Crisis Triage Centers". The hearing will be held on May 30, 2018 at 9:00 a.m. in the auditorium of the Harold Runnels Building, located at 1190 St. Francis Drive in Santa Fe, New Mexico.

A Crisis Triage Center (CTC) provides stabilization of behavioral health crises and may include outpatient stabilization and short-term residential stabilization in a residential rather than institutional setting. The CTC provides emergency behavioral health triage, evaluation, and admission 24 hours a day, 7 days a week on a voluntary basis. The CTC may serve individuals 14 years of age or older who meet admission criteria. The CTC offers services to manage individuals at high risk of suicide or intentional self-harm and may offer drug and alcohol detox services.

The legal authority authorizing the proposed rule and the adoption of the rule by the Department is at Subsection E of Section 9-7-6, Subsections B and D of Section 24-1-2, Subsection J of Section 24-1-3 and Section 24-1-5 NMSA 1978.

A free copy of the full text of the proposed rule can be obtained from the Department's website at <https://nmhealth.org/publication/regulation/>

This hearing will be conducted to receive public comment regarding the proposed adoption of a new rule 7.30.13 NMAC. Any interested member of the public may attend the hearing and offer public comments on the proposed new rule during the hearing. Written public comments may be submitted prior to the date of the hearing. Please submit any written comments regarding the proposed rule to the attention of:

Christopher Burmeister
District Manager, Division of Health Improvement
New Mexico Department of Health
2040 S. Pacheco,
Santa Fe, NM 87505
Christopher.Burmeis@state.nm.us

All written comments must be received by 5pm on May 24, 2018.

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 Samantha Baca by telephone at (505) 827-2997. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

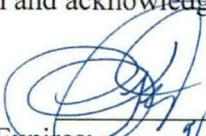
TAB 5

Affidavit of Publication in New Mexico Register

I, Matthew Ortiz, certify that the agency noted on Invoice # 3136 has published legal notice of rulemaking or rules in the NEW MEXICO REGISTER, VOLUME XXIX, that payment has been assessed for said legal notice of rulemaking or rules, which appears on the publication date and in the issue number noted on Invoice # 3136, and that Invoice # 3136 has been sent electronically to the person(s) listed on the *Billing Information Sheet* provided by the agency.

Affiant: 
Matthew Ortiz

Subscribed, sworn and acknowledged before me this  day of April, 2018.

Notary Public: 
My Commission Expires: 2/9/2020



1205 Camino Carlos Rey | Santa Fe, NM 87507 | nmcpr.state.nm.us

Robert J. Tórréz
Historian/Chair

Hon. Hector Balderas
Attorney General

Hon. Wayne Johnson
State Auditor

Hon. Maggie Toulouse Oliver
Secretary of State

Veronica Gonzales
Department of Cultural Affairs

Edwynn Burckle
General Services Department

Lynne S. Rhys
State Law Librarian

New Mexico Register / Volume XXIX, Issue 8 / April 24, 2018**NOTICE OF PUBLIC HEARING**

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A Crisis Triage Center (CTC) provides stabilization of behavioral health crises and may include outpatient stabilization and short-term residential stabilization in a residential rather than institutional setting. The CTC provides emergency behavioral health triage, evaluation, and admission 24 hours a day, 7 days a week on a voluntary basis. The CTC may serve individuals 14 years of age or older who meet admission criteria. The CTC offers services to manage individuals at high risk of suicide or intentional self-harm and may offer drug and alcohol detox services.

The legal authority authorizing the proposed rule and the adoption of the rule by the Department is at Subsection E of Section 9-7-6, Subsections B and D of Section 24-1-2, Subsection J of Section 24-1-3 and Section 24-1-5 NMSA 1978.

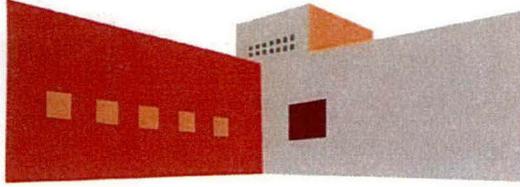
A free copy of the full text of the proposed rule can be obtained from the Department's website at <https://nmhealth.org/publication/regulation/>

This hearing will be conducted to receive public comment regarding the proposed adoption of a new rule 7.30.13 NMAC. Any interested member of the public may attend the hearing offer public comment on the proposed new rule during the hearing. Written public comments may be submitted prior to the date of the hearing. Please submit any written comments regarding the proposed rule to the attention of:

Christopher Burmeister
District Manager, Division of Health Improvement
New Mexico Department of Health
2040 S. Pacheco,
Santa Fe, NM 87505
Christopher.Burmeis@state.nm.us

All written comments must be received by 5pm on May 24, 2018.

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 Samantha Baca by telephone at (505) 827-2997. The Department requests at least ten (10) days advance notice to provide requested special accommodations.



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VOLUME XXIX **ISSUE** 8 **P.O. NUMBER** 66500-00001148567

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TAB 6

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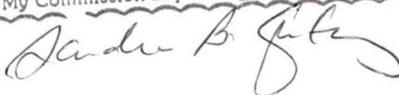
NEW MEXICO
DEPARTMENT OF
HEALTH

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the adoption of a new rule, 7.30.13 NMAC, "Crisis Triage Centers". The hearing will be held on May 30, 2018 at 9:00 a.m. in the auditorium of the Harold Runnels Building, located at 1190 St. Francis Drive in Santa Fe, New Mexico.

A Crisis Triage Center (CTC) provides stabilization of behavioral health crises and may include outpatient stabilization and short-term residential stabilization in a residential rather than institutional setting. The CTC provides emergency be-

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STATE OF NEW MEXICO
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Albuquerque Journal

Published in the Albuquerque Journal on Monday **April 23, 2018**

NOTICE OF PUBLIC HEARING The New Mexico Department of Health will hold a public hearing on the adoption of a new rule, 7.30.13 NMAC, "Crisis Triage Centers". The hearing will be held on May 30, 2018 at 9:00 a.m. in the auditorium of the Harold Runnels Building, located at 1190 St. Francis Drive in Santa Fe, New Mexico. A Crisis Triage Center (CTC) provides stabilization of behavioral health crises and may include outpatient stabilization and short-term residential stabilization in a residential rather than institutional setting. The CTC provides emergency behavioral health triage, evaluation, and admission 24 hours a day, 7 days a week on a voluntary basis. The CTC may serve individuals 14 years of age or older who meet admission criteria. The CTC offers services to manage individuals at high risk of suicide or intentional self-harm and may offer drug and alcohol detox services. The legal authority authorizing the proposed rule and the adoption of the rule by the Department is at Subsection E of Section 9-7-6, Subsections B and D of Section 24-1-2, Subsection J of Section 24-1-3 and Section 24-1-5 NMSA 1978. A free copy of the full text of the proposed rule can be obtained from the Department's website at <https://nmhealth.org/publication/regulation/> This hearing will be conducted to receive public comment regarding the proposed adoption of a new rule 7.30.13 NMAC. Any interested member of the public may attend the hearing and offer public comments on the proposed new rule during the hearing. Written public comments may be submitted prior to the date of the hearing. Please submit any written comments regarding the proposed rule to the attention of: Christopher Burmeister District Manager, Division of Health Improvement New Mexico Department of Health 2040 S. Pacheco, Santa Fe, NM 87505 Christopher.Burmeis@state.nm.us All written comments must be received by 5pm on May 24, 2018. 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 **Samantha Baca** by telephone at (505) 827-2997. The Department requests at least ten (10) days advance notice to provide requested special accommodations. Journal: April 23, 2018

TAB 7

TAB 8

SANTA FE
Recovery Center
THE PATH TO RECOVERY



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May 24, 2018

Christopher Burmeister
District Manager, Division of Health Improvement
New Mexico Department of Health
2040 S. Pacheco
Santa Fe, NM 87505

Dear Mr. Burmeister,

I would like to submit the following public comment with respect to the draft Crisis Triage Center regulations (NMAC 7.30.13).

The Santa Fe Recovery Center is an adult substance use disorder treatment program rendering a wide array of services to more than 700 clients a year throughout New Mexico. We have been in operation since 2005 and offer social detoxification, residential treatment, medication assisted treatment, regular and intensive outpatient treatment, and sober living.

We have been interested, for some time, in providing a higher level of detoxification that includes dual diagnosis assessment and treatment as well as medical screening, clearance, medication assisted treatment, treatment, and stabilization that I believe would fall under the crisis triage center regulations. It is with the intention of transitioning our social detoxification program into a crisis triage center that I comment on the draft regulations today.

COMMENTS:

7.30.13.7.A With respect to the definition of Acute Medical Alcohol Detoxification in this section, there are a list of 8 symptoms. And while it is true that certain of these symptoms are of the severity level to require hospital based detoxification such as autonomic hyper-activity, vomiting, hallucinations, and seizures, there are several symptoms that would not meet criteria for a hospital based detoxification. For example, a combination of nausea and insomnia or anxiety and hand tremor would not be sufficient to meet hospitalization criteria and yet, based on this definition, would exempt the individual from detoxification in the crisis triage center. I would suggest that something be added to the language that the combination of the two or more symptoms must be severe enough to meet criteria for a hospital based or medically managed detoxification.

7.30.13.7.D With respect to this section where it reads that “The License applicant must be the legal owner of the facility”. I would like to request that the language allow for leasing of space such that the applicant have control of the facility rather than having to be the legal owner.

7.30.13.9.C. With respect to this section titled Limitations on scope of services. Number 3 states that a CTC shall not provide medical care not related to crisis triage intervention services beyond basic medical care of first aid and CPR. When the physician is on site, it is within their scope of practice to address medical conditions such as prescription of asthma medication or high blood pressure medication and other low level medical interventions that would de-incentivize individuals from unnecessarily going to urgent care or the emergency room for these basic medical interventions. So long as it is within the physician's scope of practice, examination and treatment of non-emergent medical conditions should be allowed.

7.30.13.9.C. Within this same section, there is no number 4 in the list of limitations. Number 5 stipulates that the CTC shall not provide residential services in excess of eight days. A more significant medically supervised or medically monitored detoxification of benzodiazapines, for example, may require up to 14 days for stabilization. The wording on this limitation should add "unless symptoms requiring medical monitoring or supervision persist, in which case residential services shall not exceed 14 days".

7.30.13.9.C. Within this same section, number 7 states that the CTC shall not exceed 16 beds. Federal guidelines in the state SUD waiver allow for up to 15 days of residential treatment for facilities with more than 16 beds. Therefore, limiting residential services in the CTC to 16 beds seems to unnecessarily restricts access to care and limits New Mexico's ability to provide network adequacy for this service.

7.30.13.9.D.2. Under the next section I would request a point of clarification. The section reads that "Any facility providing the services described under these regulations on the effective date of these regulations shall apply for a CTC license within 180 days". Is the intent of this standard to require all residential detoxification facilities to be licensed as CTC's?

7.30.13.26 With regard to this section titled Program Services. This section states than an independently licensed mental health professional must assess each individual. Many behavioral health facilities within the state including CMHC's, FQHC's, and facilities with an approved Supervisory Protocol can have non-independently licensed mental health professionals, under the supervision of an independently licensed mental health professional, render assessments. Due to workforce shortages and staffing costs as well as established practice, this language should allow for assessment by a non-independently licensed mental health professional, under the supervision of an independently licensed mental health professional.

7.30.13.29 (4 and 5) Under the section Staffing Requirements, the program is required to have an on-call physician AND psychiatrist 24hrs a day, 7 days a week. It is cost prohibitive to require the program to retain an on-call physician 24/7. To also require an on-call psychiatrists is an exorbitant cost for the facility. There are also workforce shortages in the state that would make this virtually impossible. I would suggest that the facility be required to have a psychiatrist available for consult but not require that this be 24/7.

7.30.13.29.B.4 Under this section there is a requirement that the CTC ensure that all employees are tested for tuberculosis at hire and annually. In 2004, the department of health stopped requiring TB testing for employees, and even when it was required, it did not need to be repeated annually. I would like to request that there be consideration of removing this stipulation.

7.30.13.52.B Under this section I would like clarification as to whether a pharmacy grade locked medication cart would be sufficient to meet the standard. This is allowed by pharmacy regulations and, as a space saving measure, is preferable to requiring a medication closet or room.

7.30.13.58.B. Under this section there is a requirement that residential CTC's have private or semi-private rooms. I would like to strenuously object to this standard. This standard is neither a best practice, as it hampers supervision and line of sight of clients, nor is it a requirement that most detoxification centers statewide would be able to meet. The safest way to provide medically supervised/monitored detoxification is with dormitory style sleeping arrangements that allow direct care staff to see all clients at all times. Earlier this year, our medical technician saved the life of a client by being able to witness the client collapsing and losing vital signs. Due to that immediate observation, the medical technician was able to successfully administer CPR until paramedics could arrive. Semi-private room requirements would severely limit the ability of most residential facilities statewide to be licensed as CTCs. Client dignity and comfort can be ensured through privacy curtains and other methods.

7.30.13.62.A Under this section it reads that "the facility shall have either contracted food preparation or prepare food on site". This provision does not allow for a facility to prepare food off site and transport it to the CTC. There is environment department catering licenses that allow for this type of food service, and as such, it should be an allowed method of food service for CTC's. The Santa Fe Recovery Center has a commercial kitchen in its residential facility and currently prepares food at that location and transports it to the detoxification facility. This is allowed per our catering environment department certification.

In addition to the section comments listed above, I have two general comments about the regulations. The first is that facilities that are federally accredited through CARF, Joint Commission, or COA should have deemed status with respect to certain of these standards including, but not limited to, policies and procedures, health and safety standards, and quality assurance plans. This would reduce the burden on facilities to report to and show evidence of these standards to multiple regulatory bodies and would save DHI time and money related to certification and licensing of these facilities. If not for initial licensing, perhaps ongoing accreditation of the facility could assist with ongoing licensure to reduce administrative burden related to that process.

The second general comment is that there are incongruences within the regulations related to residential versus outpatient or non-residential CTC's. In the definition of the service, the language allows for non-residential and less than 24 hour crisis services, but then throughout the remainder of the document it lists

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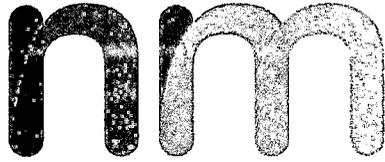
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requirements in multiple sections related to 24 hour operations without stipulating that these requirements would only apply to residential facilities providing 24/7 operations.

Thank you so much for your consideration of these comments. Please feel free to reach out to me with questions or comments should you so desire.



Sylvia Barela, MBA
Chief Executive Officer
Santa Fe Recovery Center



new mexico
solutions

707 Broadway NE, Suite 500
Albuquerque, NM 87102

505-268-0701
Fax 505-232-9055

Chris Burmeister
District Manager
DHI
NM DOH
2040 S. Pacheco
Santa Fe, NM 87505

Re. Proposed Crisis Triage Center (7.30.13) regulations

Delivered via email

May 24, 2018

Dear Mr. Burmeister,

Thank you for the opportunity to review and comment. I will also attend the public hearing on the 30th. Comments and notes are appended below:

- Although page 5, item B.1 indicates that an acceptable type of service for CTC is “a CTC structured for less than 24-hour stays...”, there remain numerous lingering references throughout the document to a 24/7 requirement (page 7 G4d, page 15, item B; page 17 item A3.; page 21, item 40) NMS requests these all be deleted or amended by qualifiers to indicate they do not apply if CTC is not structured as a 24/7 program;
- On page 2-3, items D (applicant), R (Facility), and AA (management company) seem to conflict, creating a requirement such that the owner of the building must be the licensed operator. This is not a current DHI requirement in other behavioral health licenses, such as CMHC. NMS requests these be amended to be consistent with CMHC expectations.
- Regulations do not allow or permit deemed status in response to national accreditation. NMS recommends this be added, consistent with best practice and other NMAC facility requirements.
- On page 5, item 6 prohibits “ongoing outpatient behavioral health

treatment.” This language and prohibition is unnecessary and unnecessarily broad. Some patients may have to return to the CTC several times in order to resolve crises, or address gaps in prescriptions or access to stable outpatient services. NMS recommends this language be stricken.

- On page 5, Item C1 restricts involuntary treatment. This precludes CTC services playing a role in Assisted Outpatient Treatment (AOT).
- Page 5, item C3 prohibits medical care in language which is unnecessarily broad and prohibits licensed medical providers from providing services for which they are qualified and licensed.
- On page 7, Item E requires that a program obtain prior approval from DOH/DHI before starting renovations. However, no time frame is given for DHI’s response. This creates a burden on the program and inhibits the development of much-needed services in NM. Given that DHI currently is understaffed, delays in response may be anticipated. This requirement should be amended, given a reasonable timeline for DHI response, or the requirement stricken.
- Page 13, item H, regarding chemical restraint. This language is internally contradictory, and essentially negates a restriction on chemical restraint – by defining a medication used for standard treatment as not being a chemical restraint, this language opens a broad door to use of intramuscular injections of Haldol for instance, a standard treatment for individuals determined to be agitated or out of control. This is indeed the very definition of a chemical restraint.
- Page 11, 7.30.13.21 regarding governing body is complicated by earlier items regarding “facility,” applicant and management company, as it is unclear which of these entities must have the governing body. It is recommended these be made consistent with CMHC regulations.
- Page 15, program services requirement of an independently licensed mental health professional. Given the workforces shortage issues, particularly in independent licensed providers, this requirement places an unnecessary and undue burden on provider. HSD recently revised requirements that only independently licensed clinicians could conduct assessments, allowing them under supervision, consistent with state licensing regulations. It is recommended that DHI incorporate this best practice in their own requirements.
- Page 18, item 4 at top of page, requiring TB screens and annual retesting – this requirement is in conflict with the 2004 repeal of NMAC 7.4.4 and places an unnecessary burden on CTC providers.
- Page 26, item 60, sentence “facilities shall be reward to support laboratory procedures if provided” is a fragment and incomplete requirement.

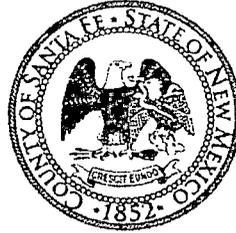
Thank you for the opportunity to comment.

David J. Ley, Ph.D.
Executive Director
Psychologist #834

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

Mr. Christopher Burmeister
District Manager, Division of Health Improvement
New Mexico Department of Health
2040 S. Pacheco
Santa Fe, NM 87505

RE: Public Comment Regarding Draft Regulation 7.30.13

Dear Mr. Burmeister:

I am writing in my capacity as the Director of Santa Fe County's Community Services Department to provide comment on the draft regulations for crisis triage centers, which will be Title 7, Chapter 30, Part 13 of the New Mexico Administrative Code. I will set forth a brief overview of how these regulations will be relevant to Santa Fe County programs and then comment specifically on sections of the proposed regulations.

In May of 2016 Santa Fe County held a Behavioral Health Summit to discuss concerns and gaps in services in behavioral health in Santa Fe County. The overwhelming request of the community was for the County to develop and fund a Behavioral Health Crisis Center (CTC). In November of 2016 the Santa Fe County Board of County Commissioners (BCC) passed a bond providing for \$2.0 million dollars for a building to house a Crisis Center. In June of the same year the BCC voted to support an increase to the Gross Receipts Tax (GRT), which devotes a significant portion to the development and operations of a Crisis Center. Billing of Medicaid and other sources is also expected to support services provided in the Center.

Last fall the County released a Request for Proposals to hire a "Primary Partner" (Managing Partner) to provide core crisis services at the Crisis Center. The core services will include a Mobile Crisis Team, the development of a Living Room Model, on-site pharmacy, assessment, counseling, navigation and other stabilization services. Early in 2018 the County entered into a contractual agreement with New Mexico Solutions, which was chosen to serve as the "Primary Partner" (Managing Partner) to offer such services in our County. Services will be provided at a County owned building located at 2052 Galisteo in Santa Fe, New Mexico, part of which will be leased to NM Solutions.

In addition to the Crisis Triage services being provided by the Primary Provider (Managing Partner), the Center intends to co-locate with other service providers serving Santa Fe County residents. The model includes co-location of the CTC with a detoxification center providing enhanced social detox services and co-location of other intensive navigation programs already being provided in our community. It is the hope of the County that this comprehensive and integrated model will provide individuals experiencing a behavioral health crisis with an array of intensive services designed to mitigate crisis and return individuals to full functioning. The model also emphasizes navigation services which are intended to link clients with long term services and supports, including those related to the social determinants of health.

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The County has received a copy of the regulations that are being promulgated by the Department of Health in partnership with the Human Services Department. While we appreciate the Department's rulemaking efforts, we do have both overarching and specific concerns as detailed below. Overarching concerns include but are not limited to the following:

1. Our model includes the development of a Crisis Triage Center that is co-located with a detoxification center providing enhanced social detox services. Programs are operated independently from one another and by different providers. Does the co-located detox center need to be licensed as a CTC?
2. The Santa Fe County model proposes a non-residential approach with hours of operations less than 24 hours a day/seven days a week and specific to data that indicates when our residents are most likely to experience crisis. The language in the regulations as written is contradictory with regard to hours of operation. Is it the intent of the State to allow for the operations of Crisis Centers who are open for less than 24 hours per day? The Santa Fe County model proposes to begin with hours from 10am to midnight six days per week. All references in the regulations to 24/7 should be reviewed to assure requirements are appropriate to a center's hours of operation.
3. As written the regulations are unclear as to who exactly needs to be licensed. In some cases the regulations specify that the owner of the facility is the licensee. This is problematic because the County owns the building where the CTC will be operated by a Management Company/Primary Partner. In addition, as stated above, it is unclear what co-located services need to be licensed under these regulations given many of the navigation services Santa Fe County's center will co-locate will be part of other existing organizations that are otherwise licensed, certified, or accredited.

These and other issues and suggestions regarding the regulations are summarized below:

1. 7.30.13.7.D Definitions

This section states that the "Applicant" is the legal entity that applies for a license. It further states that the license applicant must be the legal owner of the facility. This poses a problem for Santa Fe County as the "Applicant" should be the service provider (which is the Management Company as defined in the definition) serving as the Primary Partner, not the County, who owns the building. In addition, it creates problems for those CTCs which may be leasing space to operate their facility. We encourage DOH to delete the sentence stating that the license applicant must be the legal owner of the facility, or to otherwise disentangle the requirement that the license applicant also be the legal owner of the facility.

2. 7.30.13.7.R Definitions

This defines the Facility as the physical premises where the CTC services are provided whether owned or leased. This is a problem as stated above because as written it states that the applicant of the license must be the legal owner of the building. In the case of Santa Fe County the applicant would be the Primary Partner (Managing Partner) not the County, who currently owns the building. Again as stated above we request that the State change the language stating that the license applicant must be the legal owner of the facility.

3. 7.30.13.7.AA Definitions

This section refers to the Management Company as the legal entity that manages the facility, and implies this is the entity that will be licensed.

4. 7.30.13.9.A. – General Scope of Services

This section refers to a Crisis Triage Center (CTC) which are "health facilities offering youth and adult outpatient and residential care services." This section is concerning for two reasons:

- a. The section seems to indicate that a Crisis Triage Center will provide "emergency behavioral health triage, evaluation, and admission 24 hours a day, seven days a week." Other sections of the regulation indicate flexibility in the law for Crisis Centers operating for less than 24 hours (see Section 7.30.13.9.B (1) "a CTC structured for less than 24 hour stays"). Other relevant sections with similar contradictory language include Section 7.30.13.9 B (1), Section 7.30.13.29, Section 7.30.13.6, Section 7.30.13.25 (B) and Section 7.30.13.40. As developed the Santa Fe County model is less than 24 hour.
- b. In other parts of this section and elsewhere in the regulation it seems clear that a CTC could serve youth or adults or could serve both age groups. It is important to insure that language throughout the regulations are consistent with this, as each individual Crisis Center may have differing populations that they will serve on location.

5. Section 7.30.13.9 c(1) Limitations on Scope of Services

This section states that a Crisis Triage Center is limited to serving individuals on a voluntary basis. Subsection C (1) indicates a CTC shall not accepted involuntary commitments of individuals who are not voluntarily seeking treatment. We request the State to clarify what is involuntary in this section of the regulations, specifically with regard to Assisted Outpatient Treatment (AOT). In addition the County seeks guidance on how to deal with individuals who may have treatment guardians or who may be unwilling or unable to sign a written consent to treatment but are cooperating with assessment and/or engagement services.

6. 7.30.13.9 C (3) Limitations on Scope of Services

This subsection states that the CTC shall not provide medical care not related to crisis intervention services beyond basic medical care of first aid and CPR. While Santa Fe County is in agreement that extensive medical services should not be provided, we want to insure that co-located facilities, such as a detox center, may provide medical care when the facility is equipped and staffed to do so (for example high blood pressure, blood sugar levels, Medication Assisted Treatment as required, or asthma treatment) without needing to transport to a more expensive medical facility. In addition, at times medical issues may be concurrent with behavioral health issues, or may exacerbate the situation. We believe the State should allow appropriate medical care to be provided for the person in crisis to manage their immediate needs and/or provide crisis related medical care beyond first aid and CPR, to the extent they are equipped and staffed to do so or as long as they are doing so in collaboration with other qualified practitioners.

7. 7.30.13.9.C: Number 4 is missing.

8. 7.30.13.9.C (5) Limitations on Scope of Services

This subsection requires that residential services not be provided by a CTC in excess of eight days. While the Santa Fe County CTC model is not residential, stabilization may require more than eight days and navigation services to the social determinants of health may require a longer time period. While we expect the length of treatment to be significantly less for most individuals we are recommending that the length of stay limit be extended for up to 14 days.

9. 7.30.13.9.C.(6) Limitations on Scope of Services

This provision would prohibit CTCs from providing ongoing outpatient behavioral health treatment or navigation services. While we understand the desire to license these facilitates separately, the State should not prohibit or discourage CTCs with co-located navigation services from providing ongoing services beyond the time period of the crisis. Santa Fe County is looking at providing a

central location where the community has the ability to access multiple services in one location. As individuals work through their service needs, priorities and needs may change, and this service should be made available at the CTC. The CTC should also be a location for caregivers, treatment guardians, family members and the citizens of the county to obtain information and or resources to assist their family members or individuals in their care, at times both resources and navigation services may be provided beyond the scope of the individual's primary treatment at the CTC.

10. 7.30.13.9.D. License Required

This section needs to be revised to consider services that are currently being operated and which may be seen as falling into the definitions proposed in this regulation (e.g., withdrawal management). Nothing in this regulation or in its implementation should result in an existing program which has been operating safely with good outcomes for people and communities, to have to shut down because it is not in a facility or not yet ready to be licensed as a CTC. We applaud the State's proposed use of variances or waivers (Subsections 7.30.13.7.ZZ. and AA.) to provide additional time or an exception to some of the requirements of this proposed regulation. However, the waiver and variance process, the criteria by which a waiver or variance request will be provided, as well as the process for appealing a denial of a waiver or variance request should be described in a more detailed manner.

11. Section 7.30.13.10. E Existing or Renovated Construction

This subsection states that if the proposed facility includes any remodeling, renovations or additions or new construction of any type, the building plans and specifications covering all portions of the proposed work shall be submitted to the Department for review and approval. We are respectfully requesting that the Department outline parameters and timelines for review and response by the State so that costs and timeframes can be managed at the local level.

12. 7.30.13.10.G.(4) Program Description

This section describes the elements of the program description that must be provided by an applicant for a CTC license. It requires proposed 24/seven staffing plans for both residential and non-residential programs. Yet, the earlier subsection 7.30.13.9.B.(1) specifically contemplates a less than 24/seven operation for some CTCs. This subsection should be revised to reflect that programs should provide a staffing plan appropriate to its proposed hours of service.

13. 7.30.13.21 Governing Body

In Santa Fe County, the Applicant, Licensee, Management Company are the same legal entity and not the owner of the Facility. That legal entity does have a governing body, but that governing body is not Santa Fe County.

14. 7.30.13.25 – Client Acceptance, Admission and Discharge Criteria

7.30.13.25.B states that the facility shall admit and discharge 24 hours a day/seven days a week in contradiction to other sections of the regulations which allow for a CTC to operate for less than 24 hours a day and less than seven days a week.

This section as written assumes that all individuals experiencing a crisis will require a residential stay. Individuals should be able to receive services in the CTC without an assumption or need for admission to a residential setting. The regulation should make a distinction between admission and discharge, and presentation for services and release.

The requirement is residential program licensing, and Santa Fe County will focus on a non-residential program with emphasis on client care navigation and a "warm-handoff" with face-to-face connections. The services may be provided via telehealth and or other available resources and should be incorporated into the post-discharge or post-release process. One of the most valuable and most underfunded services for individuals challenged with substance use and/or mental disorders is the navigation or case management services that can provide the immediate service needed. This will prove to be one of the most valuable services in the continuum of care offered by the crisis centers

15. 7.30.13.26 – Program Services

This subsection requires that assessments be provided by independently licensed mental health professionals. Given the nature of the workforce and the availability of professional staff we are recommending that the word "independently" be dropped from the requirement. We agree that assessment should be provided by a licensed mental health professional.

Program services should require appropriate roles for peers and peer-provided and peer-driven services. Studies continue to show and encourage the use of "certified" peer support workers. The CTC should be encouraged and allowed to identify certified peer support workers as the first line of contact when an individual is seeking services. This is a service that should be provided at the crisis center and as a support service after initial contact by the mobile crisis response teams.

16. 7.30.13.29 (a) – Staffing Requirements

This subsection states that the CTC shall have staff onsite 24 hours a day seven days a week, in contradiction to other areas of the regulations that state that CTC's may operate for less than 24 hours per day and less than seven days a week. This staffing section needs to be revised to provide for appropriate staff for services proposed related to the service provider's respective hours of operation.

Flexibility should be given to utilize any licensed professional that is appropriate given the limitations of available workforce. Specifically, the proposed regulations require that both a physician and a psychiatrist be available during all operating hours, in this case 24/7. This requirement seems specifically onerous given the limitations on workforce in Santa Fe County and in rural areas of the State.

Staffing should include a role for a certified peer(s) support staff on-site during operating hours. Workforce issues are difficult in many communities thus implementing services such as telehealth are great options. In subsection A.(5), the regulation should allow for appropriately licensed and trained mental health practitioners other than a psychiatrist who can be available during operating hours in person or through telehealth (e.g., a psychiatric nurse practitioner, a prescribing psychologist, etc.).

The CTC staffing patterns should be addressed by the different Crisis Center providers based on the needs of the community, the population of the region, and most important the needs identified by the respective Counties. Again, hiring and keeping licensed professionals has not only proven challenging in New Mexico and Santa Fe County but also nationwide.

17. 7.30.13.29.B (4) Other Staff Requirements

The regulation requires that all employees are tested for TB prior to direct contact with clients and are retested annually. The DOH has already deleted this requirement from other regulations. If TB tests are required the State should mandate these for residential programs only.

18. 7.30.13.32 – Staff Training

This section should include training on peer delivered services and recovery supports. Training should also include information about available services in the local area served by the CTC.

Also in section B, (3 and 4) it refers to staff training regarding substance use disorders and co existing disorders as well as withdrawal management protocols and procedures, if withdrawal management is provided. But earlier in the regulations, section 7.30.13.9.C (2) it states “the CTC shall not provide acute medical alcohol withdrawal management.” This can be confusing and needs to be clarified.

19. 7.30.13.34 – Nutrition

This subsection should be clarified to apply only to residential programs or to be specific to food provided on a short-term basis for persons at a facility operating less than 24 hours a day/seven days a week.

20. 7.30.13.40 – Business Hours

The CTC shall provide crisis stabilization and admissions 24 hours a day, seven days a week. Hours shall be posted on signage exterior to the building.

This sections should be revised to allow the CTCs in its respective communities to operate as needed to meet the community needs and post such operating hours. If the facility operates less than 24 hours a day, seven days a week, it may complement its services with the use of the mobile crisis response team, or access to NMCAL. These numbers can also be posted on the “hours of operation signage”.

21. 7.30.13.58.B Resident Rooms

Subsection B states that resident rooms may be private or semi-private. It further states that semi-private rooms may not house more than two residents. While this is not problematic for Santa Fe County’s crisis center because it will not be residential in nature, it is problematic for the co-located detox center if they need to meet the same licensing requirements. Currently the detox center operates with an open ward that accommodates 10 in the male unit and 5 in the female. Requiring them to meet this standard is untenable from both a staffing and a safety perspective.

22. Facility Requirements

All facility requirements should be reviewed to assure facilities are only required to have those areas and aspects truly necessary for its hours of operation and its services (e.g., non-residential versus residential). While some parts of the regulations are indicated as specific to residential programs, others appear to apply to all CTCs and may not be necessary for all models. If the State intends to handle this by waiver or variance, it should indicate this specifically. Nothing in these regulations should preclude the use of Living Room or other peer-delivered service models that may be more home-like in nature.

Thank you for the opportunity to comment on the draft regulations. I look forward to participating in the discussion at the public hearing on the draft.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rachel O'Connor', written over a horizontal line.

Rachel O'Connor

Director of Community Services for Santa Fe County



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May 25, 2018

Written Public Comment on Proposed Rule 7.30.13 NMAC

Thank you for the opportunity to provide comments on this proposed Rule governing Crisis Triage Centers. I am writing as the Chief Mental Health Officer of Hidalgo Medical Services, with primary responsibility for the operation of Tu Casa – a 24/7 facility designed to provide Social Detox services in a full spectrum facility designed to provide a continuum of care for substance abuse for the four-county area in the Southwest corner of New Mexico. We anticipate a start date in the summer of 2018, and are very interested in expanding those services to include Mental Health crises as this would fill another service gap in our rural and frontier portion of the state.

Since Tu Casa is designed for a maximum stay of 23 hours, we are grateful for the revision of the CTC legislation, and this rule to permit that level of care. However, I found many locations in the Proposed Rule where that specification is not clear, and would suggest an expansion of the language present at the beginning of Section 7.30.13.58 could be expanded to other portions of the Proposed Rule beyond 7.30.13.62. Those would include 7.30.13.63 LAUNDRY SERVICES, which includes the language “separate from the resident units” which logically would not apply to a non-residential facility. Similarly, 7.30.13.34 NUTRITION would not appear to address the nutrition needs of a facility not providing residential services. Also, 7.30.13.9 SCOPE OF SERVICES, part A defines a CTC as providing “stabilization in a residential, rather than institutional setting.” This would appear to contradict the inclusion of 7.30.13.9 B indicating “a CTC structured for less than 24-hour stays.”

Thus, we request the Department review and revise the entire Proposed Rule to eliminate language that would imply or require residential facilities in contradiction of 7.30.13.9 B (1).

A second area of concern for us has to do with what appears to be an unduly restrictive limitation on services offered in a CTC, appearing to undermine the integration of medical and behavioral health services in a single facility.

In 7.30.13.9 SCOPE OF SERVICES C(3) there is a prohibition on the provision of “medical care not related to crisis triage intervention services beyond basic medical care of first aid and CPR.” It is not clear how to reconcile this with 7.30.13.27 D (12e) which requires “prompt and adequate

medical attention for physical ailments.” This would also appear to undermine the provision of Social Detox in a facility that also provides crisis triage services. It is difficult to find a justification for this in a resource challenged rural and frontier community.

Similarly, 7.30.13.9 C(6) prohibits “ongoing outpatient behavioral health treatment,” disallowing the benefits of an integrated, ‘one-stop’ treatment facility allowing a rural community to leverage an appropriate facility to maximize access and ease of services for those with ongoing needs for treatment. Also, 7.30.13.9 D (3) would appear to prohibit the provision of any services beyond those contemplated in this rule, regardless of patient and community needs. Section 7.30.13.7 (DD) specifically excludes ongoing behavioral health services while failing to distinguish outpatient crisis stabilization services from the overwhelmingly accepted definition of outpatient services which does include ongoing treatment. The impact of this regulation would be to increase costs of treatment, and provide a barrier to access.

The overall intent of this rule seems to be to require a CTC to be a stand-alone facility that would be unable to provide continuity of care, instead requiring referrals to other facilities. Thus, we request the Department revise the rule to permit multiple licensures for a CTC facility - allowing the benefits of integrated and ongoing services in a single facility.

A third area of concern has to do with over prescription of licensure types allowed to provide particular services in a CTC.

For example, 7.30.13.7 Z “Licensed Mental Health Professional” includes providers who are primary care providers (physician, physician assistant, registered nurse) who may well have extremely limited training in the provision of behavioral health services, but excludes Licensed Professional Counselors (LMHC and LPCC) and Licensed Substance Abuse Counselors (LADAC), thus potentially suggesting both a more expensive and less than optimal staffing pattern for a CTC.

Further, 7.30.13.24 RISK ASSESSMENT includes elements that unduly restrict which staff can provide needed services. 7.30.13.24 N (1) and (2) both require a physician or advanced practice nurse to initiate or remove suicide restrictions. It is not at all clear why other independently licensed mental health professionals could not handle this, thus reducing both delays in responding to a crisis (neither of those credentials are required 24/7) and increased costs for the facility.

Also, 7.30.13.39 B requires a physician or advance practice nurse manage client transfers. This is likely to reduce timeliness and increase costs for transfers that may need to occur in the middle of the night, when an RN and Independently Licensed Mental Health Professional will be on site and capable of handling this.

We also note the lack of provision for services provided by Certified Peer Support Specialists.

Thus, we request the Department to revise the rule to permit appropriately licensed professional within CTC facilities.

A fourth area of concern has to do with administrative structures for a CTC.

To begin, 7.30.13.7 D requires that the license applicant be the legal owner of the facility. In our case, and likely other potential CTCs, the owner of the facility is a local government entity while management of the facility is entrusted to HMS as an FQHC and CMHC, while 7.30.13.7 B clearly indicates it is the administrator that is responsible to all management, control, and operation of the facility. It appears this would be the more logical applicant for licensure.

Similarly, 7.30.13.7 NN "Quality committee" appears not to contemplate that the CTC may be managed by a larger organization that already maintains (and is required to maintain) Quality Improvement committees that would, under existing regulations be responsible for Quality Improvement in the CTC. (Also, 7.30.13.7 OO appears to restrict the QI committee to improvements related to stabilization of crises, while operation of such a facility would surely require a much broader application of QI processes.)

Also, 7.30.13.21 appears to require a separate governing body for the CTC, which could result in FQHCs and other Federally funded entities from providing these services, since a separate governing body would be in violation of Federal Regulations for the administration of such entities.

Finally, 7.30.13.31 C indicates that employee records must be retained at the facility, thus potentially leading to violations of regulations governing HR records for multi-site providers of CTC service, such as HMS.

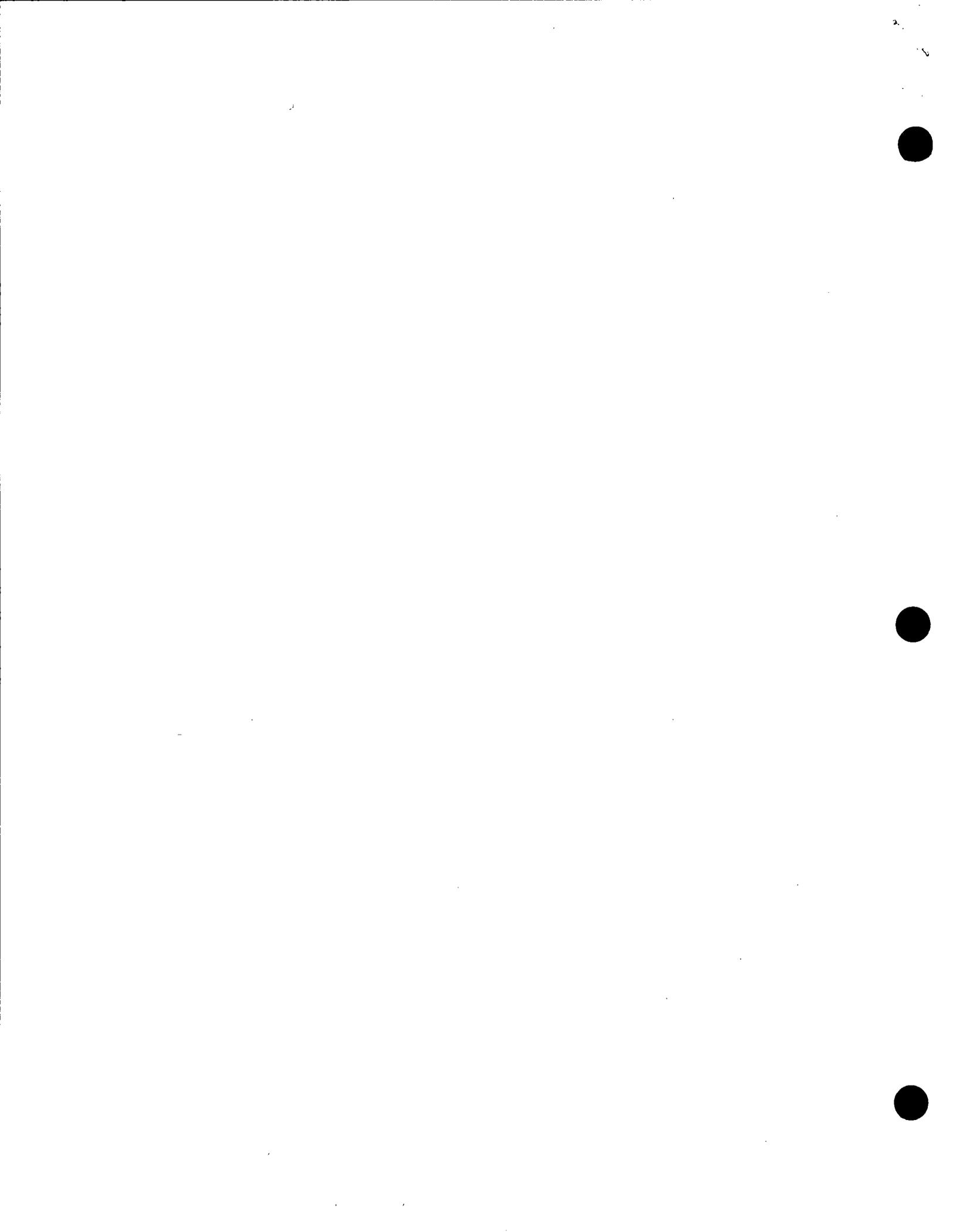
We request the Department revise the Rule to allow for multi-site and more flexible administrative structures.

Finally, we note that 7.30.13.15 D (1) appears to require a violation of 42CF Part 2 as revised in 2018.

Thank you for your consideration of these comments.

Respectfully submitted,

Neal A. Bowen, PhD





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Gary Housepian, Chief Executive Officer

Promoting and Protecting the Rights of Persons with Disabilities

May 24, 2018
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via e-mail: Christopher.Burmeis@state.nm.us

Re: comments on proposed Crisis Triage Center regulations, 7.30.13 NMAC

Dear Mr. Burmeister:

I write to submit public comments regarding the proposed Crisis Triage Centers (CTC) regulations on behalf of Disability Rights New Mexico (DRNM). DRNM is a private, non-profit organization whose mission is to protect, promote and expand the rights of persons with disabilities. As such, we monitor proposed programs and regulations to advocate for the rights of our constituents who will be affected by them. Our comments, observations and suggestions are below.

Before commenting on individual sections, DRNM is compelled to address two predicate conditions. The enabling legislation states that they are to provide "stabilization of behavioral health crisis and may include residential and nonresidential stabilization." The legislation does not address whether this stabilization treatment is for voluntary clients only. The proposed regulations say that services are provided on a voluntary basis. See proposed regulations at 7.30.13.9(A) and (B) NMAC. Yet, the proposed regulations imply that medications may be given in emergency situations (those situations where medications are used to protect "the safety of the individual and other persons": proposed 7.30.13.35(B)(2)NMAC). Under both the adult and children's mental health codes, this means administering medication without consent. NMSA 1978, § 43-1-15(M), 32A-6A-17(L). The regulations also mention guardian participation several times. If the CTC programs are voluntary, only the individual him or herself may consent to treatment. These issues must be addressed before the regulations go into effect. Otherwise, the regulations set the stage for serious legal rights violations.

Second, seclusion is properly and expressly prohibited in these regulations. **Proposed 7.30.13.24(B) NMAC.** Thus, the multiple references to seclusion throughout these regulations must be stricken.

7.30.13.7 Definitions

DRNM believes several more definitions need to be added to this section. First, there appears to be a difference between a *Crisis Intervention Plan* and a *Crisis Stabilization Plan*. It would be helpful to define these initially for ease of reference when reading the regulations.

Definitions for the following would also be helpful:

- “Behavioral health services”
- “Consent” or “Capacity to consent” – this is necessary as Crisis Triage Centers are for those who volunteer to be there, and which should include the right to refuse medication.
- “Crisis Triage Center” – such as the introductory paragraph in the notice
- “Crisis”
- “Emergency Safety Intervention”
- “Guardian”
- “Legal representative” – should include “legal custodian” for children
- “Operating Agreement”
- “Residential treatment or habilitation program” (*See* NMSA 1978, §32A-6A-4(AA) – CTCs that provide residential treatment for youths 14 and older which permit the involuntary emergency administration of psychotropic medication are considered residential treatment or habilitation programs
- “Voluntary” – discussed more fully below, the issue is that only individuals with capacity to consent may volunteer for treatment and legal guardians or legal representatives cannot “volunteer” for an individual

DRNM offers these additional comments regarding this section:

EE. The definition of “physical restraint” should expressly prohibit prone restraint.

P. This definition of “Withdrawal management” is out of alphabetical order and is duplicative of **BBB**, which is in alphabetical order. “**P**” should be deleted.

S. “High risk behavior” is defined as behaviors that put the client, staff or others’ health and safety at risk. This implies that there are behaviors for which emergency interventions such as restraint (defined at **EE**) or perhaps emergency medication, as distinguished from chemical restraint, may be administered. There is no definition of emergency medication and whether it can be administered without the client’s consent. The regulations simply require a CTC to develop policies and procedures to address how to respond to clients who “present with imminent risk to self or others, assaultive and other high-risk behaviors.” *See* proposed regulations at 7.30.13.24(A) NMAC, Risk Assessment. DRNM believes the proper procedures to address use of medications administered for the purpose of “protecting the safety of the

individual and other persons” (proposed 7.30.13.35 NMAC) must be articulated in these regulations rather than be left to each CTC to develop.

Z. “Licensed mental health professional” has as the last clause “with behavioral health training licensed in the state of New Mexico.” Does this last phrase apply to all of the professionals listed, or only an advanced practice registered nurse? Please clarify (*see* NMSA 1978, § 43-1-3(T) as an example).

The definitions leave some confusion regarding the various licensed mental health professionals, as some are defined (physician, physician’s assistant, advanced practice registered nurse) but others are not (psychologist, social worker, psychiatrist, practical nurse, social worker). It would be helpful if all are defined, and perhaps distinguish between psychologists who can prescribe medications and those who cannot.

7.30.13.9 Scope of Services

A. General Scope of Services: DRNM agrees that these services be offered on a voluntary basis. It is necessary to clarify who is “volunteering” the individual for admission, as the right to consent to treatment belongs to the individual alone. Only the person receiving the treatment can volunteer for it. This includes youths 14 years of age or older as they are given the right to consent to treatment under the Children’s Mental Health and Developmental Disabilities Act (“Children’s Act”) NMSA 1978, §32A-6A-15(A).

C. Limitations on Scope of Services: Subsection (5) says residential services may not be longer than eight days. We suggest stating this is eight **calendar** days.

7.30.13.10 Initial License Procedures

G(4)(e). This subsection requires that CTCs have operating agreements with various treatment facilities, including “behavioral health agencies for follow-up appointments for individuals discharged from the licensed facility.” Please define “operating agreement.” If this means there is an agreement that individuals discharged from the CTC are to have follow up appointments made at the facilities/agencies with which there are operating agreements, and that they are guaranteed services if the individual wishes to have them, the definition should state that.

7.30.13.20 Reporting of Incidents

It would be helpful to provide citations of the statutes and regulations that govern serious incident reporting.

7.30.11.22 Policies and Procedures

T. Client Rights: It would be helpful to reference the section of the regulation that lists the client’s rights (proposed 7.30.13.27 NMAC).

7.30.13.24 Risk Assessment

DRNM appreciates that the restraint guidelines in the Risk Assessment section include steps required when restraining a youth. NMSA 1978, §32A-6A-10. We believe these steps provide a thoughtful and thorough approach to the use of restraint and appreciate that DOH is requiring that these steps be used for adults as well as youth.

A. This section requires a facility to develop policies governing their response to clients who present an imminent risk, are assaultive or engage in other high risk behaviors. DRNM believes it is the Department that should issue the guidelines for these policies in these regulations rather than leave it to each facility to develop their own. This is critically important, particularly to address whether emergency medications may be administered. Compliance with the process for administering emergency medication in both mental health codes must be ensured. DRNM believes that would include transferring a person to an evaluation facility for possible emergency admission.

B. This section describes the parameters for the use of restraint. We suggest that it also include the provision from the Children's Mental Health Code which says that those applying a restraint use "only the reasonable force necessary to protect the individual or other person from imminent and serious physical harm." NMSA 1978, §32A-6A-10 I.

E. Physical restraint "*are*" should be physical restraint "*is*". Prone restraint must be expressly prohibited.

H. This subsection prohibits chemical restraint, which DRNM agrees with. It does not address whether CTC clinicians may administer emergency medication, and if yes, whether they may do so without the client's consent. If the emergency medication administration is considered permissible, it must be done in a manner consistent with the mental health statutes. NMSA 1978, § 43-1-15(M), § 32A6A-17(L).

J. This subsection requires a debriefing immediately following an incident of physical restraint. It does not make clear whether the individual him/herself participates in the debriefing, or if this is with staff only. If it is with staff only, the restraint should be discussed with the individual as soon as feasible. NMSA 1978, §32A-6A-10(G).

L(2). This is one of several places that references seclusion. However, **seclusion is expressly prohibited** in these regulations. See **proposed 7.30.13.24(B) NMAC**. Please go through the regulations and remove references to seclusion except for the specific prohibition. *Id.*

M. We wonder whether it is purposeful that "restraint/clinician" contains a vertical slash. It is written that way in other parts of the regulation as well.

M(4)(d). In referencing the need to document the "emergency safety intervention" used, it would be helpful to define this term.

N. Subsection (4) specifically references that a medical and “psychiatry” provider conduct the evaluation for suicide risk interventions. Is the “psychiatry” evaluation to be conducted only by a psychiatrist, or can it be conducted by any of the “licensed mental health professionals” listed in proposed 7.30.13.17(Z) NMAC?

7.30.13.25 Client Acceptance, Admission and Discharge Criteria

E. This requires that materials related to the CTC services must be provided at admission and that they must be understandable to the client and legal guardians. It is not clear under what circumstances a legal guardian would be involved. If the client is an adult with a legal guardian, there would need to be a process to determine if the individual had the right to consent voluntarily to mental health treatment. This would require an examination of the guardianship order or the letters of guardianship. Unless the guardianship order specifically grants mental health decision making to the guardian, the individual retains that decision making authority. NMSA 1978, § 45-5-312 (2009, amended and adopted by S.B. 19, 53rd Leg., 2nd Reg. Sess. (N.M. 2018)).

The Adult Mental Health and Developmental Disabilities Code (“Adult Code”) prohibits a guardian or other surrogate decision maker from consenting to admission to a facility of the individual/proposed client. All a guardian may do is present an adult to a facility for an evaluation for possible admission. NMSA 1978, § 43-1-14(B). Assuming the individual retains the authority to consent to mental health care, there is no role for a guardian here. If the guardian has been granted specific authority to make decisions about mental health treatment, the person lacks capacity to consent to participate in a voluntary program. *Id.* The only option would be to have the individual evaluated at a facility for possible admission as an inpatient.

The rule for children 14 and older is similar, though not identical to the law governing adult treatment. Children 14 and older are presumed to have the capacity to consent to treatment. NMSA 1978, §32A-6A-15(A). A child age 14 or older may be admitted to a residential facility when both the child and their legal custodian consent to admission. NMSA 1978, §32A-6A-21(B). (Legal custodian is defined at NMSA 1978, §32A-6A-4(N).)

Children age 14 and older may consent to outpatient verbal therapies and psychotropic medication without the consent of that child’s legal custodian. NMSA 1978, §32A-6A-15 A and B.

Given the differences of the requirements for adults and children, for residential care and the special rules for children as outpatients, it would be clearer to articulate acceptance and admission criteria separately for adults and children age 14 and older.

H. DRNM wonders why inspection of clients for contraband and weapons is limited to admission to residential care only. Certainly a person could have contraband and weapons when an outpatient as well.

J. This subpart references a client's legal guardian. Again, it is unclear what capacity a legal guardian serves as admission to a CTC is voluntary; a guardian cannot "volunteer" a person for care. NMSA 1978, §43-1-14(B).

K(3). This subsection gives the individual "recommendations for continued care and appointment times..." It is not clear how this part fits with the requirement that the CTC have "operating agreements" with outpatient providers. Proposed 7.30.13.10(G)(4)(e) NMAC. When would a CTC refer a person to an outpatient provider with whom they have "operating agreements" and when might a referral be made to another provider? Also, it is not clear whether "appointment times" means that an appointment has been made for the individual in advance of the discharge or that a person has been given information about numbers to call upon discharge. Please clarify.

7.30.13.26 Program Services

B. Crisis Stabilization Plan: This appears to be the actual treatment plan, which is the core component of crisis stabilization services. It would be helpful to place a brief description in the definition section.

B(1)(g). The plan must "evidence the involvement by the client and **legal guardian...**" (emphasis added). Again, it is unclear to me how a legal guardian would take part in a CTC admission if this is a voluntary service requiring consent of the individual served. See comments regarding proposed 7.30.13.25(E) NMAC, *supra*.

7.30.13.27 Client Rights

DRNM suggests mirroring the Adult Mental Health Code by including that individuals are entitled to a "nourishing, well balanced, varied and appetizing diet." NMSA 1978, § 43-1-6(F).

Since CTCs are voluntary programs, it would be appropriate to say individuals have a right to leave treatment, unless the individual meets the criteria for issuing a certificate of evaluation for transportation as described in the Adult Mental Health Code. NMSA 1978, § 43-1-10. In addition, it is not clear whether someone can come and go during a period of treatment, whether outpatient or inpatient. If this is a voluntary program, a person should have the right to come and go as the individual chooses.

DRNM suggests amending D(10) to include a representative from the state's designated protection and advocacy system. 42 U.S.C. § 10805(a)(3), 42 C.F.R. §§ 51.31(d)(1) and 51.42.

D(12)(i). Individuals "have the right to refuse treatment and to be free from unnecessary or excessive medication..." This implies that medication would not be administered in an emergency without consent. As stated in the regulations, individuals have the right to refuse medication. Proposed 7.30.13.35(C)(3) NMAC. If it is contemplated that medication could be administered without consent, it should be expressly required that it be done as proscribed by both Mental Health Codes. NMSA 1978, §43-1-15(M) and §32A-6A-17(L). In addition, DRNM advocates that in such circumstances, arrangements be made for emergency transfer to a facility for evaluation for possible admission.

DRNM suggests adding a provision similar to that in the Children's Code: individuals shall have access to the state's protection and advocacy system and access to an attorney of the individual's choice. *See* NMSA 1978, §32A-6A-12(A)(2).

7.30.13.28 Client clinical record

Seclusion is prohibited by these regulations, thus the reference to it at subsection J should be removed. *See* **proposed 7.30.13.24(B) NMAC**.

7.30.13.29 Staffing Requirements

B(1)(c). DRNM suggests amending this subpart to read "experienced and competent in the profession for which they are licensed."

7.30.13.35 Pharmaceutical Services

B(2). By saying that medications may be used for "protecting the safety of the individual or other persons" this subsection implies that emergency medications may be administered at CTCs. As stated above, DRNM believes that no medication may be administered without the individual's proper consent. If the Department is authorizing administration of emergency medication, it must have a regulation describing how that is done and that it be done according to procedures in both the adult and children's Mental Health Codes. NMSA 1978, §43-1-15(M), § 32A-6A-17(L).

7.30.13.19 Client Transfers

B. DRNM wonders about the reason authorization for transfer may be issued only by physicians or advance practice nurses. We suggest that this authority be given to any of the licensed mental health professionals. *See* proposed 7.30.13.7(Z) NMAC. In addition, it seems appropriate to specifically identify circumstances in which transfer must be initiated, such as when emergency medication is administered to a child as an outpatient (NMSA 1978, §32A-6A-17(L)). Also, the client must be informed that a transfer to a higher level of care means that the evaluation facility will determine whether admission is necessary; as a matter of law it is not guaranteed.

7.30.13.47 Custodial Closets

Please specify that these closets must be locked.

7.30.13.58 Resident Rooms

There may need to be a provision to address how bed space will be made available by gender. For example, if a woman presents for admission, and the only bed remaining is one in a semi-private room which a male occupies, what happens?

7.30.13.60 Collection/Draw/Lab Area

The first line says "Facilities shall be *reward* to support...". Perhaps the word "*reward*" should be "*required*"?

7.30.13.61 Nutrition

If a residential CTC provides services to both adults and youth, DRNM recommends that the mealtimes for the two populations be separate.

7.30.13.79 Additional requirements for facilities serving youth

DRNM agrees there needs to be a separate section addressing the legal requirements of youth who may receive treatment in a CTC. We suggest amending the second sentence of this section to say "For facilities serving youth, the additional requirements of sections 7.30.13.79 NMAC through 7.30.13.85 NMAC must also be met."

7.30.13.80 Risk Assessment

I. It is necessary to add two more provisions from the Children's Code: After an incident of restraint, a debriefing must be conducted with the child, and the treatment team needs to meet and review the restraint incident to revise the plan to reduce the possibility that a restraint will again be necessary. NMSA 1978, § 32A-6A-10(F) and (G).

DRNM appreciates the opportunity to provide comments and suggestions on the proposed Crisis Triage Centers regulations. We hope these suggestions will be considered and adopted before final publication of the regulations.

On behalf of Disability Rights New Mexico,



Nancy Koenigsberg
Senior Attorney

Cc: Gary Housepian, Chief Executive Officer



County of Bernalillo

State of New Mexico

Department of Behavioral Health Services

5901 Zuni Rd. SE
Albuquerque, New Mexico 87108
Office: (505) 468-1550
www.bernco.gov

May 24, 2018

Mr. Christopher Burmeister
District Manager, Division of Health Improvement
New Mexico Department of Health
2040 S. Pacheco
Santa Fe, NM 87505

Dear Mr. Burmeister:

Thank you and the New Mexico Department of Health for this opportunity to comment on proposed new rule 7.30.13 NMAC, "Crisis Triage Centers." This letter provides comments on the proposed new rule from Bernalillo County. It is important to note at the outset that Bernalillo County is in the process of developing plans and approaches for an array of crisis services for persons with substance use and/or mental illness. Bernalillo County is currently providing and may want to provide or fund withdrawal management and/or crisis stabilization services for those with mental illness or other behavioral health needs in a variety of locations and for a variety of hours throughout the day. Bernalillo County and other counties within New Mexico need the most flexibility possible to arrange such services to meet the unique needs of residents, to make the most of available resources and facilities, and to enhance collaborative efforts underway or developing throughout the county, all to provide alternatives to hospitalization or incarceration and to assist individuals and their families to receive the help they need effectively and safely. While we applaud the State's release of draft regulatory guidance to assure the best possible care, we also request the State to consider ways to provide the flexibility Bernalillo County and other New Mexico counties need to achieve our common goals.

1. Section 7.30.13.7 – We would recommend that "organization" and "owner" be added to and defined in the definitions section of the regulations. It appears that an organization or owner is the entity that would administer the CRC and not necessarily the entity that owns a building that houses a CRC. Organizations and owners then could be hospitals, FQHCs, IHS facilities, other clinics, the State, counties or municipalities. This would clarify the regulations in terms what organizations or owners are responsible for as opposed to owners of real estate or buildings that might house an RTC.

COMMISSIONERS

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COUNTY MANAGER

Julie Morgas Baca

2. Section 7.30.13.9.A. – This section refers to a crisis triage center (CTC) which are “health facilities offering youth and adult outpatient *and* residential care services.” [Emphasis added] This section also indicates the CTC provides emergency behavioral health triage, evaluation, and admission 24 hours a day, seven days a week . . . “ In other parts of this section and elsewhere in the regulation, it seems clear that a CTC could serve youth OR adults or could serve both age groups. It also seems clear and the law requires a CTC is able to provide services less than 24 hours a day and can provide outpatient and/OR residential services. It will be important to make sure all references to services and all descriptions of a CTC are consistent about these options.
3. Section 7.30.13.9.C.(1) – Section A. above indicates a CTC serves individuals on a voluntary basis. Subsection C.(1) indicates a CTC shall not accept involuntary commitments or individuals who are not voluntarily seeking treatment. While we agree with CTCs not generally providing services in a locked environment for those who are involuntarily committed, we request the State to clarify what is involuntary in this context. For example, may a person on an assisted outpatient treatment (AOT) court order who is brought to the CTC by a case manager or other provider be provided services? (7.30.13.25.F. would imply such an individual will not be considered to be involuntary for CTC purposes.) May a person who is not able to voluntarily consent be provided triage and evaluation services or recovery support or peer engagement services? May a person on a temporary hold pending appointment of a treatment guardian or pending a civil commitment order be provided care and services until he or she can be transported to another appropriate facility? It would be counterproductive to set up a situation in which a CTC may not provide immediate triage and engagement services which might help prevent an involuntary treatment order. And it would be counterproductive to have an individual required to be transported to a jail or emergency department simply because a treatment guardian is in the process of being appointed or a court order is in the process of being obtained. We urge the State to clarify what can and cannot be provided in the CTC context to prevent unnecessary transport or institutionalization, especially when the provision of triage and engagement services might actually be able to help prevent the hospitalization or incarceration we are all trying to avoid and which is likely to be less productive for meeting an individual’s care and treatment needs.
4. Section 7.30.13.9.C. (2) – This subsection indicates that a CTC “shall not provide acute medical alcohol withdrawal management.” This may be too restrictive. While we understand that these regulations seek to differentiate services provided by a CTC and services provided by an alcohol detoxification program, it is possible, even likely, that individuals entering a CTC may also need to detoxify from recent alcohol use. Perhaps this section can be clarified.
5. Section 7.30.13.9.C.(3) – This subsection indicates the CTC shall not provided medical care not related to crisis triage intervention services beyond basic medical care of first aid and CPR. While we understand and agree that medical care should only be provided by facilities equipped to do so and by practitioners licensed to do so, we want to assure that the State does not inadvertently prohibit a CTC from being co-located with a medical facility, sharing staff with such a facility, and providing medical care beyond first aid and CPR when the facility is equipped and staffed to do so, to allow medical needs identified within the CTC (e.g., high and unattended blood pressure, asthma causing immediate discomfort or difficulty breathing,

medications prescribed and needed immediately but unavailable to the individual when they arrive, medical care needed associated with a suicide attempt that is beyond first aid or CPR, etc.) to be addressed if they can be addressed safely by appropriately licensed practitioners. This would limit the need to transport an individual to a more expensive and perhaps less accessible facility such as an emergency room, where similarly trained and licensed practitioners would then have to be informed and understand the mental health or addiction issue being attended to by the CTC. At times, it is the medical issues that are causing or exacerbating the behavioral health crisis situation. We believe the State should allow appropriate medical care to be provided for the person in crisis to manage their immediate needs, and/or provide crisis-related medical care beyond first aid and CPR, so long as they are equipped and staffed to do so or can do so safely in collaboration with other practitioners or facilities. This will encourage collaborations to address the whole person and not just the immediate behavioral health crisis. Some of the attendant medical conditions may have impacts on the behavioral health condition of the individual receiving crisis stabilization and may help the individual and his/her family or caretakers understand how to prevent a crisis situation in the future.

6. Section 7.30.13.9.C.(5)¹ – This subsection requires that residential services not be provided by a CTC in excess of eight days. We respectfully request the State to increase the potential length of time for stabilization in a CTC residential setting. Stabilization often requires more than eight days and arranging for alternative settings for treatment or housing to prevent another crisis after stabilization may require additional time. While we agree that it may be appropriate to move an individual to a longer term or more intensive treatment setting if stabilization cannot be achieved in the CTC, and while we agree the CTC should not be utilized as a location for a person to “stay” simply because aggressive efforts to find treatment placements or housing have not been attempted, it would not be a good outcome for an individual to be moved to an inpatient or jail setting simply because a post-CTC treatment setting or housing situation will not be available for another day or two. It also would not be a good outcome for an individual to leave the CTC because they are required to, then have another immediate crisis situation, and be readmitted to the CTC for another eight days. While many stays will be less, we recommend the length of stay limit be extended to up to 14 days to allow more time for stabilization and more time for post-stay arrangements to be made to prevent another crisis from developing.
7. 7.30.13.9.C.(6) – This subsection would prohibit CTCs from providing ongoing outpatient behavioral health treatment. While we understand the desire to license these facilities separately, the State should not do anything that will prohibit or discourage co-location of CTCs with FQHCs, hospitals, or any other behavioral health service delivery setting. The ability for the community to be able to go to a central or common location for multiple services, and the ability of providers to co-locate to share staff or otherwise gain efficiencies will not only be good for service users but for the State funding mechanisms as well.
8. 7.30.13.9.C.(7) – This subsection indicates a CTC shall not exceed 16 short-term residential beds in a “single licensed provider.” We recognize the State is probably attempting to avoid a CTC from being considered an IMD so as to prevent services delivered therein to be precluded

¹ NOTE: The numbering in this section goes from (3) to (5) and hence is missing a subsection (4).

from billing Medicaid. However, given the State's recent waiver request to CMS, especially for residential programs for substance use disorders, and CMS' willingness to be more lenient regarding the determination of what is or is not an IMD and what is or is not precluded from billing Medicaid, we recommend the State reconsider how this subsection is written. A single provider, even a single provider at the same location, may be able to provide services at bed numbers higher than 16 in some situations. If the intent is to say that each individual CTC must not be over 16 beds (even if operated by the same provider or if located on the same parcel of land), there may be a better way to say this than as currently written. We encourage the State to consider what is the best way to indicate this limitation without precluding the flexibility needed to provide the best care options for a given community or program. We also presume this limitation can be waived for a program not interested in billing Medicaid for residential services provided. We request the State to clarify this issue.

9. 7.30.13.9.D. – This section needs to be revised to consider those services (such as sobering or detox services) which are currently operating and may be seen as falling into the definitions proposed in this regulation (e.g., withdrawal management). Nothing in this regulation or in its implementation should result in an existing program which has been operating safely with good outcomes for people and communities, to have to shut down because it is not in a facility or not yet ready to be licensed as a CTC. We applaud the State's contemplation of the use of variances or waivers (Subsections 7.30.13.7.ZZ. and AA.) to provide additional time or an exception to some of the requirements of this proposed regulation. However, the waiver and variance process, the criteria by which a waiver or variance request will be provided, as well as the process for appealing a denial of a waiver or variance request should be described, if not in these regulations, then in any written instructions for making such a request.
10. 7.30.13.10.G.(4) – This section describes the elements of the program description that must be provided by an applicant for a CTC license. It requires proposed 24/seven staffing plans for both residential and non-residential programs. Yet, the earlier subsection 7.30.13.9.B.(1) specifically contemplates a less than 24/seven operation for some CTCs. This subsection should be revised to reflect that programs should provide a staffing plan appropriate to its proposed hours of service.
11. 7.30.13.21 – This section concerns the governing body of the licensed CTC. To the extent a jurisdiction such as a county or city operates the CTC, the governing board requirements or duties should be able to be delegated to appropriate jurisdiction functionaries. That is, a jurisdiction's commission or council does not often approve the hiring of administrators of programs. That function is often delegated to a county or city managing official. Similarly, the evaluation of such administrator's performance is generally left to that jurisdiction's managing official. 7.30.13.22 should also recognize that these jurisdictions may not have a "governing body," but may have a jurisdiction's managing official.
12. 7.30.13.25.F – It is our understanding that some zoning requirements don't allow certain individuals on court ordered release to be in certain areas. If a CTC were to open in one of these areas they might, the, be unable to admit such a client. This may require additional research to clarify.

13. 7.30.13.25.K. – The discharge plan and process should include a “warm handoff” (usually defined as a face-to-face or at least telephonic discussion between the individual served and the provider/practitioner who will be serving that individual after release) to and with the provider who will be doing follow-up care after the individual leaves the CTC, especially for individuals served in the residential part of a CTC.
14. Staffing Requirements – Anywhere the staffing requirements include a psychiatrist or advanced nurse practitioner, a licensed psychologist – or as necessary a licensed psychologist with prescribing privileges – should be included as an option for this leadership. Similarly, in Section 7.30.13.29, staffing requirements should not have to be 24 hours a day, seven days a week for programs that offer less than those hours. Rather, staffing requirements should be for the hours the program is open and providing services. Available consultation should be able to be done not just by a psychiatrist, but by any professional licensed to provide such consultation. Workforce is a big issue, so flexibility to utilize any appropriate professionally licensed person should be provided to the extent practicable. Similarly, an RN should be required to be either present or on-call within a reasonable period of time, depending on the program’s hours and the needs of the individuals being seen. Finally, appropriately trained and certified peer workers should be required to be part of the staffing available for individuals served and their families as needed. RN present should be reflected in hours of operation that are not 24/7 in 7.340.13.29 also and throughout the regulations. Lastly, CTC’s should be able to employ not-fully-licensed individuals who have completed their course work and are performing their internship as required to become licensed as long as these individuals are working under the authority of a fully-licensed proctor/practitioner.
15. 7.30.13.32 – Staff training should include training regarding recovery supports and the value of peer-delivered services for persons recovering from addiction or experiencing mental illness. Training should also include information about available services in the local area served by the CTC.
16. 7.30.13.34 – This subsection should be clarified to apply only to residential programs or to be specific to food provided on a short-term basis for persons at a facility less than 24 hours.
17. 7.30.13.40 – This subsection should be revised to indicate CTCs shall provide crisis stabilization and admissions for the hours it is licensed to provide services. If the facility operates less than 24 hours a day, seven days a week, the State may want to require the posted signage about hours to indicate where or how an individual may receive emergency or crisis services when the CTC is closed. For example, a mobile crisis team number or NMCAL number might be posted along with information about when the CTC is open.
18. Facility Requirements – All facility requirements should be reviewed to assure facilities are only required to have those areas and aspects truly necessary for its hours of operation and its services (e.g., non-residential versus residential). While some parts of the regulations are indicated as specific to residential programs, others appear to apply to all CTCs and may not be necessary for all models. If the State intends to handle this by waiver or variance, it should indicate this specifically. Nothing in these regulations should preclude the use of Living Room or other peer-delivered service models that may be more home-like in nature.

19. It should be made clear what current similar programs operating in the state would not be governed by these regulations (for example: appropriately un-licensed detox and public inebriate programs).

Again, thank you for the opportunity to comment. Please let us know if you have any questions.

Sincerely,



Julie Morgas Baca
Bernalillo County Manager

cc: Greg Perez, Director of Public Safety
Katrina Hotrum-Lopez, Behavioral Health Director

TAB 9

DEPARTMENT OF HEALTH

7.1.29 NMAC

“Health Information System Public Access Website”

PUBLIC HEARING – November 20, 2017

PLEASE PRINT LEGIBLY

NAME	REPRESENTING	WILL PROVIDE TESTIMONY	
		YES	NO
Alex Dominguez	Santa Fe County	✓	
Rachel Orr	SF County	✓	
Tasca Young	NM Association of Counties	✓	
Steve DeSaulniers	BCBS	✓	✓
Nancy Keenigsbey	Disability Rights NM	✓	
Sarah Hulse	PMS		✓
Stacey Palmer	PMS		✓
David Key	NM Solutions	✓	
Michael Spanier	Hyde + Associates		✓
WAYNE LINDSTROM	BHSD	✓	✓
Sybilina Barela	Santa Fe Recovery Center	X	
Katrina Holtrum Lopez	Bernalillo County Dep. Beh. Health	✓	
Margarita Chavez Sanchez	" "		-
Kevin Foley PhD	NC Gallup NM 87301	✓	
Lupe Salazar	Barrios Unidos	✓	

TAB 10

New Mexico Department of Health Public
Hearing on Rule 7.30.13 NMAC, Crisis Triage Center Hearing
May 30, 2018, 9:05 a.m. Lynn Mostoller, Hearing Officer

DISK MAILER

CAUTION

Do not bend or fold
Avoid exposure to all magnetic fields

TAB 11

SUTIN THAYER & BROWNE
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LAWYERS

IRWIN S. MOISE (1906-1984)
LEWIS R. SUTIN (1908-1992)
FRANKLIN JONES (1919-1994)
RAYMOND W. SCHOWERS (1948-1995)
GRAHAM BROWNE (1935-2003)
NORMAN S. THAYER (1933-2018)

ROBERT G. HEYMAN (Of Counsel)

ANDREW J. BARANOWSKI
ANNE P. BROWNE
SUZANNE WOOD BRUCKNER

MARIA MONTOYA CHAVEZ
EDUARDO A. DUFFY
TINA MUSCARELLA GOOCH
SUSAN M. HAPKA
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LYNN E. MOSTOLLER
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WWW.SUTINFIRM.COM

June 15, 2018

VIA EMAIL ONLY

Witter Tidmore
Assistant General Counsel
New Mexico Department of Health
1190 South St. Francis Drive
Santa Fe, New Mexico 87502

Re: Request for Department Responses to Comments regarding the proposed new
Rule 7.30.13 NMAC – Crisis Triage Centers

Dear Mr. Tidmore:

The purpose of this letter is to invite the Department to respond to comments that were submitted by the public with respect to the proposed rules referenced above, for which a hearing was held on May 30, 2018.

The public comments received in writing and orally during the comment period of the public hearing fell within several categories:

DEFINITIONS:

Members of the public made comments and suggestions regarding the following definitions:

7.30.13.7(D) "Acute medical alcohol detoxification"—Commenters suggested that language be added to clarify that the combination of the two or more symptoms be severe enough to meet criteria for a hospital based or medically managed detoxification.

7.30.13.7(D) "Applicant"—members of the public commented that there is a lack of clarity regarding whether the service provider or the building owner of the facility would be the "applicant" under the Rule.

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7.30.13.7(R) "Facility"—members of the public commented that the current definition defines "facility" as the physical premises where the Crisis Triage Center "CTC" services are provided and that such a definition may cause problems in situations in which the legal owner of the building is not the legal entity providing the CTC services. This comment is related to the comment above regarding the definition of "Applicant," and goes to whether the owner of the building or the owner of the facility (or the service provider) is to be licensed under the Rule.

7.30.13.7(S) "High risk behavior"—Commenters raised concerns about this definition indicating that there are behaviors for which emergency interventions such as restraint or emergency medication (rather than chemical restraint) may be administered under the Rule. Commenters further noted that there is no definition for "Emergency medication" or direction in the Rule regarding whether it could be administered without consent.

7.30.13.7(Z) "Licensed mental health professional"—Commenters requested clarity as to whether the last clause "with behavioral health training licensed in the state of New Mexico applies to all professions listed or only an advanced practice registered nurse (e.g. NMSA 1978, § 43-1-3(T)).

7.30.13.7(AA) "Management Company"—members of the public commented that the definition of "Management Company" indicates that it is the legal entity managing the CTC that will be licensed. Again this is related to concerns about which legal entity is required to hold a CTC license. Commenters requested that this and the definition of Applicant and Facility be amended to be consistent with CMHC expectations.

7.30.13.7(EE) "Physical Restraint"—Commenters suggested that this definition should expressly prohibit prone restraint

Commenters requested the following additional terms be defined in the Definition section of the Rule:

"Behavioral health services"

"Consent" or "Capacity to consent"—commenters stressed that CTCs are for those who volunteer to be there and requested that these terms include the right to refuse medication.

"Crisis Stabilization Plan"—as referenced in 70.30.13.26(B)

"Crisis Triage Center"

"Crisis"

"Emergency Safety Intervention"—specifically as used in 70.30.13.24(M)(4)(d)

"Guardian"

"Legal representative" and "Legal custodian"

"Operating Agreement"

"Organization"

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"Owner"

"Residential treatment or habitation program"—commenters suggested the Department review the provisions of NMSA 1978, § 32A-6A-4(AA) and noted that CTCs that provide residential treatment for youths, which permit the involuntary emergency administration of psychotropic medication

"Voluntary"—commenters stated that only individuals with capacity with consent may volunteer for treatment, but legal guardians or legal representatives cannot "volunteer" for an individual

Commenters also noted that definitions for all of various licensed mental health professionals referenced in the Rule would be helpful.

SCOPE OF SERVICES:

Members of the public made comments and suggestions regarding the following issues related to CTC scope of services.

7.30.13.9(A) General Scope of Services—public commenters raised concerns about whether CTCs must offer 24 hour admission services, seven days a week or other, more flexible models, offering services for less than 24 hours per day, or less than 7 days per week. This provision of the Rule also seems to require a CTC offer services to both youth and adults, rather than one or the other. Commenters request clarification on that issue. Finally, commenters requested clarification regarding who is "volunteering" an individual for admission, and advocated that the right to consent to treatment belongs to the person seeking treatment, including youths 14 years old or older (see NMSA 1978, § 32A-6A-15(A).)

7.30.13.9(C)(1) Limitations on Scope of Services—the public made comments regarding whether the Rule is sufficiently clear that it may provide services to individuals on a voluntary basis only. Commenters requested that the Department define or clarify what is "involuntary" as it relates to this section of the Rule, specifically with regard to Assisted Outpatient Treatment. Commenters also requested clarification in the Rule regarding CTCs providing services to individuals who may have legal guardians or those individuals who may be cooperative with assessment or engagement services, but unwilling or unable to give consent to treatment.

7.30.13.9(C)(2) Limitations on Scope of Services—Commenters suggested that the prohibition on CTC providing acute medical alcohol withdrawal management may be too restrictive, as individuals entering a CTC may also need to detoxify.

7.30.13.9(C)(3) Limitations on Scope of Services—public commenters raised concerns or sought clarification regarding the Rule's prohibition on CTCs providing medical care not related to crisis intervention services beyond basic medical care of first

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aid and CPR. Specifically commenters suggested that co-located facilities, such as a detox center, might provide medical care to address high blood pressure, blood sugar levels, medication-assisted treatment, or asthma, when appropriately equipped and staffed. Commenters requested that the Department allow CTCs to provide appropriate medical care to individuals in crisis, to the extent they are appropriately equipped and staffed and doing so in collaboration with appropriately qualified practitioners.

Commenters also wanted assurance from the State that it does not want to inadvertently prohibit CTCs from co-locating with medical facilities, sharing staff with such a facility, providing medical care beyond first aid and CPR when the facility is equipped and staffed to do so, allowing medical needs be addressed if they can be addressed safely by appropriate licensed practitioners.

7.30.13.9(C)(5) Limitations on Scope of Services—the public made comments regarding the Rule's requirement that CTCs not provide residential services for more than eight days, specifically noting that stabilizations may require more than eight days and navigation services may require a longer period. Commenters suggested that a limitation of 14 days may be more appropriate. Another commenter suggested that the eight-day limitation be stated as eight calendar days.

7.30.13.9(C)(6) Limitations on Scope of Services—commenters raised concerns that this provision would prevent CTCs from providing ongoing behavior health treatment or navigation services. This provision would prevent CTCs with co-locating with navigation services providing ongoing services beyond a crisis time period. Commenters advocated for a CTC model that could be co-located with longer-term service and information providers.

7.30.13.9(C)(7) Limitations on Scope of Services—Commenters noted that the requirement that CTCs not exceed 16 short-term residential beds may be an effort to avoid being considered an IMD, which would preclude services being billed to Medicaid. Commenters, however, suggested that the 1115 waiver request may allow CTCs to have higher bed numbers. Commenters suggested this section be rewritten or clarified to allow more flexibility to CTCs.

7.30.13.9(D) License Required—commenters requested that this section be revised to account for service providers already in operation who would not be able to meet the criteria for a license under the Rule (such as sobering or detox services). Commenters further cautioned that this Rule should not result in the shutdown of safe and successful programs already in existence.

7.30.13.10(E) Existing or Renovated Construction—Commenters requested that the department define parameters and timeline for the review and approval of building plans and specifications.

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7.30.13.10(G) Program Description—Commenters noted that this section's requirement of a 24/7 staffing plan is not consistent with 7.30.13.9(B)(1), which allows for CTCs in operation for less than 24 hours a day or 7 days a week. Commenters requested that provision be revised to allow for staffing plans appropriate for the CTC's specific hours of operation.

7.30.13.10(G)(4)(e) Program Description—Commenters requested that the term "operating agreements" as used in this provision be defined and clarified as to whether the CTC must have an operating agreement with a facility/agency in order for individuals to have follow up appointments with those facilities/agencies.

7.30.13.19(B) Client Transfers—Commenters suggest that transfers may be authorized by any of the licensed mental health professionals identified in 7.30.13.7(Z). Commenters further suggest that the Rule identify when a transfer must be initiated similar to the provisions in § 32A-6A-17(L). Finally, commenters suggest that the client be informed that a transfer to a higher level of care means the evaluation facility will determine whether admission is necessary and that such admission is not guaranteed.

7.30.13.20 Reporting of Incidents—the public requested that this section cite to statutes and regulations governing serious incident reporting

7.30.13.21 Governing Body—the public requested that the Department clarify which governing body this provision would apply to in instances when the owner of the facility was not the same as the applicant, licensee or Management Company. Commenters also suggested that the Rule allow for the delegation of hiring administrators or other functions to a county or city manager, in appropriate circumstances.

7.30.13.24 Risk Assessment—Commenters noted that the Risk Assessment section includes steps required when restraining youth clients and requested that these steps also be required when restraining adult clients.

7.30.13.24(A) Risk Assessment—Commenters requested that the Department issue guidelines for the policies required to be developed by CTCs under this section, particularly for when emergency medications may be administered or when a person should be transferred to an evaluation facility for possible emergency admission.

7.30.13.24(B) Risk Assessment—Commenters noted that this provision prohibits the use of seclusion, and requested that other provisions of the Rule referencing seclusion be deleted (see e.g. 7.30.13.24(L)(2) and 7.30.13.28(J)). Also, commenters requested that those applying a restraint use "only the reasonable force necessary to protect the individual or other person from imminent and serious physical harm," as is provided in the Children's Mental Health Code, NMSA 1978, § 32A-6A-10(I).

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7.30.13.24(E) Risk Assessment—Commenters requested that prone restraint be expressly prohibited under the Rule.

7.30.13.24(H) Risk Assessment—The public commented that this provision regarding chemical restraint may be internally inconsistent, in that the definition of a chemical restraint may be used to avoid the prohibition on chemical restraint. Commenters further suggested that the provision be clarified to indicate whether a CTC may administer emergency medication and whether client consent would be required. Such administration would have to be done in a manner consistent with the mental health statutes, NMSA 1978, §§ 32A-6A-17(L), 43-1-15(M).

7.30.13.24(J) Risk Assessment—Commenters noted that it is not clear under this provision whether the individual would participate in a debriefing following a restraint. If not, then the commenters request that the restraint should be discussed with the individual as soon as feasible, referencing NMSA 1978, § 32A-6A-10(G).

7.30.13.24(M) Risk Assessment—the public commented regarding whether the Department was purposefully using "restraint/clinician" in this section.

7.30.13.24(N) Risk Assessment—Commenters asked whether the reference to "psychiatry" in this section limited evaluation for suicide risk intervention to only psychiatrists or whether it could be conducted by any of the "licensed mental health professionals" listed in 7.30.13.7(Z).

7.30.13.25 Client Acceptance, Admission and Discharge Criteria—The public commented that this provision appears to require CTCs provide admission and discharge services 24 hours a day/seven days a week, and noted that such a requirement is not consistent with other provisions in the Rule allowing for CTCs to operate for less than 24 hours a day/seven days a week. The commenters advocated for a more flexible approach, allowing for CTCs to provide services to individuals not in need of a residential stay. Commenters further requested that the Department make a distinction between "admission and discharge" and "presentation for services and release." Commenters also requested clarification regarding under what circumstances a legal guardian would be involved. Commenters noted that unless a guardianship order specifically grants mental health decision-making authority to the guardian, the individual retains that decision-making authority (See NMSA 1978, § 45-5-312, as amended.) In addition, commenters noted that the Adult Mental Health and Developmental Disabilities Code prohibits a guardian or other surrogate decision maker from consenting to admission to a facility. All the guardian may do is present the individual for an evaluation for possible admission (§ 43-1-14(B)). There are similar rules for children 14 and older—a child of this age may be admitted to a residential facility when both the child and their legal custodian consent to the admission (§§ 32A-6A-15A, -21(B), -4(N)). Children 14 and older may consent to outpatient verbal

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therapies and psychotropic medications without the consent of the legal custodian (§ 32A-6A-15). Commenters seek clarification of this section, given the difference of the requirements for adults and children. The public commented that 7.30.13.25(F) be clarified to address situations in which zoning requirements might conflict with the admission of a client on a court ordered conditional release.

7.30.13.25(H)—the public commented that inspection of clients for contraband and weapons should not be limited only the admission to residential care.

7.30.13.25(J)—Commenters noted the reference to the client's legal guardian and requested clarification regarding the capacity of a legal guardian to consent to a voluntary program.

7.30.13.25(K)(3)—Commenters requested clarification regarding whether the CTC would need to have an operating agreement with an outpatient provider in order to make a referral. (See also, 70.30.13.10(G)(4)(e).) Commenters also suggested that the discharge plan and process should include a "warm handoff" to and with the provider who will be providing follow-up care.

7.30.13.26 Program Services—Commenters raised concerns about requiring assessments be provided by independently licensed mental health professionals. While Commenters agreed that assessments be provided by licensed mental health professionals, they asserted that requiring such professionals to be independently licensed would be difficult to achieve with the current workforce situation in New Mexico. Commenters also advocated that the Department require or encourage CTCs to allow peer-provided or peer-driven services, particular as the first line of contact with individuals seeking services. Other commenters requested clarification regarding the role of a legal guardian as referenced in this section.

7.30.13.27 Client Rights—Commenters suggested that the Rule mirror the Adult Mental Health Code by including that individuals are entitled to a "nourishing, well balanced, varied and appetizing diet." See NMSA 1978, § 43-1-6(F). Commenters also suggested that this section state that individuals have a right to leave treatment (as CTCs are voluntary programs), unless the individual meets the criteria for issuing a certificate of evaluation for transportation as described in the Adult Mental Health Code, NMSA 1978, § 43-1-10. Commenters also sought clarification as to whether an individual could come and go during a period of treatment, whether inpatient or outpatient. Finally commenters suggested adding a provision allowing individual access to the state's protection and advocacy system and access to an attorney of the individual's choice (see § 32A-6A012(A)(2)).

7.30.13.27(D)(10) Client Rights—Commenters suggested amending this section to include a representative from the state's designated protection and advocacy system. (See 42 U.S.C. § 10805(a)(3), 42 C.F.R. §§ 51.31(d)(1) & 51.42.)

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7.30.13.27(D)(12)(i) Client Rights—Commentators noted that this section seems to imply that medications would not be administered in an emergency without consent and requested that if it is contemplated that medication be administered without consent that it be done so consistently with both Mental Health Codes (§§ 32A-6A-17(L) and 43-1-15(M)) and that in such circumstances arrangements be made for an emergency transfer to a facility for evaluation and possible admission.

7.30.13.29(A) Minimum Staffing Requirements—The public commented that the staffing requirements under the Rule are unclear with respect to whether CTCs may operate less than 24 hours a day/7 days a week, and requested that the Department be more flexible with staffing requirements with respect to requiring both a physician and a psychiatrist be available during all operating hours (24/7). Commenters stated that this requirement would be particularly onerous given the work force challenges, particularly in rural parts of New Mexico. Commenters again noted that staffing requirements should include roles for certified peer support staff during operating hours. Public commenters requested flexibility with respect to allowing appropriately licensed mental health practitioners other than a psychiatrist be available during operating hours (either in person or through telehealth). Finally, commenters requested that CTC staffing patterns be generally more flexible and designed to meet the needs of the community, population of the region, and most important needs identified by the Counties of operation and allow for the utilization of any appropriate professionally licensed person, to the extent practicable. Commenters specifically requested that a licensed psychologist with prescribing privileges be an option anywhere staffing requirements require a psychiatrist or advanced nurse practitioner. Commenters also requested that CTCs be able to employ not-fully-licensed individuals who have completed their course work and are performing their internships, so long as those individuals are working under the authority of a fully-licensed professional/

7.30.13.29(B) Other Staffing Requirements—Commenters requested that annual TB tests for employees be deleted or required for residential programs only and noted that this requirement is not consistent with the 2004 repeal of NMAC 7.4.4 and would pose an unnecessary burden on CTCs.

7.30.13.29(B)(1)(c) Other Staffing Requirements—Commenters request that this provision be amended to read “experienced and competent in the profession for which they are licensed.”

70.30.13.32 Staff Training—Commenters requested that the Rule also include training on peer-delivered services and recovery supports and information about locally available services. Commenters also noted an inconsistency in the Rule with the reference in this section to the provision of withdrawal management, in contrast to 7.30.13.9(C)(2) prohibition on CTCs from providing acute medical alcohol withdrawal management.

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70.30.13.34 Nutrition—the public commented that this section should be revised to clarify that it only applies to residential programs or clarified to require the provision of food on a shorter-term basis for programs operating less than 24/7.

70.30.13.35(B)(1) Pharmaceutical Services—the public commented that this provision allowing for the use of medications in emergency situations to protect “the safety of the individual and other persons” may not be consistent with the Rule’s requirement that stabilization treatment be provided by CTCs on a voluntary basis only and may qualify as administration of medication without consent under NMSA 1978, §§ 32A-6A-17(L), 43-1-15(M). Commenters further raised concerns about each CTC being required to develop policies and procedures to address individuals with high-risk behaviors, rather than have the regulation address when medications are administered for the safety of the individual and others.

70.30.13.35(B)(2) Pharmaceutical Services—Commenters request clarification as to whether CTCs could administer emergency medications without consent and if so request that the Rule include a description of how such administration of emergency is done and that it be done consistent with the adult and children’s Mental Health Codes (§§ 32A-6A-17(L) and 43-1-15(M)).

70.30.13.40 Business Hours—Consistent with previous comments, public commenters noted the need to revise this and other regulations to allow for CTCs models operating less than 24/7.

70.30.13.47 Custodial Closet—Commenters suggest that this provision specify that such closets must be kept locked.

70.30.13.52(B) Staff Station—Commenters requested that a pharmacy grade locked medication cart be sufficient to meet this requirement.

70.30.13.58(B) Resident Rooms—Commenters noted the problem of requiring private or semi-private rooms housing no more than two residents will cause for co-located detox centers, as this requirement would make it difficult for such detox centers to meet the licensing requirements. Existing detox centers operate with an open ward model and requiring a private or semi-private rooms would not be possible from either a staffing or safety perspective. Commenters strongly state that this dormitory style sleeping arrangement allows direct care staff to see all clients at all times. Other commenters suggest that there be a provision regarding how bed space will be made available by gender.

70.30.13.61 Nutrition—Commenters suggest that residential CTCs servicing both adults and youth have separate mealtimes for the two populations. Commenters also request that the Rule allow for a facility to prepare food off site and transport it the CTC.

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70.30.13.80 Risk Assessment—Commenters suggest that two more provisions from the Children’s Code be added to this section: After an incident of restraint, a debriefing must be conducted with the child, and the treatment team needs to meet and review the restraint incident to revise the plan to reduce the possibility that a restraint will again be necessary (see §§ 32A-6A-10(F) and (G)).

Facility Requirements—Commenters requested that the Department consider a more flexible approach and require only those facility requirements that are necessary for the specific CTC model. Specifically, commenters suggest requirements that are applicable to residential programs may not be necessary to license non-residential programs.

Current Similar Programs—Commenters requested clarification that similar programs currently operating, such as detox and public inebriate programs) would not be governed by this Rule.

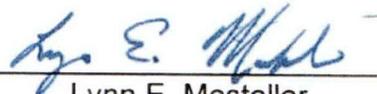
Deemed Status—Commenters requested that facilities that are federally accredited through CARF, Joint Commission, or COA have deemed status with respect to cert of the Rule’s standards, such as policies and procedures, health and safety standards, and quality assurance plans.

If the Department chooses to provide responses to public comments, please submit them to me at the Department’s earliest convenience. If the Department chooses not to provide additional comments, please let me know by June 20, 2018. Thank you.

Very truly yours,

SUTIN, THAYER & BROWNE
A Professional Corporation

By



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Re: Response to Hearing Officer's Request for Department Responses to
Comments regarding the proposed new Rule 7.30.13 NMAC - Crisis Triage
Centers

Dear Ms. Mostoller:

I am writing in response to your letter requesting the Department's response to public comments regarding the proposed new Rule 7.30.13 NMAC-Crisis Triage Centers. We have attached a revised version of the Rule with changes made in response to public comments for your review and consideration. I have also provided explanation in response to comments in the body of the letter below; our responses are in italics below each cited section.

DEFINITIONS:

Members of the public made comments and suggestions regarding the following definitions:

7.30.13.7(D) "Acute medical alcohol detoxification"-Commenters suggested that language be added to clarify that the combination of the two or more symptoms be severe enough to meet criteria! for a hospital based or medically managed detoxification.

-See Rule changes, 7.30.13.7 W, this definition has been removed and replaced with Definition W, "Level III. &-D Medically Monitored Inpatient Detoxification. We made the change to utilize the more specific and industry standard criteria outlined by the American Society of Addiction Medicine.

7.30.13.7(D) "Applicant"-members of the public commented that there is a lack of clarity regarding whether the service provider or the building owner of the facility would be the "applicant" under the Rule.

-See Rule changes, 7.30.13.7 D, the definition of "Applicant" has been changed to reflect that the licensed applicant must be the owner of the entity, not the owner of the facility.

7.30.13.7(R) "Facility"-members of the public commented that the current definition defines "facility" as the physical premises where the Crisis Triage Center "CTC" services are provided and that such a definition may cause problems in situations in which the legal owner of the building is not the legal entity providing the CTC services. This comment is

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related to the comment above regarding the definition of "Applicant," and goes to whether the owner of the building or the owner of the facility (or the service provider) is to be licensed under the Rule.

-See Rule Changes, 7.30.13.7 D the definition of "Applicant" has been changed to clarify that the legal owner of the building and the legal owner of the CTC do not have to be the same entity.

7.30.13.7(8) "High risk behavior"-Commenters raised concerns about this definition indicating that there are behaviors for which emergency interventions such as restraint or emergency medication (rather than chemical restraint) may be administered under the Rule. Commenters further noted that there is no definition for "Emergency medication" or direction in the Rule regarding whether it could be administered without consent.

-See Rule Changes to 7.30.13.9 C (9), added provision prohibiting the use administration of emergency medications pursuant to NMSA 1978, 43-1-15 G.

7.30.13.7(2) "Licensed mental health professional"-Commenters requested clarity as to whether the last clause "with behavioral health training licensed in the state of New Mexico applies to all professions listed or only an advanced practice registered nurse (e.g. NMSA 1978, § 43-1-3(T)).

-See Rule Changes to 7.30.13.7 Z, clarifying that each of the listed professionals shall have the required training.

7.30.13.7(AA) "Management Company"-members of the public commented that the definition of "Management Company indicates that it is the legal entity managing the CTC that will be licensed. Again this is related to concerns about which legal entity is required to hold a CTC license. Commenters requested that this and the definition of Applicant and Facility be amended to be consistent with CMHC expectations.

-See Rule Changes, 7.30.13.7 D the definition of "Applicant" has been changed to clarify that the legal owner of the building and the legal owner of the CTC do not have to be the same entity.

7.30.13.7(EE) "Physical Restraint"-Commenters suggested that this definition should expressly prohibit prone restraint

See Rule Changes to 7.30.13.7 EE to clarify that ll restraint must be in accordance with State and federal Laws, recitation of specific prohibitions is beyond the scope of the definition.

Commenters requested the following additional terms be defined in the Definition section of the Rule:

"Behavioral health services"

"Consent" or "Capacity to consent"-commenters stressed that CTCs are for those who volunteer to be there and requested that these terms include the right to refuse medication.

"Crisis Stabilization Plan"-as referenced in 70.30.13.26(8) "Crisis Triage Center"

"Crisis"

"Emergency Safety Intervention"-specifically as used in 70.30.13.24(M)(4)(d) "Guardian"
"Legal representative" and "Legal custodian" "Operating Agreement"
"Organization"
"Owner"

"Residential treatment or habitation program"-commenters suggested the Department review the provisions of NMSA 1978, § 32A-6A-4(AA) and noted that CTCs that provide residential treatment for youths, which permit the involuntary emergency administration of psychotropic medication

"Voluntary"-commenters stated that only individuals with capacity with consent may volunteer for treatment, but legal guardians or legal representatives cannot "volunteer" for an individual

Commenters also noted that definitions for all of various licensed mental health professionals referenced in the Rule would be helpful.

-All suggested additions to the Definition section were considered and it was determined that no additions, other than the ones made, were necessary. Some of the terms have been removed from the Rule, others are defined in the rule and others need no definition.

SCOPE OF SERVICES:

Members of the public made comments and suggestions regarding the following issues related to CTC scope of services.

7.30.13.9(A) General Scope of Services-public commenters raised concerns about whether CTCs must offer 24-hour admission services, seven days a week or other, more flexible models, offering services for less than 24 hours per day, or less than 7 days per week. This provision of the Rule also seems to require a CTC offer services to both youth and adults, rather than one or the other. Commenters request clarification on that issue. Finally, commenters requested clarification regarding who is "volunteering" an individual for admission and advocated that the right to consent to treatment belongs to the person seeking treatment, including youths 14 years old or older (see NMSA 1978, § 32A-6A-15(A).)

-See Rule Changes to 7.30.13.9 A removing the requirement to do admissions 24/7. The rule states that "may serve individuals 14 years of age or younger..." (emphasis added), the use of the term may indicates that they may choose to serve that population or not, it is up to the program.

7.30.13.9(C)(1) Limitations on Scope of Services-the public made comments regarding whether the Rule is sufficiently clear that it may provide services to individuals on a voluntary basis only. Commenters requested that the Department define or clarify what is "involuntary" as it relates to this section of the Rule, specifically with regard to Assisted Outpatient Treatment. Commenters also requested clarification in the Rule regarding CTCs providing services to individuals who may have legal guardians or those individuals who may be cooperative with assessment or engagement services, but unwilling or unable to give consent to treatment.

-All references to "legal guardians" have been removed from the rule to remove confusion regarding the prohibition of guardians to consent to inpatient psychiatric treatment. Clients in AOT may receive services if they do so voluntarily, they could not be Ordered to receive CTC services.

7.30.13.9(C)(2) Limitations on Scope of Services-Commenters suggested that the prohibition on CTC providing acute medical alcohol withdrawal management may be too restrictive, as individuals entering a CTC may also need to detoxify.

-See Rule Changes to 7.30.13.9 C (2) including the criteria from ASAM. CTC's are not primary Detoxification centers, those facilities will be licensed pursuant to Rules to be promulgated by the Department. CTCs are staffed to do social detox as allowed by all ASAM detoxification levels below Level III.7-D.

7.30.13.9(C)(3) Limitations on Scope of Services-public commenters raised concerns or sought clarification regarding the Rule's prohibition on CTCs providing medical care not related to crisis intervention services beyond basic medical care of firstaid and CPR. Specifically commenters suggested that co-located facilities, such as a detox center, might provide medical care to address high blood pressure, blood sugar levels, medication-assisted treatment, or asthma, when appropriately equipped and staffed. Commenters requested that the Department allow CTCs to provide appropriate medical care to individuals in crisis, to the extent they are appropriately equipped and staffed and doing so in collaboration with appropriately qualified practitioners.

Commenters also wanted assurance from the State that it does not want to inadvertently prohibit CTCs from co-locating with medical facilities, sharing staff with such a facility, providing medical care beyond first aid and CPR when the facility is equipped and staffed to do so, allowing medical needs be addressed if they can be addressed safely by appropriate licensed practitioners.

-A CTC may co-locate with other services, however, only the space/square footage being used as a CTC will be licensed as a CTC, the other providers in the co-located services would not be under the restrictions of the license but may have their own licensing requirements depending on the services offered. CTC's are behavioral health and mental health facilities and are not designed or staffed with medical services in mind.

7.30.13.9(C)(5) Limitations on Scope of Services-the public made comments regarding the Rule's requirement that CTCs not provide residential services for more than eight days, specifically noting that stabilizations may require more than eight days and navigation services may require a longer period. Commenters suggested that a limitation of 14 days may be more appropriate. Another commenter suggested that the eight-day limitation be stated as eight calendar days.

-See Rule Changes to 7.31.13.9 (C) (5) to reflect that a CTC shall not provide residential services in excess of eight calendar days.

7.30.13.9(C)(6) Limitations on Scope of Services-commenters raised concerns that this provision would prevent CTCs from providing ongoing behavior health treatment or navigations services. This provision would prevent CTCs with co-locating with navigation services providing ongoing services beyond a crisis time period.

Commenters advocated for a CTC model that could be co-located with longer-term service and information providers.

-There is no restriction of CTC clients receiving services from co-located services, as co-located services are not part of the licensed program.

7.30.13.9(C)(7) Limitations on Scope of Services-Commenters noted that the requirement that CTCs not exceed 16 short-term residential beds may be an effort to avoid being considered an IMO, which would preclude services being billed to Medicaid. Commenters, however, suggested that the 1115 waiver request may allow CTCs to have higher bed numbers. Commenters suggested this section be rewritten or clarified to allow more flexibility to CTCs.

-The request for expanding the capacity is not consistent with the "residential" structure of the facility as designed and required by statute.

7.30.13.9(D) License Required-commenters requested that this section be revised to account for service providers already in operation who would not be able to meet the criteria for a license under the Rule (such as sobering or detox services). Commenters further cautioned that this Rule should not result in the shutdown of safe and successful programs already in existence.

-This rule is not intended to be the licensing regulation for detoxification centers. Programs offering services not fitting within the scope of CTC services will not be required to be licensed as a CTC and will not be impacted by this rule.

7.30.13.10(E) Existing or Renovated Construction-Commenters requested that the department define parameters and timeline for the review and approval of building plans and specifications.

-This would be inconsistent with our practice in other Rules.

7.30.13.10(G) Program Description-Commenters noted that this section's requirement of a 24n staffing plan is not consistent with 7.30.13.9(8)(1), which allows for CTCs in operation for less than 24 hours a day or 7 days a week. Commenters requested that provision be revised to allow for staffing plans appropriate for the CTC's specific hours of operation.

-See Rule Changes to 7.30.13.10 G (4) (d) striking "24/seven"

7.30.13.10(G)(4)(e) Program Description-Commenters requested that the term "operating agreements" as used in this provision be defined and clarified as to whether the CTC must have an operating agreement with a facility/agency in order for individuals to have follow up appointments with those facilities/agencies.

-See Rule Changes to 7.30.13.10 (4) (e) removing requirement for operating agreements with aftercare agencies.

7.30.13.19(8) Client Transfers-Commenters suggest that transfers may be authorized by any of the licensed mental health professionals identified in 7.30.13.7(Z). Commenters further suggest that the Rule identify when a transfer must be initiated similar to the provisions in § 32A-6A-17(L). Finally, commenters suggest that the client be informed that

a transfer to a higher level of care means the evaluation facility will determine whether admission is necessary and that such admission is not guaranteed.

***Out of sequence, this section is actually 7.30.13.39**

-See Rule Changes to 7.30.13.39 requiring that the CTC rather than a physician or advanced practice registered nurse shall perform the listed tasks, thus allowing delegation to a variety of professionals.

Reporting of Incidents-the public requested that this section cite to statutes and regulations governing serious incident reporting.

-Citation to all governing laws and regulations is beyond the scope of the Rule.

Governing Body-the public requested that the Department clarify which governing body this provision would apply to in instances when the owner of the facility was not the same as the applicant, licensee or Management Company. Commenters also suggested that the Rule allow for the delegation of hiring administrators or other functions to a county or city manager, in appropriate circumstances.

-Hopefully changes to the "Applicant" definition will resolve this confusion.

Risk Assessment-Commenters noted that the Risk Assessment section includes steps required when restraining youth clients and requested that these steps also be required when restraining adult clients.

-See Rule Changes to 7.30.13.24 E allowing only necessary force.

7.30.13.24(A) Risk Assessment-Commenters requested that the Department issue guidelines for the policies required to be developed by CTCs under this section, particularly for when emergency medications may be administered or when a person should be transferred to an evaluation facility for possible emergency admission.

--See Rule Changes to 7.30.13.9 C (9), added provision prohibiting the use administration of emergency medications pursuant to NMSA 1978, 43-1-15 G. No further guidelines deemed necessary.

7.30.13.24(8) Risk Assessment-Commenters noted that this provision prohibits the use of seclusion, and requested that other provisions of the Rule referencing seclusion be deleted (see e.g. 7.30.13.24(L)(2) and 7.30.13.28(J)). Also, commenters requested that those applying a restraint use "only the reasonable force necessary to protect the individual or other person from imminent and serious physical harm," as is provided in the Children's Mental Health Code, NMSA 1978, § 32A-6A-10(1).

--See Rule Changes to 7.30.13.24 E, allowing only necessary force. Additionally, all references to the use of seclusion have been removed except as needed to state prohibition against seclusion.

7.30.13.24(E) Risk Assessment-Commenters requested that prone restraint be expressly prohibited under the Rule.

-No change deemed necessary.

7.30.13.24(H) Risk Assessment-The public commented that this provision regarding chemical restraint may be internally inconsistent, in that the definition of a chemical

restraint may be used to avoid the prohibition on chemical restraint. Commenters further suggested that the provision be clarified to indicate whether a CTC may administer emergency medication and whether client consent would be required. Such administration would have to be done in a manner consistent with the mental health statutes, NMSA 1978, §§ 32A-6A-17(L), 43-1-15(M)

-The earlier prohibition against the use of emergency medications should clarify this provision.

7.30.13.24(J) Risk Assessment-Commenters noted that it is not clear under this provision whether the individual would participate in a debriefing following a restraint. If not, then the commenters request that the restraint should be discussed with the individual as soon as feasible, referencing NMSA 1978, § 32A-6A-10(G).

-See Rule Change to 7.30.13.24 J requiring the client to be included in the debriefing when possible.

7.30.13.24(M) Risk Assessment-the public commented regarding whether the Department was purposefully using "restrain/clinician" in this section.

-Yes, it is a term in statute.

7.30.13.24(N) Risk Assessment-Commenters asked whether the reference to "psychiatry" in this section limited evaluation for suicide risk intervention to only psychiatrists or whether it could be conducted by any of the "licensed mental health professionals" listed in 7.30.13.7(2).

-See Rule Change to 7.30.13.24 N (4) allowing an independently licensed mental health provider to do the evaluation.

Client Acceptance, Admission and Discharge Criteria-The public commented that this provision appears to require CTCs provide admission and discharge services 24 hours a day/seven days a week, and noted that such a requirement is not consistent with other provisions in the Rule allowing for CTCs to operate for less than 24 hours a day/seven days a week. The commenters advocated for a more flexible approach, allowing for CTCs to provide services to individuals not in need of a residential stay. Commenters further requested that the Department make a distinction between "admission and discharge" and "presentation for services and release." Commenters also requested clarification regarding under what circumstances a legal guardian would be involved. Commenters noted that unless a guardianship order specifically grants mental health decision-making authority to the guardian, the individual retains that decision-making authority (*See* NMSA 1978, § 45-5-312, as amended.) In addition, commenters noted that the Adult Mental Health and Developmental Disabilities Code prohibits a guardian or other surrogate decision maker from consenting to admission to a facility. All the guardian may do is present the individual for an evaluation for possible admission (§ 43-1-14(8)). There are similar rules for children 14 and older-a child of this age may be admitted to a residential facility when both the child and their legal custodian consent to the admission (§§ 32A- 6A-15A, -21(B), -4(N)). Children 14 and older may consent to outpatient verbal therapies and psychotropic medications without the consent of the legal custodian (§ 32A-6A-15). Commenters seek clarification of this section, given the difference of the

requirements for adults and children. The public commented that 7.30.13.25(F) be clarified to address situations in which zoning requirements might conflict with the admission of a client on a court ordered conditional release.

-See Rule Changes to 7.30.13.25 removing requirement to accept admissions 24 hours a day. All references to guardians have been removed. See addition of 7.30.13.25 H requiring youth admissions to conform with state and federal law.

7.30.13.25(H)-the public commented that inspection of clients for contraband and weapons should not be limited only the admission to residential care.

-Safety requirements for residential units are different than those for outpatient services, no changes deemed necessary.

7.30.13.25(J)-Commenters noted the reference to the client's legal guardian and requested clarification regarding the capacity of a legal guardian to consent to a voluntary program.

-See Rule Change to 7.30.13.25 J removing reference to guardian.

7.30.13.25(K)(3)-Commenters requested clarification regarding whether the CTC would need to have an operating agreement with an outpatient provider in order to make a referral. (See a/so, 70.30.13.10(G)(4)(e).) Commenters also suggested that the discharge plan and process should include a "warm handoff" to and with the provider who will be providing follow-up care.

-See Changes to 7.30.13.25 L, requiring documentation of aftercare appointments and information.

Program Services-Commenters raised concerns about requiring assessments be provided by independently licensed mental health professionals. While Commenters agreed that assessments be provided by licensed mental health professionals, they asserted that requiring such professionals to be independently licensed would be difficult to achieve with the current workforce situation in New Mexico. Commenters also advocated that the Department require or encourage CTCs to allow peer-provided or peer-driven services, particular as the first line of contact with individuals seeking services. Other commenters requested clarification regarding the role of a legal guardian as referenced in this section.

-See Rule Change to 7.30.13.26 striking the word "independently" allowing those under supervision to do the assessment.

Client Rights-Commenters suggested that the Rule mirror the Adult Mental Health Code by including that individuals are entitled to a "nourishing, well balanced, varied and appetizing diet." See NMSA 1978, § 43-1-6(F). Commenters also suggested that this section state that individuals have a right to leave treatment (as CTCs are voluntary programs), unless the individual meets the criteria for issuing a certificate of evaluation for transportation as described in the Adult Mental Health Code, NMSA 1978, § 43-1-10. Commenters also sought clarification as to whether an individual could come and go during a period of treatment, whether inpatient or outpatient. Finally commenters suggested adding a provision allowing individual access to the state's protection and advocacy system and access to an attorney of the individual's choice (*see* § 32A-6A012(A)(2)).

-The information about a nourishing diet is in another section of the rule on Nutrition. The other suggestions are beyond the scope of the rule, this is not meant to be an exhaustive list of all state and federal rights regarding client rights, such as the right to access protection and advocacy, those requirements are in Federal law and are not needed to be repeated in the rule.

7.30.13.27(10) Client Rights-Commenters suggested amending this section to include a representative from the state's designated protection and advocacy system. (See 42 U.S.C. § 10805(a)(3), 42 C.F.R. §§ 51.31(d)(1) & 51.42.

-The cited section of law from the comment requires the CTC to grant access to clients, no need to repeat federal requirements.

7.30.13.27(D)(12)(i) Client Rights-Commentators noted that this section seems to imply that medications would not be administered in an emergency without consent and requested that if it is contemplated that medication be administered without consent that it be done so consistently with both Mental Health Codes (§§ 32A-6A-17(L) and 43-1-15(M)) and that in such circumstances arrangements be made for an emergency transfer to a facility for evaluation and possible admission.

-See Rule Changes to 7.30.13.9 C (9), added provision prohibiting the use administration of emergency medications pursuant to NMSA 1978, 43-1-15 G.

7.30.13.29(A) Minimum Staffing Requirements-The public commented that the staffing requirements under the Rule are unclear with respect to whether CTCs may operate less than 24 hours a day/7 days a week, and requested that the Department be more flexible with staffing requirements with respect to requiring both a physician and a psychiatrist be available during all operating hours (24/7). Commenters stated that this requirement would be particularly onerous given the work force challenges, particularly in rural parts of New Mexico. Commenters again noted that staffing requirements should include roles for certified peer support staff during operating hours. Public commenters requested flexibility with respect to allowing appropriately licensed mental health practitioners other than a psychiatrist be available during operating hours (either in person or through telehealth). Finally, commenters requested that CTC staffing patterns be generally more flexible and designed to meet the needs of the community, population of the region, and most important needs identified by the Counties of operation and allow for the utilization of any appropriate professionally licensed person, to the extent practicable. Commenters specifically requested that a licensed psychologist with prescribing privileges be an option anywhere staffing requirements require a psychiatrist or advanced nurse practitioner. Commenters also requested that CTCs be able to employ not-fully-licensed individuals who have completed their course work and are performing their internships, so long as those individuals are working under the authority of a fully-licensed professional/

-See Rule Changes to 7.30.13.29 A, only requiring a nurse to be present when clients are present to allow for programs that are not residential. Also see change to section (5) allowing consultation by prescribing psychologist.

7.30.13.29(8) Other Staffing Requirements-Commenters requested that annual TB tests for employees be deleted or required for residential programs only and noted that this requirement is not consistent with the 2004 repeal of NMAC 7.4.4 and would pose an unnecessary burden on CTCs.

-See Rule Change to 7.30.13.29 removing the TB testing requirement.

7.30.13.29(8)(1)(c) Other Staffing Requirements-Commenters request that this provision be amended to read "experienced and competent in the profession for which they are licensed."

-See Rule Changes to 7.30.13.29 B (c) to address comment.

7.30.13.32 Staff Training-Commenters requested that the Rule also include training on peer-delivered services and recovery supports and information about locally available services. Commenters also noted an inconsistency in the Rule with the reference in this section to the provision of withdrawal management, in contrast to 7.30.13.9(C)(2) prohibition on CTCs from providing acute medical alcohol withdrawal management.

-Training on community resources and services already required in 7.30.13.32 B (8). No training required for peer-delivered services. Changes to definition of detoxification services should clarify withdrawal management confusion.

7.30.13.34(sic) Nutrition-the public commented that this section should be revised to clarify that it only applies to residential programs or clarified to require the provision of food on a shorter-term basis for programs operating less than 24/7.

-See changes to Rule 7.30.13.34 to clarify that meals are to be provided to residential clients and those at the facility for 8 hours or more.

7.30.13.35(8)(1)(sic) Pharmaceutical Services-the public commented that this provision allowing for the use of medications in emergency situations to protect "the safety of the individual and other persons" may not be consistent with the Rule's requirement that stabilization treatment be provided by CTCs on a voluntary basis only and may qualify as administration of medication without consent under NMSA 1978, §§ 32A-6A-17(L), 43-1-15(M). Commenters further raised concerns about each CTC being required to develop policies and procedures to address individuals with high-risk behaviors, rather than have the regulation address when medications are administered for the safety of the individual and others.

--See Rule Changes to 7.30.13.9 C (9), added provision prohibiting the use administration of emergency medications pursuant to NMSA 1978, 43-1-15 G. See also change requiring CTC to have a plan to transfer clients who lack capacity to consent to treatment.

7.30.13.35(8)(2)(sic) Pharmaceutical Services-Commenters request clarification as to whether CTCs could administer emergency medications without consent and if so request that the Rule include a description of how such administration of emergency is done and that it be done consistent with the adult and children's Mental Health Codes (§§ 32A-6A-17(L) and 43-1-15(M)).

--See Rule Changes to 7.30.13.9 C (9), added provision prohibiting the use administration of emergency medications pursuant to NMSA 1978, 43-1-15 G.

70.30.13.40(sic) Business Hours-Consistent with previous comments, public commenters noted the need to revise this and other regulations to allow for CTCs models operating less than 24/7.

-See Rule Change to 7.30.13.40 requiring CTC's to post hours of operation and admission and removing requirement to be open 24/7.

70.30.13.47(sic) Custodial Closest-Commenters suggest that this provision specify that such closets must be kept locked.

-See Rule Change to 7.30.13.47 requiring closets to be locked.

70.30.13.52(8) (sic) Staff Station-Commenters requested that a pharmacy grade locked medication cart be sufficient to meet this requirement.

-See Rule Change to 7.30.13.52 B allowing the use of a pharmacy grade locked medication cart.

70.30.13.58(8(sic)) Resident Rooms-Commenters noted the problem of requiring private or semi-private rooms housing no more than two residents will cause for co-located detox centers, as this requirement would make it difficult for such detox centers to meet the licensing requirements. Existing detox centers operate with an open ward model and requiring a private or semi-private rooms would not be possible from either a staffing or safety perspective. Commenters strongly state that this dormitory style sleeping arrangement allows direct care staff to see all clients at all times. Other commenters suggest that there be a provision regarding how bed space will be made available by gender.

-See Rule Change to 7.30.13.58 allowing dorm style rooms but requiring CTC to place clients according to client need and acuity. Gender separation also required. Primary detoxification centers are not licensed as CTCs.

70.30.13.61(sic) Nutrition-Commenters suggest that residential CTCs servicing both adults and youth have separate mealtimes for the two populations. Commenters also request that the Rule allow for a facility to prepare food off site and transport it the CTC.

-See Rule Change to 7.30.13.61 to require separate meal times for adults and youth. Nothing in the rule requires on-site food preparation.

70.30.13.80(sic) Risk Assessment-Commenters suggest that two more provisions from the Children's Code be added to this section: After an incident of restraint, a debriefing must be conducted with the child, and the treatment team needs to meet and review the restraint incident to revise the plan to reduce the possibility that a restraint will again be necessary (see §§ 32A-6A-1O(F) and (G)).

-See Rule Changes to 7.30.13.80 K requiring debriefing with client.

Facility Requirements-Commenters requested that the Department consider a more flexible approach and require only those facility requirements that are necessary for the specific CTC model. Specifically, commenters suggest requirements that are applicable to residential programs may not be necessary to license non-residential programs.

-With changes, greater flexibility is allowed for non-residential programs.

Current Similar Programs- Commenters requested clarification that similar programs currently operating, such as detox and public inebriate programs) would not be governed by this Rule.

-Not needed to be put in Rule but yes, this is the case.

Deemed Status- Commenters requested that facilities that are federally accredited through CARF, Joint Commission, or COA have deemed status with respect to cert of the Rule's standards, such as policies and procedures, health and safety standards, and quality assurance plans.

-Not appropriate, uses different standards and criteria.

Sincerely,



Witter Tidmore, Assistant General Counsel.

TAB 13

TITLE 7 HEALTH
CHAPTER 30 FAMILY AND CHILDREN HEALTH CARE SERVICES
PART 13 CRISIS TRIAGE CENTERS

7.30.13.1 ISSUING AGENCY: New Mexico Department of Health (DOH), Division of Health Improvement (DHI).
[7.30.13.1 NMAC - N, xx/xx/2018]

7.30.13.2 SCOPE: These regulations apply to public, profit and not for profit crisis triage centers providing the services specified in these regulations. Any crisis triage center providing services specified in these regulations must be licensed under these regulations.
[7.30.13.2 NMAC - N, xx/xx/2018]

7.30.13.3 STATUTORY AUTHORITY: The regulations set forth herein are promulgated by the secretary of the New Mexico department of health, pursuant to the general authority granted under Subsection E of Section 9-7-6, NMSA 1978; and the authority granted under Subsection D of Section 24-1-2, Subsection I of Section 24-1-3 and Section 24-1-5, NMSA 1978.
[7.30.13.3 NMAC - N, xx/xx/2018]

7.30.13.4 DURATION: Permanent.
[7.30.13.4 NMAC - N, xx/xx/2018]

7.30.13.5 EFFECTIVE DATE: xx/xx/2018, unless a later date is cited at the end of a section.
[7.30.13.5 NMAC - N, xx/xx/2018]

7.30.13.6 OBJECTIVE:

A. To establish minimum standards for licensing crisis triage centers that provide quality crisis stabilization services outside of a hospital setting.

B. To ensure the provision of quality services which maintain or improve the health and quality of life to the clients.

C. To monitor compliance under these regulations through surveys and to identify any facility areas which could be dangerous or harmful.
[7.30.13.6 NMAC - N, xx/xx/2018]

7.30.13.7 DEFINITIONS:

A.
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 facility and all of the services provided at the facility 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 license. If the applicant is a legal entity, then 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.

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

Deleted: “Acute medical alcohol detoxification” means cessation or reduction in alcohol use that has been heavy and prolonged with two or more of the following developing within several hours to a few days after the cessation of or reduction in alcohol use:¶
(1) autonomic hyperactivity;¶
(2) increased hand tremor;¶
(3) insomnia;¶
(4) nausea or vomiting;¶
(5) transient visual, tactile, or auditory hallucinations or illusions;¶
(6) psychomotor agitation;¶
(7) anxiety; or¶
(8) generalized tonic-clonic seizures causing clinically significant distress or impairment in social, occupational, or other important areas of functioning. The signs and symptoms are not attributable to another medical condition and are not better explained by another mental disorder, including intoxication or withdrawal from another substance. This condition is of sufficient severity to require primary medical and nursing care services including 24-hour observation, monitoring, and treatment.

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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.

E. "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 facility'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 facility 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. "Withdrawal management" means the immediate psychological stabilization, diagnosis and treatment of a client who is intoxicated, incapacitated, or experiencing withdrawal of alcohol or drugs.

P. "Employee" means any person who works at the facility and is a direct hire of the owner entity or management company, if applicable.

Q. "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.

R. "High risk behavior" means behaviors that place clients, staff or visitors' physical and mental health and safety at risk.

S. "HSD" means the NM human services department.

T. "Incident" means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

U. "Incident management system" means the written policies and procedures adopted or developed by the licensed health facility for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

V. "Incident report form" means the reporting format issued by the department for the reporting of incidents or complaints.

W. "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) in Level III.&-D and Level IV-D which include 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.

X. "Licensee" means the person(s) or legal entity that operates the physical premises and facility and in whose name the facility license has been issued and who is legally responsible for compliance with these regulations.

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Y. "Licensing authority" means the New Mexico department of health.

Z. "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.

AA. "Management company" means the legal entity that manages the CTC program, if different from the legal owner of the facility.

BB. "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.

CC. "NMSA" means the New Mexico Statutes Annotated 1978 compilation and all subsequent amendments, revisions and compilations.

DD. "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.

EE. "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.

FF. "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.

GG. "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.

HH. "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 facility license, including to prove licensee compliance violations or failures.

II. "Policy" means a written statement that guides and determines present and future facility decisions and actions.

JJ. "Premises" means all of the facility including buildings, grounds and equipment.

KK. "Primary source verification" means the act of obtaining credentials directly from the original or primary source(s).

LL. "Procedure" means the action(s) that must be taken in order to implement a written policy.

MM. "Quality assurance" means the licensed health care facility's on-going comprehensive self-assessment of compliance with these regulations and other applicable statutes and regulations.

NN. "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.

OO. "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.

PP. "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.

QQ. "Residential services" means any crisis stabilization services provided to a client admitted to the residential setting.

RR. "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.

SS. "Sanitize clothes" means the use of water at a temperature of 212 degrees or use of a disinfectant agent to wash clothes.

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TT. "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.

UU. "Seclusion" means the involuntary confinement of a client alone in a room where the client is physically prevented from leaving.

VV. "Short-term residential stay" means the limit of a client's stay is eight days for the residential setting.

WW. "Staff" means any person who works at the facility, and includes employees, contracted persons, independent contractors and volunteers who perform work or provide goods and services at the facility.

XX. "U/L approved" means approved for safety by the national underwriter's laboratory.

YY. "Violation" means all actions or procedures by the facility or licensee that are not in compliance with these regulations and all other applicable state and federal statutes and regulations.

ZZ. "Variance" means a written decision, made at the licensing authority's sole discretion, to allow a facility to deviate from a portion(s) or a provision(s) of these regulations for a period that expires upon remodel of the facility or change of ownership, providing the variance does not jeopardize the health, safety or welfare of the facility'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.

AAA. "Waiver" means a written decision, made at the licensing authority's sole discretion, to allow a facility 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 facility'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.

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

CCC. "Youth" means residents 14 years of age and older up to age 18.

DDD. "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.
[7.30.13.7 NMAC - N, xx/xx/2018]

7.30.9.8 STANDARD OF COMPLIANCE: The degree of compliance required throughout these regulations is designated by the use of the words "shall" or "must" or "may". "Shall" or "must" means mandatory compliance. "May" means permissive compliance. The words "adequate", "proper", and other similar words mean the degree of compliance that is generally accepted throughout the professional field by those who provide services to the public in facilities.
[7.30.13.8 NMAC - N, xx/xx/2018]

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. The CTC provides emergency behavioral health triage, evaluation, and on a voluntary basis. The CTC may serve individuals 14 years or 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:

Deleted: admission 24 hours a day, seven days a week

- (1) the CTC 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;
- (5) the CTC shall not provide residential services in excess of eight calendar days;
- (6) the CTC shall not provide ongoing outpatient behavioral health treatment;
- (7) the CTC shall not exceed 16 short-term residential beds, including adults and youth, in a single licensed provider and shall not exceed the capacity for which the facility is licensed;
- (8) 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;
- (9) A CTC shall not administer emergency psychotropic medications as described in NMSA 1978, 43-1-15 G.

Deleted: acute medical alcohol withdrawal management

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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 facility 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, xx/xx/2018]

7.30.13.10 INITIAL LICENSE PROCEDURES: These regulations should be thoroughly understood and used by the applicant, when applying for the initial CTC license. The applicant for an initial facility license under these regulations must follow these procedures when applying for a license.

A. Notification and letter of intent: The owner shall advise the licensing authority of its intent to open a crisis triage center pursuant to these regulations by submitting a letter of intent. The letter of intent must be on the applicant's letterhead and signed by a person with authority to make legal decisions for the owner and the facility and at a minimum, include the following:

- (1) the name of facility;
- (2) the name of the legal owner and licensee and the type of legal entity under which the facility shall be owned;
- (3) the name of the management company, if any;
- (4) the type of facility license requested;
- (5) the name and resume of the proposed administrator;
- (6) the anticipated number of residential and non-residential clients to be served;
- (7) the intended population and age range of the clients to be served;
- (8) the number of residential beds in the proposed facility;
- (9) the physical address of facility including building name or suite number;
- (10) the mailing address, if different from physical address;
- (11) the applicant's contact name(s), address, e-mail address, and telephone number(s);
- (12) the anticipated payers and sources of reimbursement; and
- (13) a list of all services to be provided at the facility location which is requesting the license.

B. License application and fees: After review by the department of the letter of intent for general compliance with these regulations and verification that an application is appropriate under these regulations, the owner shall be required to complete a license application on a form provided by the department. Prior to any construction, renovation or addition to an existing building and after review and approval of the letter of intent by the department, the applicant must submit to the licensing authority an application form provided by the department, fully completed, printed or typed, dated, signed, and notarized accompanied by the required fee. If electronic filing of license applications is available at the time of application, the applicant will be required to follow all electronic filing requirements, and may forgo any notary requirements, if specifically allowed under the applicable electronic

filing statutes, regulations and requirements. The licensing authority will provide current fee schedules. The department reserves the right to require additional documentation to verify the identity of the applicant in order to verify whether any federal or state exclusions may apply to the applicant. Fees must be paid in the form of a certified check, money order, personal, or business check, or electronic transfer (if available), made payable to the state of New Mexico, and are non-refundable. The applicant must also attach to the application and submit to the department, a set of building plans which includes all of the information required by these rules, accompanied by proof of zoning approvals by the applicable building authority.

C. Building plans: The facility building plans must be of professional quality, prepared and stamped by an Architect licensed by the state of New Mexico pursuant to Subsection B of Section 61-15-9 NMSA 1978. One copy of the building plans must be submitted, printed on substantial paper measuring at least 24" x 36", and drawn to an accurate scale of at least 1/8 inch to 1 foot. The building plans for renovated or building additions to an existing building must include sufficient information to clearly distinguish between new and existing construction, for the department to make a compliance determination. The following plans are the minimum required for all facilities in new and /or renovated construction:

(1) **Site plan:** showing the location of the building on a site/plot plan to determine surrounding conditions, driveways, all walks and steps, ramps, parking areas, handicapped and emergency vehicle spaces, accessible route to the main entrance, secure yard for clients, any permanent structures, including notes on construction materials used.

(2) **Life safety and code compliance plan:** noting applicable code requirements and compliance data, locations of rated fire walls, smoke partitions (if any), exit paths & distances, fire extinguishers locations.

(3) **Floor plans:** showing location use of each room, (e.g., waiting room, examination room, office, client (resident) rooms, kitchen, common elements, door locations (swings), window locations, restrooms, locations of all restrooms, plumbing fixtures (sinks, toilets, tubs-showers; location a of all level changes within and outside the building (e.g. steps or ramps, etc.); and all other pertinent explanatory information addressing the requirements in applicable regulations.

(4) **Dimensioned floor plan:** showing all exterior and interior dimensions of all rooms, spaces, and corridors, etc.

(5) **Exterior building elevations:** noting all building heights, locations of exterior doors, and any operable and fixed windows (sill heights).

(6) **Building and wall sections:** showing at least one building or wall section showing an exterior and interior wall construction section including the material composition of the floor, walls, and ceiling/roof construction.

(7) **Schedule sheets:** room finish: noting all room finishes, (e.g., carpet, tile, gypsum board with paint, etc); door schedule; noting door sizes/thickness, door types & ratings; window schedule, noting sizes, type and operation; skylight schedule, noting size, type.

(8) **Special systems plan:** location of fire extinguishers, heat and smoke detectors, nurse call systems, and operational elements of alarm system.

(9) **Mechanical plans:** noting location of heating units, furnaces, hot water heaters, and fuel type and source; all heating, ventilating and air conditioning/cooling systems including locations of fire dampers.

(10) **Plumbing plan:** noting all plumbing fixture locations, fixture types.

(11) **Electrical plan:** noting power and lighting layouts, exit lighting, emergency lighting fixtures, emergency power systems (if any), electrical panel information.

(12) **Other plans:** As necessary (ie; phasing plan) to describe compliance with the other requirements in applicable regulations.

D. New construction: Building plans must be submitted, and will be reviewed by the department for compliance with these licensing regulations, and applicable building and fire safety codes. If the department approves the facility's building plans and local building officials have issued a construction permit, construction may begin. This provision is an ongoing requirement and applies to, and includes all construction at the facility, which occurs before and after issuance of the initial license. This provision does not generally apply to maintenance and repair. However, if the maintenance or repair impacts or alters any of the facility requirements under these regulations, the applicant or licensee must notify the department and verify ongoing compliance with these regulations. The department shall not be liable for any costs or damages incurred by the applicant relating to construction in the event the applicant incurs costs or damages in order to comply with these regulations or to obtain a license under these regulations. For all new and proposed construction, the applicant or licensee must submit for building plan approval by the department before construction begins.

E. Existing or renovated construction: If the proposed facility includes any remodeling, renovations or additions or new construction of any type, the building plans and specifications covering all portions of the proposed work delineating all existing construction and all new or proposed construction shall be and submitted to the department for review and approval. Submit phasing plan if project construction will be phased. New facilities proposed for licensure in existing buildings must comply with all requirements building requirements as if it were completely new construction. If the CTC is located within another licensed facility such as a hospital, the life safety inspection will still be required for compliance with 7.30.13 NMAC requirements. For residential CTC programs, the bed count must be separate from the licensed bed count of the original licensed facility. If a CTC is a separate building associated with an existing license, requirements of this regulation apply to that building.

F. Completed construction: All new or renovated construction completed shall comply with the plans and specifications approved by the department in the plan review process and prior to construction, these rules, and all other applicable rules and codes; and any of the department's approval(s) shall not waive any other rules or other applicable building and code requirements enforceable by other authorities having jurisdiction. Applicant must receive initial life safety code approval and a temporary license from this department prior to accepting or admitting any clients into the facility.

G. Additional documents required for license application: The department reserves the right to require an applicant to provide all additional documents, as part of its license application, in order for the department to determine whether the applicant and the facility are in full compliance with these regulations, as well as all other applicable statutes and regulations. At minimum, additional documents required to be provided as part of the initial licensure process prior to the issuance of a temporary license, include, but are not limited to:

(1) **Building approvals:** The applicant must submit all building approvals required for the facility to operate in the jurisdiction in which it is located, including but not limited to:

(a) written zoning approval, building permit final approval, or certificates of occupancy from the appropriate authority (state, city, county, or municipality) for business occupancy; and
(b) written fire marshal approvals from the fire safety authority having jurisdiction.

(2) **Environment department approvals:** If applicable or required, the applicant must provide written approval from the New Mexico environment department for the following:

- (a) private water supply;
- (b) private waste or sewage disposal;
- (c) kitchen/food service;
- (d) x-ray equipment (if any).

(3) **Board of pharmacy approvals:** A copy of facility's drug permit issued by the state board of pharmacy must be provided.

(4) **Program description:** The applicant must submit with its license application a program outlines consistent with these regulations which includes at a minimum, the following information:

(a) a list and description of all services and the scope of those services to be provided by the proposed facility;
(b) projected number of clients to be served monthly, both residential and non-residential;

(c) a list of staffing and personnel requirements and duties to be performed;
(d) proposed staffing plans for both residential and non-residential programs;
(e) photocopies of written operating agreements with the following: treatment facilities for behavioral health and physical health care needs that are beyond the scope of the facility;

(f) admission and discharge criteria; and
(g) an organizational structure diagram or chart including the administrator, governing body, clinical director, director of nursing, direct care staff, and other staff.

(5) **Policies and procedures:** The applicant must submit with its license application a copy of the facility's policies and procedures with a crosswalk to these regulations to show compliance. [7.30.13.10 NMAC - N, xx/xx/2018]

7.30.13.11 LICENSE TYPES, VARIANCES & WAIVERS:

A. Temporary license:

(1) The licensing authority may, at its sole discretion, issue a temporary license prior to the initial survey, or when the licensing authority finds partial compliance with these regulations.

(2) The licensing authority may, at its sole discretion, issue a temporary license before clients are admitted, provided that the facility has:

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(a) submitted a license application, with required supporting documents;
(b) has met all of the applicable life safety code requirements; and
(c) its program, policies, and procedures have been reviewed and approved for compliance with these regulations.

(3) a temporary license is not guaranteed under these regulations and shall be limited and restricted to:

(a) a period, not to exceed 120 days, during which the facility must correct all specified deficiencies;
(b) no more than two consecutive temporary licenses shall be issued in accordance with applicable statutes and regulations;
(c) a finding that the applicant is qualified and in full compliance with life safety code requirements;
(d) the facility being allowed to accept clients and provide care services, subject to any requirements and restrictions attached to the temporary license;
(e) a statement from the applicant that they are qualified and in full compliance with these regulations and the owner has requested an initial health survey from the licensing authority.

B. Annual license: An annual license is issued for a one-year period to a facility which has met all requirements of these regulations. If a temporary license is issued, once the department has issued a written determination of full compliance with these regulations, an annual license will be issued with the renewal date of the annual license based upon the initial date of the first temporary license.

C. Amended license: A licensee must apply to the licensing authority for an amended license when there is a change of administrator or when there is a change of name for the facility, but an amended license shall only be issued if the administrator is not an owner. If the administrator is also the owner, a new license application must be submitted as provided in this regulation. The amended license application must:

- (1) be on a form, or filed electronically if available, as required by the licensing authority;
- (2) be accompanied by the required fee for the amended license; and
- (3) be submitted within 10 working days of the change.

D. Variances and waivers: At the licensing authority's sole discretion, an applicant or licensee may be granted variances and waivers of these regulations, provided the granting of such variance or waiver shall not jeopardize the health, safety or welfare of the facility's clients, patients and staff and is not in violation of other applicable state and federal statutes and regulations. Variances and waivers are non-transferrable. Waivers and variances 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.

(1) all variances shall be in writing, attached to the license and shall expire upon remodel of the facility or change of ownership;

(2) all waivers shall be in writing, attached to the license and shall be limited to the term of the license. Upon renewal of a license, waivers shall only be extended or continued at the sole discretion of the licensing authority.

[7.30.13.11 NMAC - N, xx/xx/2018]

7.30.13.12 LICENSE RENEWAL:

A. Licensee must submit a renewal application, electronically, if available, or on forms authorized by the licensing authority, along with the required license fee at least 30 days prior to expiration of the current license. The applicant shall certify that the facility complies with all applicable state and federal regulations in force at the time of renewal and that there has been no new construction or remodeling or additions, which differ from the plans provided and reviewed with the prior license application. If there has been any construction, remodeling, or additions to the facility since issuance of the last license, and the construction has not been previously approved by the department, the license renewal applicant shall be required to comply with all construction documentation requirements under these regulations when applying for the license renewal. The department reserves the right to require that a renewal applicant provide all additional documents, including any necessary proof of current compliance, as part of its license renewal application for the department to determine whether the applicant and the facility are in full compliance with these regulations.

B. Upon receipt of the renewal application and the required fee, the licensing authority will issue a new license effective the day following the date of expiration of the current license, if the facility is in substantial compliance with these regulations and all other applicable state and federal regulations.

C. If the existing license expires and the licensee has failed to submit a renewal application, the department may charge the applicant a civil monetary penalty of one hundred dollars (\$100) for each day, in accordance with Section 24-1-5.2 NMSA 1978, as amended, that the facility continues to operate without a license providing that during such time the facility remains in full compliance with these regulations. If the facility does not renew its license and continues to operate without paying civil monetary penalties and without being in full compliance with these regulations, the facility shall cease operations until it obtains a new license through the initial licensure procedures, and shall still be required to pay civil monetary penalties. Under Section 24-1-5 NMSA 1978, as amended, no crisis triage center shall be operated without a license and any such failure may subject the operators to various sanctions and legal remedies, including at a minimum the imposition of civil monetary penalties.

D. It shall be the sole responsibility and liability of the licensee to be aware of the status, term and renewal date of its license. The licensing authority shall not be responsible to notify the facility of the renewal date or the expiration date of the facility's license.

E. After issuance of the initial license, if there has been no construction, remodeling or additions to the facility and the facility is in substantially the same condition as the plans on file with the department, and the facility is in substantial compliance with these regulations and provides an application and fee the facility may be issued a license renewal. The department, at its sole discretion, reserves the right to require additional documentation of compliance with these regulations and all applicable state and federal statutes and regulations by the licensee at the time of license renewal.

[7.30.13.12 NMAC - N, xx/xx/2018]

7.30.13.13 POSTING OF LICENSE: The facility's official license must be posted in a conspicuous place on the licensed premises in an area visible to the public.

[7.30.13.13 NMAC - N, xx/xx/2018]

7.30.13.14 NON-TRANSFERABLE RESTRICTION ON LICENSE: A license granted under these regulations is not transferable to any other owner, whether an individual or legal entity, or to another location. The department shall not guarantee or be liable for or responsible for guaranteeing the transfer of the license to any other owner or other location. The existing license shall be void and must be returned to the licensing authority when any one of the following situations occurs:

- A. any ownership interest in the facility changes;
- B. the facility changes location;
- C. the licensee of the facility changes; or
- D. the facility discontinues operation.

[7.30.13.14 NMAC - N, xx/xx/2018]

7.30.13.15 CHANGE OF OWNERSHIP: When a change of ownership occurs, an initial license application must be submitted by the new owner per the requirements in this section. The new owner must demonstrate compliance with these regulations the instant it takes responsibility of the facility. The licensing authority may, at its sole discretion, approve a change of ownership. In addition to the requirements in Section 7.30.13.10 NMAC - application for licensure, the new owner must submit the following at least 60 days prior to completion of the change of ownership:

- A. An explanation of terms of the change of ownership and the date the ownership will change.
- B. Documents evidencing the change of ownership such as proof of sale or donation, lease of any portion of the facility or other relevant documents.
- C. Building plans of the current structure with any modifications known to the current or new owner.
- D. A continuity of care transition plan that describes how the new owner will maintain the provision of services and continuity of care, keep residential clients safe and meet the requirements of these regulations at the instant it takes responsibility of the facility. The plan must state the actions that will occur, the party responsible for taking each action, and the expected date of completion for each action. The plan must include the following:

- (1) list of all residential clients at the time of notice to the licensing authority;
- (2) review and update of all residential client assessments. All assessments must be current

and accurate;

(3) review and update of all crisis intervention plans for clients receiving service at the time of transition and for all residential clients. All plans must be current and accurate;

(4) staffing as required in Section 7.30.13.29 NMAC of these rules and the number and positions of current staff that will be hired by the new owner;

- (5) staff training as required in Section 7.30.13.32 NMAC;
 - (6) identification of all waivers or variances held by the current owner, and submission of any necessary waivers or variances. All waivers or variances held by the current owner are void upon the change of ownership;
 - (7) signed transfer agreements as required in Section 7.30.13.22 NMAC of these rules.
 - (8) Failure by any individual or entity to apply for and obtain a new license while continuing to operate under these regulations, shall be considered in violation of these regulations and 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.
- [7.30.13.15 NMAC - N, xx/xx/2018]

7.30.13.16 AUTOMATIC EXPIRATION OR TERMINATION OF LICENSE: An existing license shall automatically expire at midnight on the day indicated on the license, unless it is renewed sooner, or it has been suspended or revoked.

- A. If a facility discontinues operation, is sold, leased or otherwise changes any ownership interest or changes location, the existing license shall automatically expire at midnight on the date of such action.
 - B. Failure by any owner or new owner to apply for a renewal or new license, while continuing to operate under these regulations, shall be considered a violation and subject to the imposition of civil monetary penalties, sanctions or other actions for operating without a license, allowed under these regulations and all other applicable statutes and regulations.
- [7.30.13.16 NMAC - N, xx/xx/2018]

7.30.13.17 ENFORCEMENT:

- A. Suspension of license without prior hearing: If immediate action is required to protect human health and safety, the licensing authority may act in accordance with Section 24-1-5 NMSA 1978, as amended, and suspend a license pending a hearing, provided such hearing is held within five working days of the suspension, unless waived by the licensee.
 - B. An initial license application or a renewal license application may be denied, or an existing license may be revoked or suspended, or intermediate sanctions or civil monetary penalties may be imposed, after notice and opportunity for a hearing, for any of the following:
 - (1) failure to comply with any provision of these regulations;
 - (2) failure to allow access to the facility and survey(s) by authorized representatives of the licensing authority;
 - (3) allowing any person to work at the facility while impaired physically or mentally or under the influence of alcohol or drugs in a manner which harms the health, safety or welfare of the clients, staff or visitors;
 - (4) allowing any person, subject to all applicable statutes and regulations, to work at the facility if that person is listed on the employee abuse registry, nurse aid registry, or considered an unemployable caregiver or has a disqualifying conviction under the caregiver's criminal history screen act, as amended, and related regulations, as amended.
 - (5) the list above shall not limit the department from imposing sanctions and civil monetary penalties under all applicable statutes, regulations and codes.
- [7.30.13.17 NMAC - N, xx/xx/2018]

7.30.13.18 HEARING PROCEDURES: Hearing procedures for an administrative appeal of an adverse action taken by the department against a facility's license will be held in accordance with applicable rules relating to adjudicatory hearings, including but not limited to, Section 7.1.2 NMAC, as amended. A copy of the above regulations will be furnished at the time an adverse action is taken against a facility's license by the licensing authority, if the regulations cannot be obtained from a public website.

[7.30.13.18 NMAC - N, xx/xx/2018]

7.30.13.19 FACILITY SURVEYS:

- A. Application for licensure, whether initial or renewal, shall constitute permission for unrestricted entry into and survey of a facility by authorized licensing authority representatives at times of operation during the pendency of the license application, and if licensed, during the licensure period.
- B. Surveys may be announced or unannounced at the sole discretion of the licensing authority.

C. Upon receipt of a report of deficiency from the licensing authority, the licensee or his/her representative shall be required to submit a plan of correction to the licensing authority within 10 working days stating how the facility intends to correct each violation noted and the expected date of completion. All plans of correction for deficiencies, if any, shall be disclosed in compliance with applicable statutes and regulations. A plan of correction is not confidential once it has been approved and is admissible for all purposes in any adjudicatory hearing and all subsequent appeals relating to a facility license, including to prove licensee compliance violations. The plan of correction must contain the following:

(1) what measures will be put into place or what systematic changes will be made to ensure the deficient practice does not recur;

(2) the anticipated implementation date (a reasonable time-frame is allowed);

(3) how the corrective action will be monitored to ensure compliance;

(4) what quality assurance indicators will be put into place;

(5) who will be responsible to oversee their monitoring; and

(6) plan of correction shall be signed and dated by the administrator or authorized

representative.

D. The licensing authority may at its sole discretion accept the plan of correction as written or require modifications of the plan by the licensee.

[7.30.13.19 NMAC - N, xx/xx/2018]

7.30.13.20 REPORTING OF INCIDENTS: All CTC's licensed under these regulations must comply with all incident intake, processing, training and reporting requirements under these regulations, as well as with all other applicable statutes and regulations. All facilities shall report to the licensing authority any serious incidents or unusual occurrences which have threatened, or could have threatened the health, safety and welfare of the clients, including but not limited to:

A. fire, flood or other man-made or natural disasters including any damage to the facility caused by such disasters and any incident which poses or creates any life safety or health hazards;

B. any outbreak of contagious diseases and diseases dangerous to the public health;

C. any human errors by staff and employees which may or has resulted in the death, serious illness, hospitalization, or physical impairment of a client or staff; and

D. abuse, neglect, exploitation, and injuries of unknown origin and other reportable incidents in accordance with 7.1.13 NMAC, as may be amended from time to time.

[7.30.13.20 NMAC - N, xx/xx/2018]

7.30.13.21 GOVERNING BODY: All CTC's licensed under these regulations must have a formally constituted governing body or operate under the governing body of the legal entity, which has ultimate authority over the facility.

A. The governing body shall:

(1) establish and adopt bylaws that govern its operation;

(2) approve policies and procedures;

(3) appoint an on-site administrator or chief executive officer/administrator for the facility;

and

(4) review the performance of the administrator/chief executive officer at least annually.

B. The governing body may appoint committees consistent with the size and scope of the facility.

[7.30.13.21 NMAC - N, xx/xx/2018]

7.30.13.22 POLICIES AND PROCEDURES: The facility shall establish written policies and procedures that are reviewed annually and approved by the governing body, which govern the facility's operation. The administrator shall ensure that these policies and procedures are adopted, administered and enforced to provide quality services in a safe environment. At a minimum, the facility's written policies and procedures shall include how the facility intends to comply with all requirements of these regulations and address:

A. the establishment, composition, and responsibilities of the governing body;

B. administration including the minimum qualifications of the administrator, the process to hire an administrator, and define the administrator's authority, responsibility, and accountability including plans for the administrator's absence;

C. quality assurance and improvement systems;

D. incident management system;

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E. the maintenance of the facility, equipment and supplies; inspection and maintenance of emergency equipment; maintenance of emergency supplies; maintenance, upkeep and cleaning of the building(s) and equipment; fire and emergency evacuation procedures; and proper disposal of waste liquids used for cleaning contaminated areas;

F. quality of care and services including appropriate and inappropriate admission and discharge criteria; and client risk assessment;

G. referral of clients for services; transfer of clients to a hospital or other facility or program; ambulance transfer services; and emergency procedures and resuscitative techniques;

H. infectious waste and biohazard disposal in accordance with all applicable statutes and regulations;

I. infection control and prevention;

J. staffing plan, personnel records, and personnel including written job descriptions for all staff with necessary qualifications consistent with these rules; minimum staffing; and staff development;

K. maintenance of the client health record including protection of client confidentiality and privacy as required by law; secure release of medical information and records; and safe handling and storage of client records including appropriate document destruction procedures;

L. the retention, maintenance, security and destruction of client, personnel and facility records;

M. research procedures for any research being conducted at the facility in compliance with these regulations;

N. dietary services including: meal service; staff in-service training; dietary records; clean and sanitary conditions; and food management;

O. housekeeping services to keep the facility safe, clean, and free of hazards and clutter;

P. laundry services for the facility's laundry and resident's laundry including handling, process and storage of clean and dirty laundry;

Q. pharmacy practices including the storage, administration, and disposal of medications; medication management; and documentation;

R. laboratory services;

S. client's personal belongings including locked storage and contraband;

T. client rights;

U. safety management plan including, but not limited to, risk assessment, control of potentially injurious items, crisis prevention and intervention, seclusion, physical restraint, and mitigation of high risk behaviors including suicide and assault. The safety plan shall follow a least to most restrictive sequence;

V. authorized entry to or exit from the facility including the residential and outpatient components;

W. withdrawal management services; and

X. primary source verification of licenses, credentials, experience and competence of staff.

[7.30.13.22 NMAC - N, xx/xx/2018]

7.30.13.23 QUALITY IMPROVEMENT SYSTEMS: Each facility shall establish and maintain quality improvement systems including policies and procedures for quality assurance and quality improvement and have a quality committee.

A. The facility shall establish a quality committee comprised at a minimum of the administrator, clinical director, director of nursing, licensed mental health professional, certified peer support worker, and psychiatrist. Other committee members may be specified by rules governing payor requirements. Members may participate on the quality committee by teleconference. The committee shall establish and implement quality assurance and quality improvement systems that monitor and promote quality care to clients. The systems are approved by the governing body and updated annually.

(1) the quality improvement systems must include:

(a) chart reviews;

(b) annual review of policies and procedures;

(c) data collection, and other program monitoring processes;

(d) data analyses;

(e) identification of events, trends and patterns that may affect client health, safety

or treatment efficacy;

(f) identification of areas for improvement;

(g) intervention plans, including action steps, responsible parties, and completion

time; and,

(h) evaluation of the effectiveness of interventions.

(2) when areas of concern or potential problems are identified by the committee, the facility shall act as soon as possible to avoid and prevent risks to clients.

(3) the quality committee shall take and maintain meeting minutes.

B. The quality committee shall review at a minimum, the following:

(1) high-risk situations and critical incidents (such as suicide, death, serious injury, violence and abuse, neglect and exploitation) within 24 hours;

(2) medical emergencies;

(3) medication variance;

(4) infection control;

(5) emergency safety interventions including any instances, physical restraints; and

(6) environmental safety and maintenance.

C. The quality committee is responsible for the implementation of quality improvement processes.

D. The quality committee shall submit a quarterly report to the governing body for review and approval.

E. The governing body shall evaluate the facility's effectiveness in improving performance.

[7.30.13.23 NMAC - N, xx/xx/2018]

7.30.13.24 RISK ASSESSMENT:

A. The facility shall develop policies and procedures addressing risk assessment and mitigation including, but not limited to: assessments, crisis intervention plans, treatment, approaches to supporting, engaging, and problem solving, staffing, levels of observation and documentation. The policies and procedures must prohibit seclusion and address physical restraint, if used, and the facility's response to clients that present with imminent risk to self or others, assaultive and other high-risk behaviors.

B. Use of seclusion is prohibited. The use of physical restraint must be consistent with federal and state laws and regulation.

C. Physical restraint, as defined in these regulations, shall be used only as an emergency safety intervention of last resort to ensure the physical safety of the client and others, and shall be used only after less intrusive or restrictive interventions have been determined to be ineffective.

D. Physical restraint shall not be used as punishment or for the convenience of staff.

E. Physical restraint are implemented only by staff who have been trained and certified by a CYFD or HSD recognized program in the prevention and use of physical restraint. This training emphasizes de-escalation techniques and alternatives to physical contact with clients as a means of managing behavior and allows only the use of reasonable force necessary to protect the individual or other person from imminent and serious physical harm. Clients and youth do not participate in the physical restraint of other clients and youth.

F. Crisis intervention plans must document the use of physical restraints and address: the client's medical condition(s); the role of the client's history of trauma in his/her behavioral patterns; specific suggestions from the client regarding prevention of future physical interventions.

G. All clients physically restrained shall be afforded full privacy away from other clients receiving services.

H. A chemical restraint shall not be utilized under any circumstance. A chemical restraint is a drug or medication when it is used as a restriction to manage the client's behavior or restrict the client's freedom of movement, and is not a standard treatment or dosage for the 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.

I. Mechanical restraint shall not be utilized under any circumstances. Mechanical restraint is the use of a mechanical device(s) to physically restrict a client's freedom of movement, performance of physical activity or normal access to his or her body and is distinct from physical restraint.

J. The staff implementing the physical restraint shall conduct a debriefing, with the client present if possible, immediately following the incident to include the identification of the precipitating event, unsafe behavior and preventive measures with the intent of reducing or eliminating the need for future physical restraint. The debriefing shall be documented in the client's record.

K. The client's crisis intervention plan shall be updated: within 24 hours of admission or prior to discharge, whichever comes first; and following physical restraint use to incorporate the debriefing and changes needed to lessen the chance of the situation reoccurring.

L. Each incident of physical restraint shall be documented in the client's record including:

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- (1) the less intrusive interventions that were attempted or determined to be inappropriate prior to the incident;
- (2) the precipitating event immediately preceding the behavior that prompted the use of physical restraint;
- (3) the behavior that prompted the use of a physical restraint;
- (4) the names of the mental health professional who observed the behavior that prompted the use of the physical restraint;
- (5) the names of the staff members implementing and monitoring the use of physical restraint; and
- (6) a description of the of the physical restraint incident, including the type and length of the use of physical restraint, the client's behavior during and reaction to the physical restraint and the name of the supervisor informed of the use of physical restraint.

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M. Physical restraints orders are issued by a restraint/clinician within one hour of initiation of physical restraint and include documented clinical justification for the use of physical restraint.

- (1) if the client has a treatment team physician or advanced practice registered nurse and he or she is available, only he or she may order physical restraint;
- (2) if physical restraint is ordered by a restraint clinician, not the client's treatment team physician or advanced practice registered nurse, the restraint clinician will contact the client's treatment team physician or advanced practice registered nurse as soon as possible to inform him or her of the situation requiring the physical restraint, and document in the client's record the date and time the treatment team physician or advanced practice registered nurse was consulted and the information imparted;
- (3) if the order for physical restraint is verbal, the verbal order must be received by a restraint/clinician or a New Mexico licensed registered nurse (RN) or practical nurse (LPN). The restraint/ clinician must verify the verbal order in a signed, written form placed in the client's record within 24 hours after the order is issued;

(4) each order for physical restraint must be documented in the client's record and must include:

- (a) the name of the restraint/clinician ordering the physical restraint;
- (b) the date and time the order was obtained;
- (c) the emergency safety intervention ordered, including the length of time;
- (d) the time the emergency safety intervention began and ended;
- (e) the time and results of one-hour assessment(s), if ordered;
- (f) the emergency safety situation that required the client to be physically restrained; and
- (g) the name, title, and credentials of staff involved in the emergency safety intervention.

N. Suicide risk interventions must include the following:

- (1) a registered nurse or other licensed mental health professional may initiate suicide precautions and must obtain physician or advanced practice registered nurse order within one hour of initiating the precautions;
- (2) modifications or removal of suicide precautions shall require clinical justification determined by an assessment and shall be ordered by a physician or advanced practice registered nurse and documented in the clinical record;
- (3) staff and client shall be debriefed immediately following an episode of a suicide attempt or gesture, identifying the circumstances leading up to the suicide attempt or gesture;
- (4) an evaluation of the client by a medical psychiatric or independently licensed mental health provider must be done immediately, or the client must be transferred to a higher level of care immediately. [7.30.13.24 NMAC - N, xx/xx/2018]

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7.30.13.25 CLIENT ACCEPTANCE, ADMISSION AND DISCHARGE CRITERIA:

- A.** The facility shall develop admission and discharge criteria related to stabilization of behavioral health crises including out-patient and short-term residential stabilization.
- B.** The facility shall post operating and admission hours in a location visible from the exterior of the facility.
- C.** If a client is not admitted to the facility, the facility shall maintain documentation of the rationale for the denial of services to the individual and any referrals made.

Deleted: admit 24 hours a day, seven days a week, and discharge seven days a week

D. Admission criteria for adults and youth must be available in writing to all clients and visitors to the facility.

E. Materials describing services offered, eligibility requirements and client rights and responsibilities must be provided in a form understandable to the client, with consideration of the client's primary language, and the mode of communication best understood by persons with visual or hearing impairments, as applicable.

F. The facility shall not refuse to admit a client solely on the basis of the individual living in the community on a court ordered conditional release.

G. The facility shall conduct an assessment for each client presenting for admission. The admission assessment shall contain an assessment of past trauma or abuse, how the individual served would prefer to be approached should he become dangerous to himself or to others and the findings from this initial assessment shall guide the process for determining interventions.

H. All residential admissions of youth 14 years of age and older must comply with applicable state and federal laws.

I. Staff shall inspect clients, their clothing, and all personal effects for contraband and weapons before admission to the residential component to ensure the safety of the patient and staff.

J. Discharge planning shall begin upon admission.

K. Prior to a client returning to a less restrictive environment, staff, with the consent of the client, shall work with the client's support system, as appropriate, to prepare the client for discharge.

L. Discharge plan and summary information shall be provided to the client at the time of discharge that includes:

- (1) significant findings relevant to the client's recovery;
- (2) client crisis stabilization plan and progress;
- (3) recommendations and documentation for continued care, including appointment times, locations and contact information for providers;
- (4) recommendations for community services if indicated with contact information for the services;
- (5) documentation of notification to the client's primary care practitioner, if applicable;
- (6) evidence of involvement by the client as documented by his signature or refusal to sign;
- (7) signatures of all staff participating in the development of plan.

M. A copy of the discharge plan shall be provided to post discharge service provider(s). [7.30.13.25 NMAC - N, xx/xx/2018]

7.30.13.26 PROGRAM SERVICES: A licensed mental health professional must assess each individual with the assessment focusing on the stabilization needs of the client. It must be done in a timely manner congruent with the urgency of the presenting crisis, and consistent with the policies and procedures. The assessment must include: medical and mental health history and status, the onset of illness, the presenting circumstances, risk assessment, cognitive abilities, communication abilities, social history and history as a victim of physical abuse, sexual abuse, neglect, or other trauma as well as history as a perpetrator of physical or sexual abuse.

A. The CTC shall provide education and clinical programing designed to meet the stabilization needs of each client and implement crisis stabilization plans.

B. Crisis stabilization plan - A licensed mental health professional must document a crisis stabilization plan to address needs identified in the assessment.

- (1) the crisis stabilization plan shall include at a minimum:
 - (a) diagnosis, a problem statement or statement of needs to be addressed;
 - (b) identification of behavioral health crisis leading to intake;
 - (c) goals that address the presenting crisis, and are consistent with the client's needs, realistic, measurable, linked to symptom reduction, and attainable by the client during the client's projected length of stay;
 - (d) specific treatment(s) provided, method(s) and frequency of treatment, and staff responsible for delivering treatment;
 - (e) criteria describing evidence of stabilization;
 - (f) discharge planning;
 - (g) evidence of involvement by the client and legal guardian as documented by his signature or refusal to sign; and
 - (h) signatures of all staff participating in the development of plan.

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(2) A copy of the individual crisis stabilization plan shall be provided to the client, and guardian if applicable.

(3) When program services are offered in a group setting, groups for adults and groups for youth must be separate.

[7.30.13.26 NMAC - N, xx/xx/2018]

7.30.13.27 CLIENT RIGHTS:

A. All licensed facilities shall understand, protect and respect the rights of all residents. Prior to admission to a facility, a client, parent, shall be given the applicable written description of the adult's or youth's legal rights, translated into client's preferred language, if necessary, to meet the client's understanding.

B. A written copy of the adult client's legal rights shall be provided to the adult client, or agent, if applicable, or to the most significant responsible party in the following order:

- (1) the client's spouse;
- (2) significant other;
- (3) any of the client's adult children;
- (4) the client's parents;
- (5) the client's advocate.

C. The client rights shall be posted in a conspicuous public place in the facility and shall include the telephone numbers to contact the department to file a complaint.

D. To protect client rights, the facility shall:

- (1) treat all clients with courtesy, respect, dignity and compassion;
- (2) not discriminate in admission or services based on gender, gender identity, sex, sexual orientation, client's age, race, color, religion, physical or mental disability, or national origin;
- (3) provide clients written information about all services provided by the facility and their costs and give advance written notice of any changes;
- (4) provide clients with a clean, safe and sanitary living environment;
- (5) provide a humane psychological and physical environment of care for all clients;
- (6) provide the right to privacy, including privacy during assessments, examinations, consultations and treatment;
- (7) protect the confidentiality of the client's clinical record;
- (8) protect the right to personal privacy, including privacy in personal hygiene; privacy during visits with a spouse, family member or other visitor; and reasonable privacy in the client's own room;
- (9) protect the client's right to receive visitors during designated visiting hours except when restricted for good cause pursuant to a physician's order;
- (10) protect the client's right to receive visits from his attorney, physician, psychologist, clergyman, or social worker in private irrespective of visiting hours;
- (11) provide clients the ability to send and receive private correspondence, as well as reasonable private access to telephone calls and, in cases of personal emergencies, reasonable use of long-distance calls;

(12) ensure that clients:

- (a) are free from physical and emotional abuse, neglect, and exploitation;
- (b) are free to participate or abstain from the practice of religion and shall be afforded reasonable accommodations to worship;
- (c) have the right to reasonable daily opportunities for physical exercise and outdoor exercise and shall have reasonable access to recreational areas and equipment;
- (d) have the right to voice grievances to the facility staff, public officials, any state agency, or any other person, without fear of reprisal or retaliation;
- (e) have the right to prompt and adequate medical attention for physical ailments;
- (f) have the right to have their grievance addressed within five days;
- (g) have the right to participate in the development of their crisis stabilization plan;
- (h) have the right to participate in treatment decisions and formulate advance directives such as living wills and powers of attorney;
- (i) have the right to refuse treatment and to be free from unnecessary or excessive medication; and
- (j) have the right to manage and control their personal finances.

[7.30.13.27 NMAC - N, xx/xx/2018]

Deleted: legal guardian and legal representative

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7.30.13.28 CLIENT CLINICAL RECORD: The client clinical records maintained by a crisis triage center in a paper-based or electronic system shall document the degree and intensity of the treatment provided to clients who are furnished services by the facility. A client's clinical record shall contain at a minimum:

- A. the client's name and address;
- B. name, address, and telephone number of agent, or representatives;
- C. the source of referral and relevant referral information;
- D. all reports from client assessment (see program services assessment);
- E. the signed and dated informed consent for treatment including all medications and transfers;
- F. all additional medical and clinical documentation;
- G. the original crisis stabilization plan and all revisions;
- H. documentation of all treatment;
- I. laboratory and radiology results, if applicable;
- J. documentation of physical restraint observations, if utilized;
- K. a record of all contacts with medical and other services;
- L. a record of medical treatment and administration of medication, if administered;
- M. an original or original copy of all physician medication and treatment orders signed by the

physician;

- N. signed consent for the release of information, if information is released;
- O. discharge plan,

[7.30.13.28 NMAC - N, xx/xx/2018]

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.
- (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 facility 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 facility, 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)
- (4) The CTC shall be staffed to ensure the safety of clients when staff are accused of abuse, neglect or exploitation.

[7.30.13.29 NMAC - N, xx/xx/2018]

Deleted: guardian

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7.30.13.30 MINIMUM STAFF QUALIFICATIONS:

A. Administrator:

- (1) Must be at least 21 years of age.
- (2) The administrator shall possess experience in acute mental health and hold at least a

bachelor's degree in the human services field or be a registered nurse with experience or training in acute mental health treatment.

B. Clinical director:

- (1) Be at least 21 years of age.
- (2) Be a licensed independent mental health professional or certified nurse practitioner or certified nurse specialist with experience and training in acute mental health treatment and withdrawal management services, if withdrawal management services are provided.

C. Registered nurse:

- (1) Must be at least 18 years of age.
- (2) Must have a current NM Registered Nurse license.
- (3) Must possess experience and training in acute mental health treatment, and withdrawal management services if withdrawal management services are provided.

management services if withdrawal management services are provided.

D. Direct service staff must be at least 18 years of age.

[7.30.13.30 NMAC - N, xx/xx/2018]

7.30.13.31 PERSONNEL RECORDS:

A. The CTC shall have policies and procedures for managing personnel information and records.

B. Staff scheduling records shall be maintained for at least three years.

C. Employee records shall be kept at the facility and include:

- (1) employment application;
- (2) training records;
- (3) licenses and certifications;
- (4) caregiver criminal history screening documentation pursuant to Section 7.1.9 NMAC;

and

- (5) employee abuse registry documentation pursuant to Section 7.1.12 NMAC.

[7.30.13.31 NMAC - N, xx/xx/2018]

7.30.13.32 STAFF TRAINING:

A. Training for each new employee and volunteer who provides direct care shall include a minimum of 16 hours of training and be completed prior to providing unsupervised care to clients.

B. At least 12 hours of on-going training shall be provided to staff that provides direct care at least annually; the training and proof of competency shall include at a minimum:

- (1) behavioral health interventions;
- (2) crisis interventions;
- (3) substance use disorders and co-occurring disorders;
- (4) withdrawal management protocols and procedures, if withdrawal management is

provided;

- (5) clinical and psychosocial needs of the population served;
- (6) psychotropic medications and possible side effects;
- (7) ethnic and cultural considerations of the geographic area served;
- (8) community resources and services including pertinent referral criteria;
- (9) treatment and discharge planning with an emphasis on crisis stabilization;
- (10) fire safety and evacuation training;
- (11) safe food handling practices (for persons involved in food preparation), to include:
 - (a) instructions in proper storage;
 - (b) preparation and serving of food;
 - (c) safety in food handling;
 - (d) appropriate personal hygiene; and
 - (e) infectious and communicable disease control.
- (12) confidentiality of records and client information;
- (13) infection control;
- (14) client rights;

- 7.1.13 NMAC;
- (15) reporting requirements for abuse, neglect or exploitation in accordance with Section
 - (16) smoking policy for staff, clients and visitors;
 - (17) methods to provide quality client care;
 - (18) emergency procedures; and
 - (19) adverse medication reactions;
 - (20) the proper way to implement a crisis intervention plans.
- C. Documentation of orientation and subsequent trainings shall be kept in the personnel records at the facility.
- [7.30.13.32 NMAC - N, xx/xx/2018]

7.30.13.33 MINIMUM SAFETY REQUIREMENTS:

- A. The CTC shall have policies and procedures regarding authorized entry to or exit from the facility including the residential component.
- B. Control of potentially injurious items shall be clearly defined in policy to include:
 - (1) prohibition of flammables, toxins, ropes, wire clothes hangers, sharp pointed scissors, luggage straps, belts, knives, shoestrings, or other potentially injurious items;
 - (2) management of housekeeping supplies and chemicals, including procedures to avoid access by individuals during use or storage. Whenever practical, supplies and chemicals shall be non-toxic or non-caustic;
 - (3) safeguarding use and disposal of nursing and medical supplies including drugs, needles and other "sharps" and breakable items;
 - (4) the use of durable materials for furniture not capable of breakage into pieces that could be used as weapons or present a hanging risk.
- C. To the fullest extent permitted by law, weapons shall be prohibited at the CTC.
- D. All law enforcement officers or other individuals authorized by law to carry firearms shall be asked to leave their firearms locked in their vehicles or placed in a secure lockbox in an area in the CTC which is not accessible to clients.
- E. The CTC shall develop and implement policies and procedures that describe interventions that prevent crises, minimize incidents when they occur, and are organized in a least to most restrictive sequence. The written policies and procedures shall:
 - (1) emphasize positive approaches to interventions;
 - (2) protect the health and safety of the individual served at all times; and
 - (3) specify the methods for documenting the use of the interventions.

[7.30.13.33 NMAC - N, xx/xx/2018]

7.30.13.34 NUTRITION: The facility shall provide planned and nutritionally balanced meals to it's residential clients and any client treated at the facility for 8 hours or longer from the basic food groups in accordance with the "recommended daily dietary allowance" of the American dietetic association, the food and nutrition board of the national research council, or the national academy of sciences. Meals shall meet the nutritional needs of the residents in accordance with the current USDA dietary guidelines for Americans. vending machines shall not be considered a source of snacks. Dietary services: The facility will develop and implement written policies and procedures that are maintained on the premises. All CTC food service operations for residents shall comply with current federal and state laws and rules concerning food service and shall include:

- A. at least three nutritious meals per day shall be served;
- B. no more than 14 hours may elapse between the end of an evening meal and the beginning of a morning meal;
- C. therapeutic diets shall be provided when ordered by the physician;
- D. under no circumstances may food be withheld for disciplinary reasons;
- E. each CTC shall have seating capacity to reflect the licensed capacity, although clients may eat or be served in shifts during daily operations;
- F. nutritional snacks shall be available to each client; and
- G. weekly menus shall be posted in the dining area.

[7.30.13.34 NMAC - N, xx/xx/2018]

7.30.13.35 PHARMACEUTICAL SERVICES:

A. Pharmacological services shall be provided only on order by a prescribing professional and in accordance with the terms and conditions of such professional's license. These services may be administered or monitored, if self-administered, by nursing staff.

B. The CTC shall establish and implement policies, procedures and practices that guide the safe and effective use of medications and shall, at a minimum, address the following:

(1) Medications shall be administered upon direct order from a licensed prescriber, and the orders for medications and care shall be written and signed by the licensed prescriber;

(2) Medications shall be used solely for the purposes of providing effective treatment.

C. There shall be no standing orders for psychotropic medication.

(1) Every order given by telephone shall be received by an RN or LPN and shall be recorded immediately and read back to the ordering physician. The order shall include the ordering physician's name and shall be signed by a physician within 24 hours. Such telephone orders shall include a note on the order that an order was made by telephone, and the content of, justification for, and the time and date of the order.

(2) Medication management policies and procedures shall follow federal and state laws, rules and regulations, and shall direct the management of medication ordering, procurement, prescribing, transcribing, dispensing, administration, documentation, wasting or disposal and security, to include the management of controlled substances, floor stock, and physician sample medications.

(3) The CTC shall develop a policy on informed consent on medication, including the right to refuse medication and the CTC's plan for transfer of patients who lack capacity to consent to medications.

(4) The CTC shall develop and implement policies and procedures that describe actions to follow when adverse drug reactions and other emergencies related to the use of medications occur, and emergency medical care that may be initiated by a registered nurse in order to mitigate a life-threatening situation.

D. Medication distribution stations shall be in accordance with standards set forth by the New Mexico board of pharmacy.

E. Drugs and biologicals must be stored, prepared and administered in accordance to acceptable standards of practice and in compliance with the New Mexico state board of pharmacy.

F. Outdated drugs and biologicals must be disposed of in accordance with methods outlined by the New Mexico state board of pharmacy.

G. One individual shall be designated responsible for pharmaceutical services to include accountability and safeguarding.

H. Keys to the drug room or pharmacy must be made available only to personnel authorized by the individual having responsibility for pharmaceutical services.

I. Adverse reactions to medications must be reported to the physician responsible for the patient and must be documented in the patient's record.

[7.30.13.35 NMAC - N, xx/xx/2018]

Deleted: and protecting the safety of the individual and other persons

7.30.13.36 LABORATORY SERVICES:

A. Laboratory work and other diagnostic procedures deemed necessary shall be performed as ordered by the physician.

B. The facility shall comply with clinical laboratory improvement amendments of 1988 (CLIA) requirements.

C. All lab test results performed either at the facility or by contract or arrangement with another entity must be entered into the patient's record.

[7.30.13.36 NMAC - N, xx/xx/2018]

7.30.13.37 INFECTION CONTROL:

A. The CTC shall develop and implement policies and procedures for infection control and prevention. Policies shall include: educational course requirements; decontamination; disinfection and storage of sterile supplies; cleaning; and laundry requirements, and address the following:

(1) universal precautions when handling blood, body substances, excretions, secretions;

(2) proper disposal of biohazards;

(3) proper hand washing techniques;

(4) prevention and treatment of needle stick or sharp injuries; and

(5) the management of common illness likely to be emergent in the CTC service setting and

specific procedures to manage infectious diseases.

B. The CTC's infection control risk assessment and plan is reviewed annually for effectiveness and revision, if necessary.

C. Staff shall be trained in and shall adhere to infection control practices, the release of confidential information and reporting requirements related to infectious diseases.

D. Where cleaning and decontamination of equipment and supplies are performed in the same room where clean or sterile supplies and equipment are stored, there shall be a physical separation of the clean or sterile supplies and equipment.

E. All special waste including blood, body fluids, sharps and biological indicators shall be disposed of in accordance with OSHA and the New Mexico environment department standards for biohazardous waste.

F. Each facility shall have policies and procedures for the handling, processing, storing and transporting of clean and dirty laundry.

[7.30.13.37 NMAC - N, xx/xx/2018]

7.30.13.38 RESEARCH:

A. If a facility is conducting research activities, the facility must have written policies and procedures for conducting research, documentation that the study has received institutional review board (IRB) approval, and a consent form for each client involved in the research in the client's record.

B. When research is conducted by the facility or by the employees or by affiliates of the facility or when the facility is used as a research site, such that the facility's clients and staff are involved in or the subjects of research, the research must be conducted:

- (1) by qualified researchers, having evidence in formal training and experience in the conduct of clinical, epidemiologic or sociologic research;
- (2) in accordance with the written, approved research policies and procedures;
- (3) by staff trained to conduct such research; and
- (4) in a manner that protects the client's health, safety and right to privacy and the facility and its clients from unsafe practices.

[7.30.13.38 NMAC - N, xx/xx/2018]

7.30.13.39 CLIENT TRANSFERS:

A. The CTC shall have policies and procedures to stabilize and transfer clients in need of a higher level of care.

B. The CTC shall:

- (1) discuss recommendations for transfer with the client or client's legal guardian or agent and upon transfer, notify the client's legal guardian or agent;
- (2) make the determination as to the time and manner of transfer to ensure no further deterioration of the client during the transfer between facilities;
- (3) specify the benefits expected from the transfer in the client's record;
- (4) coordinate care with receiving facility prior to transfer; and
- (5) send a copy of the client's record with the client upon transfer.

[7.30.13.39 NMAC - N, xx/xx/2018]

Deleted: physician or advanced practice registered nurse

7.30.13.40 BUSINESS HOURS: The CTC shall post hours of operation and admissions on signage exterior to the building.

[7.30.13.40 NMAC - N, xx/xx/2018]

Deleted: provide crisis stabilization and admissions 24 hours a day, seven days a week. Hours shall be posted on

7.30.13.41 PHYSICAL ENVIRONMENT AND GENERAL BUILDING REQUIREMENTS:

A. When construction of new buildings, additions, or alterations to existing buildings are contemplated, plans and specifications covering all portions of the work must be submitted to the licensing authority for plan review and approval prior to beginning actual construction. When an addition or alteration is contemplated, plans for the entire facility must be submitted.

B. CTCs licensed pursuant to these regulations must be accessible to and useable by disabled employees, staff, visitors, and clients and in compliance with the American's with Disabilities Act (ADA), current edition.

C. All buildings of the premises providing client care and services will be considered part of the facility and must meet all requirements of these regulations. Where a part of the facility services is contained in another facility, separation and access shall be maintained as described in current building and fire codes.

D. A facility applying for licensure pursuant to these regulations may have additional requirements not contained herein. The complexity of building and fire codes and requirements of city, county, or municipal governments may stipulate these additional requirements. Any additional requirements will be outlined by the appropriate building and fire authorities, and by the licensing authority through plan review, consultation and on-site surveys during the licensing process.
[7.30.13.41 NMAC - N, xx/xx/2018]

7.30.13.42 COMMON ELEMENTS FOR FACILITIES:

- A. Public services shall include:
- (1) conveniently accessible wheelchair storage;
 - (2) an ADA compliant reception and information counter or desk;
 - (3) waiting areas;
 - (4) conveniently accessible public toilets; and
 - (5) drinking fountain (s) or water dispensers easily accessible to clients or other visitors.
- B. Interview space(s) for private interviews related to mental health, medical information, etc., shall be provided.
- C. General or individual office(s) for business transactions, records, administrative, and professional staff shall be provided. These areas shall be separated from public areas for confidentiality.
- D. Special storage for staff personal effects with locking drawers or cabinets shall be provided.
- E. General storage facilities for supplies and equipment shall be provided.

[7.30.13.42 NMAC - N, xx/xx/2018]

7.30.13.43 PROVISIONS FOR EMERGENCY CALLS:

- A. An easily accessible hard-wired telephone for summoning help, in case of emergency, must be available in the facility.
- B. A list of emergency numbers including, but not limited to, fire department, police department, ambulance services, local hospital, poison control center, and the department's division of health improvement's complaint hotline must be prominently posted by the telephone(s).

[7.30.13.43 NMAC - N, xx/xx/2018]

7.30.13.44 PARKING:

Sufficient space for off-street parking for staff, clients and visitors shall be provided. A designated parking space(s) for one emergency, and one police vehicle shall be provided. Parking should be compliant with local zoning requirements and the 2009 New Mexico commercial building code, or current version.

[7.30.13.44 NMAC - N, xx/xx/2018]

7.30.13.45 MAINTENANCE OF BUILDING AND GROUNDS: Facilities must maintain the building(s) in good repair at all times. Such maintenance shall include, but is not limited to, the following:

- A. all electrical, mechanical, water supply, heating, fire protection, and sewage disposal systems must be maintained in a safe and functioning condition, including regular inspections of these systems;
- B. all equipment and materials used for client care shall be maintained clean and in good repair;
- C. all furniture and furnishings must be kept clean and in good repair; and
- D. the grounds of the facility must be maintained in a safe and sanitary condition at all times.

[7.30.13.45 NMAC - N, xx/xx/2018]

7.30.13.46 HOUSEKEEPING:

- A. The facility must be kept free from offensive odors and accumulations of dirt, rubbish, dust, and safety hazards.
- B. Treatment rooms, waiting areas and other areas of daily usage must be cleaned as needed to maintain a clean and safe environment for the clients.
- C. Floors and walls must be constructed of a finish that can be easily cleaned. Floor polishes shall provide a slip resistant finish.
- D. Deodorizers must not be used to mask odors caused by unsanitary conditions or poor housekeeping practices.
- E. Storage areas must be kept free from accumulation of refuse, discarded equipment, furniture, paper, et cetera.

[7.30.13.46 NMAC - N, xx/xx/2018]

7.30.13.47 CUSTODIAL CLOSET(S):

- A. Each facility shall have at least one custodial closet which must be locked and restricted from client access.
- B. Each custodial closet shall contain:
 - (1) a service sink; and
 - (2) storage for housekeeping supplies and equipment.
- C. Each custodial closet must be mechanically vented to the exterior.
- D. Custodial closets are hazardous areas and must be provided with one-hour fire separation and one and three quarters (1¾) inch solid core doors which are rated at a 20-minute fire protection rating.

[7.30.13.47 NMAC - N, xx/xx/2018]

7.30.13.48 HAZARDOUS AREAS:

- A. Hazardous areas include the following:
 - (1) fuel fired equipment rooms;
 - (2) bulk laundries or laundry rooms with more than 100 sq. ft.;
 - (3) storage rooms with more than 50 sq. ft. but less than 100 sq. ft. not storing combustibles;
 - (4) storage rooms with more than 100 sq. ft. storing combustibles;
 - (5) chemical storage rooms with more than 50 sq. ft. ; and
 - (6) garages, maintenance shops, or maintenance rooms.
- B. Hazardous areas on the same floor or abutting a primary means of escape or a sleeping room shall be protected by either:
 - (1) an enclosure of at least one-hour fire rating with self-closing or automatic closing on smoke detection fire doors having a three-quarter hour rating; or
 - (2) an automatic fire protection (sprinkler) and separation of hazardous area with self-closing doors or doors with automatic-closing on smoke detection; or
 - (3) any other hazardous areas shall be enclosed with walls with at least a 20-minute fire rating and doors equivalent to one and three-quarter inch solid bonded wood core, operated by self-closures or automatic closing on smoke detection.
- C. All boiler, furnace or fuel fired water heater rooms shall be protected from other parts of the building by construction having a fire resistance rating of not less than one hour. Doors to these rooms shall be one and three-quarter inch solid core.

[7.30.13.48 NMAC - N, xx/xx/2018]

7.30.13.49 FLOORS AND WALLS:

- A. Floor and wall areas penetrated by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.
- B. Threshold and expansion joint covers shall be flush with the floor surface to facilitate use of wheelchairs and carts.

[7.30.13.49 NMAC - N, xx/xx/2018]

7.30.13.50 EXITS:

- A. Each floor of a facility shall have exits as required by the New Mexico commercial building code and applicable version of the National fire protection association 101.
- B. Each exit must be marked by illuminated exit signs having letters at least six inches high whose principle strokes are at least three quarters inch wide.
- C. Illuminated exit signs must be maintained in operable condition at all times.
- D. Exit ways must be kept free from obstructions at all times.

[7.30.13.50 NMAC - N, xx/xx/2018]

7.30.13.51 CORRIDORS:

- A. Minimum corridor width shall be five feet except work corridors less than six feet in length may be four feet in width.

B. For facilities contained within existing commercial or residential buildings, less stringent corridor widths may be allowed if not in conflict with building or fire codes. A waiver or variance may be requested but must be approved by the licensing authority prior to occupying the licensed part of the building.
[7.30.13.51 NMAC - N, xx/xx/2018]

7.30.13.52 STAFF STATION:

A. Each client care area in the residential unit shall have a staff station located to provide visual or virtual monitoring of all resident room corridors and access to secured access to outdoor area, equipped with access to residential clients' records, a desk or work counter, a cleaning area with a sink with hot and cold running water, operational telephone, and emergency call system.

B. Locked storage area for drugs or pharmacy grade, locked medication cart.

C. Access to a biohazard disposal unit for needles, and other "sharps," and breakable items.

D. A reliable monitored emergency call system shall be provided for staff use in the event of an emergency.

E. If a kitchen is not open at all times to residents, a nourishment station with sink, hot and cold running water, refrigerator, and storage for serving residents between meal nourishment shall be provided.

F. View of fire alarm control panel, generator panel (if any), and any other life safety code components.

[7.30.13.52 NMAC - N, xx/xx/2018]

7.30.13.53 SECURED ENVIRONMENT/OUTDOOR AREA:

A. The CTC shall provide a secure environment for client safety. A secured environment is a facility and grounds that have secured or monitored exits. A secured environment for facilities that offer residential services may include but is not limited to: double alarm systems; gates connected to the fire alarm; or tab alarms for residents at risk for elopement. Locked areas shall have an access code or key which facility employees shall have on their person or available at all times in accordance with the Life Safety Code, NPFA 101, 2012 or subsequent updates. For a CTC located within an existing licensed facility, a request for waiver may be submitted to the licensing authority containing an alternate plan for providing security for clients, provided that health, safety or welfare of the clients or staff would not be adversely affected.

B. In addition to the interior common areas required by this rule, a facility providing residential services shall provide an outdoor secured environment independently accessible to residents for their year-round use.

(1) Fencing or other enclosures, not less than six feet high, shall protect the safety, security and privacy of the residents and have emergency egress gates that are connected to the emergency call system.

(2) Outdoor area shall not provide access to contact with the public.

[7.30.13.53 NMAC - N, xx/xx/2018]

7.30.13.54 ASSESSMENT ROOMS:

A. general purpose assessment rooms shall meet the following requirements:

B. minimum floor area of 80 square feet, excluding vestibules, toilets, and closets;

C. room arrangement shall permit at least 2'-8" clearance around furniture items used for exam or assessment;

D. a lavatory or sink for hand washing.

[7.30.13.54 NMAC - N, xx/xx/2018]

7.30.13.55 THERAPY/TREATMENT ROOMS:

A. Shall have a minimum floor area of 120 square feet, excluding vestibule, toilet, and closets.

B. All walls shall be constructed to a minimum length of 10 feet.

[7.30.13.55 NMAC - N, xx/xx/2018]

7.30.13.56 ACTIVITY OR MULTIPURPOSE ROOM: The facility shall provide a minimum of 250 square feet for common living area, dining and social spaces, or 40 square feet per resident, whichever is greater.

A. The facility shall have a living or multipurpose room for the use of the residents. The furnishings shall be well constructed, comfortable and in good repair.

B. The activity or multi-purpose room may be used as a dining area.

C. The activity room or multipurpose rooms shall be provided with supplies to reasonably meet the interests and needs of the residents.

D. Each activity room shall have a window area of at least one tenth of the floor area with a minimum of at least 10 square feet.

E. A dining area shall be provided for meals. Facilities shall have tables and chairs in the dining area to accommodate the total number of residents in one sitting. All seating arrangements during meals shall allow clear access to the exits. Lunch times for adults and youth must be separate if there is only one lunch room.

[7.30.13.56 NMAC - N, xx/xx/2018]

7.30.13.57 MEETING ROOM: The facility shall have adequate meeting rooms and office space for use by staff, the interdisciplinary care team and client and family visits. Other rooms may serve as meeting rooms, provided resident confidentiality is maintained. Meeting and treatment rooms must not hold both adults and youth at the same time.

[7.30.13.57 NMAC - N, xx/xx/2018]

7.30.13.58 RESIDENT ROOMS: The regulations in Section 7.30.13.58 NMAC apply to those facilities providing a residential treatment program.

A. A facility providing residential treatment shall not exceed the bed capacity approved by the licensing authority.

B. Resident rooms may be private or semi-private or dormitory style depending on assessed, resident acuity and need. Resident rooms must be separated by gender.

C. Facilities serving youth and adults must locate youth resident rooms and restrooms in a unit or wing that is physically separated from the adult facilities.

(1) Private rooms shall have a minimum of 100 square feet of floor area. The closet and locker area shall not be counted as part of the available floor space.

(2) Semi-private rooms shall have a minimum of 80 square feet of floor area for each resident and shall be furnished in such a manner that the room is not crowded and passage out of the room is not obstructed.

(3) A separate closet, bed (at least 36" wide), chair, towel bar, and non-metal trash receptacle, for each resident shall be provided.

(4) The beds shall be spaced at least three feet apart. Bunk beds, roll away beds, stacked beds, hide-a-beds, or beds with springs, cranks, rails or wheels, are not allowed.

D. Each resident room shall have a window to the outside. The area of the outdoor window shall be at least one tenth of the floor area of the room and allow for emergency egress. Windows may be textured or obscured glass to provide privacy without the use of any window coverings.

E. Resident rooms shall not be less than seven feet in any horizontal direction.

F. There must be no through traffic in resident rooms. Resident rooms must connect directly to hallway or other internal common areas of the facility.

[7.30.13.58 NMAC - N, xx/xx/2018]

7.30.13.59 TOILETS, LAVATORIES AND BATHING FACILITIES:

A. **General Requirements:**

(1) All fixtures and plumbing must be installed in accordance with current state and local plumbing codes.

(2) All toilets must be enclosed and vented.

(3) All toilet rooms must be provided with a lavatory for hand washing.

(4) All toilets must be kept supplied with toilet paper.

(5) All lavatories for hand washing must be kept supplied with disposable towels for hand drying or provided with mechanical blower.

(6) The number of and location of toilets, lavatories and bathing facilities shall be in accordance with International Building Code (IBC) requirements. Toilets for public use shall be located adjacent to the waiting area. Such factors as extent of services provided and size of facility will also dictate requirements.

(7) Facilities serving youth must provide separate toilet and shower facilities for adults and youth.

B. **Residential component:** Separate facilities shall be provided for male and female patients. Toilet and bathing facilities shall be located appropriately to meet the needs of residents.

Deleted: Semi-private rooms may not house more than two residents.

- (1) Facilities serving youth and adults must locate youth resident rooms and restrooms in a unit or wing that is physically separated from the adult facilities.
 - (2) A minimum of one toilet, one lavatory and one bathing unit (tub, shower, or combo unit) shall be provided for every eight residents or fraction thereof.
 - (3) Toilets to be flush meter type (no tank).
 - (4) Mirrors cannot be glass or polished metal. A polycarbonate mirror, fully secured and flat mounted to the wall is required.
 - (5) Individual shower stalls and dressing areas shall be provided. The shower head shall be recessed or have a smooth curve from which items cannot be hung.
 - (6) There shall not be any overhead rods, fixtures or privacy stall supports or protrusions capable of carrying more than a 30-pound load.
- C. Staff restroom:** The CTC shall provide a separate staff toilet including, lavatory and shower, near staff station.
[7.30.13.59 NMAC - N, xx/xx/2018]

- 7.30.13.60 COLLECTION/DRAW/LAB AREA:** Facilities shall be reward to support laboratory procedures, if provided. Minimum facilities provided on-site shall include space for the following:
- A. A urine collection room equipped with a toilet and hand washing sink.
 - B. Blood collection facilities with space for a chair, work counter, and lavatory.
 - C. Each facility shall have accommodations for storage and refrigeration of blood, urine and other specimens in a dedicated specimen refrigerator.
- [7.30.13.60 NMAC - N, xx/xx/2018]

- 7.30.13.61 NUTRITION:** A facility offering a residential treatment program shall provide planned and nutritionally balanced meals from the basic food groups in accordance with the "recommended daily dietary allowance" of the American dietetic association, the food and nutrition board of the national research council, or the national academy of sciences. Menus must be approved by a licensed nutritionist. Meals shall meet the nutritional needs of the residents in accordance with the current USDA dietary guidelines for Americans. Vending machines shall not be considered a source of snacks.
- A. Dietary services. The facility will develop and implement written policies and procedures that are maintained on the premises. All CTC food service operations for residents shall comply with current federal and state laws and rules concerning food service and shall include:
 - (1) at least three nutritious meals per day shall be served;
 - (2) no more than 14 hours may elapse between the end of an evening meal and the beginning of a morning meal;
 - (3) therapeutic diets shall be provided when ordered by the physician;
 - (4) under no circumstances may food be withheld for disciplinary reasons;
 - (5) each CTC shall have seating capacity to accommodate the licensed capacity and be able to feed adult and youth clients separately, although clients may eat or be served in shifts during daily operations;
 - (6) nutritional snacks shall be available to each client; and
 - (7) weekly menus shall be posted in the dining area.
- [7.30.13.61 NMAC - N, xx/xx/2018]

Deleted: reflect

- 7.30.13.62 FOOD SERVICE:** Requirements of Section 7.30.13.62 NMAC apply to facilities providing a residential treatment program.
- A. The facility shall have either contracted food preparation or prepare food on site.
 - B. A facility that contracts food preparation shall have a dietary or a kitchen area adequate to meet food service needs and arranged and equipped for the refrigeration, storage, preparation, and serving of food, dish and utensil cleaning and refuse storage and removal.
 - C. Dietary areas consisting of a food warming and refrigeration area shall comply with the local health or food handling codes. Food preparation space shall be arranged for the separation of functions and shall be located to permit efficient services to residents and shall not be used for non-dietary functions.
 - D. A facility that provides onsite food preparation shall comply with the New Mexico environment department food preparation regulations.
 - E. A facility with a kitchen area, whether used for on-site food preparation or not, must adhere to the following requirements:

- (1) limit traffic incidental to the receiving, preparation and serving of food and drink;
 - (2) toilet facilities may not open directly into the kitchen;
 - (3) food day-storage space shall be provided adjacent to the kitchen and shall be ventilated to the outside;
 - (4) a separate hand washing sink with soap dispenser, single service towel dispenser, or other approved hand drying facility shall be located in the kitchen;
 - (5) a separate dishwashing area, preferably a separate room, with mechanical ventilation shall be provided;
 - (6) at least a three-compartment sink shall be provided for washing, rinsing and sanitizing utensils, with adequate drain boards, at each end. In addition, a single-compartment sink located adjacent to the soiled utensil drain board shall be available for prewashing and liquid waste disposal. The size of each sink compartment shall be adequate to permit immersion of at least fifty percent of the largest utensil used. In lieu of the additional sink for prewashing, a well-type garbage disposal with overhead spray wash may be provided.
 - (7) mechanical dishwashers and utensil washers, where provided, shall meet the requirements of the current approved list from the national sanitation foundation or equivalent with approval of the department;
 - (8) temperature gauges shall be located in the wash compartment of all mechanical dishwashers and in the rinse water line at the machine of a spray-type mechanical dishwasher or in the rinse water tank of an immersion-type dishwasher. The temperature gauges shall be readily visible, fast-acting and accurate to plus or minus two degrees *Fahrenheit* or one degree *Celsius*;
 - (9) approved automatic fire extinguishing equipment shall be provided in hoods and attached ducts above all food cooking equipment;
 - (10) the walls shall be of plaster or equivalent material with smooth, light-colored, nonabsorbent, and washable surface;
 - (11) the ceiling shall be of plaster or equivalent material with smooth, light-colored, nonabsorbent, washable, and seamless surface;
 - (12) the floors of all rooms, except the eating areas of dining rooms, in which food or drink is stored, prepared, or served, or in which utensils are washed, shall be of such construction as to be non-absorbent and easily cleaned;
 - (13) an exterior door from a food preparation area shall be effectively screened. Screen doors shall be self-closing;
 - (14) all rooms in which food or drink is stored or prepared or in which utensils are washed shall be well lighted;
 - (15) rooms subject to sewage or wastewater backflow or to condensation or leakage from overhead water or waste lines shall not be used for storage of food preparation unless provided with acceptable protection from such contamination.
- [7.30.13.62 NMAC - N, xx/xx/2018]

7.30.13.63 LAUNDRY SERVICES:

- A. General requirements. The facility shall provide laundry services, either on the premises or through a commercial laundry and linen service.
 - (1) On-site laundry facilities shall be located in areas separate from the resident units and shall be provided with necessary washing and drying equipment.
 - (2) Soiled laundry shall be kept separate from clean laundry, unless the laundry facility is provided for resident use only.
 - (3) Staff shall handle, store, process and transport linens with care to prevent the spread of infectious and communicable disease.
 - (4) Soiled laundry shall not be stored in the kitchen or dining areas. The building design and layout shall ensure the separation of laundry room from kitchen and dining areas. An exterior route to the laundry room is not an acceptable alternative, unless it is completely enclosed.
 - (5) All linens shall be changed as needed and at least weekly or when a new resident is to occupy the bed.
 - (6) The mattress pad, blankets and bedspread shall be laundered as needed and when a new resident is to occupy the bed.
 - (7) Bath linens consisting of hand towel, bath towel and washcloth shall be changed as needed and at least weekly.

(8) There shall be a clean, dry, well-ventilated storage area provided for clean linen.

(9) Facility laundry supplies and cleaning supplies shall not be kept in the same storage areas used for the storage of foods and clean storage and shall be kept in a secured room or cabinet.

(10) CTC shall have a small washer and dryer for immediate unit needs and to wash clients' clothes. These washing and drying units shall be equipped to sanitize clothes as a preventive measure of infection control.

(11) Residents may do their own laundry, if it is their preference and they are capable of doing so.

[7.30.13.63 NMAC - N, xx/xx/2018]

7.30.13.64 WATER:

A. A facility licensed pursuant to these regulations must be provided with an adequate supply of water that is of a safe and sanitary quality suitable for domestic use.

B. If the water supply is not obtained from an approved public system, the private water system must be inspected, tested, and approved by the New Mexico environment department prior to licensure. It is the facility's responsibility to ensure that subsequent periodic testing or inspection of such private water systems be made at intervals prescribed by the New Mexico environment department or recognized authority.

C. Hot and cold running water under pressure must be distributed at sufficient pressure to operate all fixtures and equipment during maximum demand periods.

D. Back flow preventers (vacuum breakers) must be installed on hose bibs, laboratory sinks, service sinks, and on all other water fixtures to which hoses or tubing can be attached.

E. Water distribution systems are arranged to provide hot water at each hot water outlet at all times.

F. Hot water to hand washing facilities must not exceed 120 degrees F.

[7.30.13.64 NMAC - N, xx/xx/2018]

7.30.13.65 SEWAGE AND WASTE DISPOSAL:

A. All sewage and liquid wastes must be disposed of into a municipal sewage system where such facilities are available.

B. Where a municipal sewage system is not available, the system used must be inspected and approved by the New Mexico environment department or recognized local authority.

C. Where municipal or community garbage collection and disposal service are not available, the method of collection and disposal of solid wastes generated by the facility must be inspected and approved by the New Mexico environment department or recognized local authority.

D. All garbage and refuse receptacles must be durable, have tight fitting lids, must be insect and rodent proof, washable, leak proof and constructed of materials which will not absorb liquids. Receptacles must be kept closed and clean.

[7.30.13.65 NMAC - N, xx/xx/2018]

7.30.13.66 ELECTRICAL STANDARDS:

A. All electrical installation and equipment must comply with all current state and local codes.

B. Circuit breakers or fused switches that provide electrical disconnection and over current protection shall be:

- (1) enclosed or guarded to provide a dead front assembly;
- (2) readily accessible for use and maintenance;
- (3) set apart from traffic lanes;
- (4) located in a dry, ventilated space, free of corrosive fumes or gases;
- (5) able to operate properly in all temperature conditions;
- (6) panel boards servicing lighting and appliance circuits shall be on the same floor and in the same facility area as the circuits they serve; and
- (7) each panel board will be marked showing the services.

C. The use of jumpers or devices to bypass circuit breakers or fused switches is prohibited.

D. Light switches and electrical devices in the residential unit shall be secured with tamper resistant screws.

[7.30.13.66 NMAC - N, xx/xx/2018]

7.30.13.67 LIGHTING:

- A. All spaces occupied by people, machinery, or equipment within buildings, approaches to buildings, and parking lots shall have lighting.
- B. Lighting will be sufficient to make all parts of the area clearly visible.
- C. All lighting fixtures must be shielded.
- D. Lighting fixtures must be selected and located with the comfort and convenience of the staff and clients in mind.
- E. Lighting fixtures in the residential unit shall be recessed, tamperproof or protective translucent cover.

[7.30.13.67 NMAC - N, xx/xx/2018]

7.30.13.68 ELECTRICAL CORDS AND RECEPTACLES:

- A. **Electrical cords and extension cords shall:**
 - (1) be U/L approved;
 - (2) be replaced as soon as they show wear;
 - (3) be plugged into an electrical receptacle within the room where used;
 - (4) not be used as a general wiring method; and
 - (5) not be used in series.
- B. **Electrical receptacles shall:**
 - (1) Be duplex-grounded type electrical receptacles (convenience outlets) and installed in all areas in sufficient quantities for tasks to be performed as needed.
 - (2) Be a ground fault circuit interrupter if located within six feet of a water source.
- C. The use of multiple sockets (gang plugs) in electrical receptacles is strictly prohibited.

[7.30.13.68 NMAC - N, xx/xx/2018]

7.30.13.69 EMERGENCY POWER & LIGHTING: Emergency electrical service with an independent power source which covers lighting at attendant stations, exit and corridor lights, boiler room, and fire alarm systems shall be provided.

- A. The service may be battery operated if effective for at least four hours.
- B. Facilities shall have emergency lighting with a minimum of two bulbs to light exit passageways.
- C. Independent power source shall be in an exterior area near the exits and activate automatically upon disruption of electrical service.

[7.30.13.69 NMAC - N, xx/xx/2018]

7.30.13.70 FIRE SAFETY COMPLIANCE: All current applicable requirements of state and local codes for fire prevention and safety must be met by the facility.

[7.30.13.70 NMAC - N, xx/xx/2018]

7.30.13.71 FIRE CLEARANCE AND INSPECTIONS: Each facility must request from the fire authority having jurisdiction an annual fire inspection. If the policy of the fire authority having jurisdiction does not provide for annual inspection of the facility, the facility must document the date the request was made and to whom. If the fire authorities do make annual inspections; a copy of the latest inspection must be kept on file in the facility.

[7.30.13.71 NMAC - N, xx/xx/2018]

7.30.13.72 AUTOMATIC FIRE PROTECTION (SPRINKLER) SYSTEM: Facilities with residential services shall have an automatic fire protection (sprinkler) system. The system shall be in accordance with NFPA 13 or NFPA 13D or its subsequent replacement as applicable. Sprinkler heads in the residential unit shall be of the protective type, either vandal proof or tamper resistant. Sprinkler systems for facilities without residential services must be in compliance with current state building code requirements regarding a sprinkler system.

[7.30.13.72 NMAC - N, xx/xx/2018]

7.30.13.73 FIRE ALARMS, SMOKE DETECTORS AND OTHER EQUIPMENT: The system shall be in accordance with NFPA 13 or NFPA 13D or its subsequent replacement as applicable.

- A. Facilities shall have a manual fire alarm system. The manual fire alarm shall be inspected and approved in writing by the fire authority with jurisdiction.

B. Approved smoke detectors shall be installed on each floor that when activated provides an alarm which is audible in all sleeping areas. Areas of assembly, such as the dining, living or activity room(s) must also be provided with smoke detectors.

- (1) Detectors shall be powered by the house electrical service and have battery backup.
- (2) Construction of new facilities or facilities remodeling or replacing existing smoke detectors shall provide detectors in common living areas and in each sleeping room.
- (3) Smoke detectors shall be installed in corridors at no more than 30 feet spacing.
- (4) Heat detectors shall be installed in all kitchens and also powered by the house electrical service.

[7.30.13.73 NMAC - N, xx/xx/2018]

7.30.13.74 FIRE EXTINGUISHERS: Fire extinguisher(s) must be located in the facility, as approved by the state fire marshal or the fire prevention authority with jurisdiction.

A. Facilities must as a minimum have two 2A10BC fire extinguishers:

- (1) one extinguisher located in the kitchen or food preparation area;
- (2) one extinguisher centrally located in the facility;
- (3) all fire extinguishers shall be inspected yearly, recharged as needed and tagged noting the

date of the inspection;

- (4) The maximum distance between fire extinguishers shall be 50 feet.

B. Fire extinguishers, alarm systems, automatic detection equipment and other firefighting equipment shall be properly maintained and inspected as recommended by the manufacturer, state fire marshal, or the local fire authority.

[7.30.13.74 NMAC - N, xx/xx/2018]

7.30.13.75 STAFF FIRE AND SAFETY TRAINING:

A. All staff of the facility must know the location of and instructed in proper use of fire extinguishers and other procedures to be observed in case of fire or other emergencies. The facility should request the fire authority having jurisdiction to give periodic instruction in fire prevention and techniques of evacuation.

B. Facility staff must be instructed as part of their duties to constantly strive to detect and eliminate potential safety hazards, such as loose handrails, frayed electrical cords, faulty equipment, blocked exits or exit ways, and any other condition which could cause burns, falls, or other personal injury to the patients or staff.

C. Fire and evacuation drills: The facility must conduct at least one fire and evacuation drill for each work shift for each quarter. When drills are conducted between 9:00 pm and 6:00 am, a coded announcement shall be permitted for use instead of audible alarms. A log must be maintained by the facility showing the date, time, number of staff participating and outlining any problems noted in the conduct of the drill.

[7.30.13.75 NMAC - N, xx/xx/2018]

7.30.13.76 EVACUATION PLAN: Each facility must have a fire evacuation plan conspicuously posted in each separate area of the building showing routes of evacuation in case of fire or other emergencies.

[7.30.13.76 NMAC - N, xx/xx/2018]

7.30.13.77 HEATING, VENTILATION, AND AIR-CONDITIONING:

A. Heating, air-conditioning, piping, boilers, and ventilation equipment must be furnished, installed and maintained to meet all requirements of current state and local mechanical, electrical, and construction codes.

B. The heating, ventilation and air-conditioning system must be able to maintain interior temperatures in all rooms used by clients, staff or visitors with interior temperatures between 65 degrees *Fahrenheit* and 78 degrees *Fahrenheit* year-round.

C. The use of non-vented heaters, open flame heaters or portable heaters is prohibited.

D. An ample supply of outside air must be provided in all spaces where fuel fired boilers, furnaces, or heaters are located to assure proper combustion.

E. All fuel fired boilers, furnaces, or heaters must be connected to an approved venting system to take the products of combustion directly to the outside air.

F. A facility must be adequately ventilated at all times to provide fresh air and the control of unpleasant odors.

G. All gas-fired heating equipment must be provided with a one hundred percent automatic cutoff control valve in event of pilot failure.

H. The facility must be provided with a system for maintaining clients and staff's comfort during periods of hot weather, evaporative cooling is not allowed.

I. All boiler, furnace or heater rooms shall be protected from other parts of the building by construction having a fire resistance rating of not less than one hour. The door must be self-closing with ¾-hour fire resistance.

J. Fireplace or wood burning stoves are prohibited.

K. The ceiling and air distribution devices (supply & return, etc.) in the residential component shall be a tamper resistant type.

[7.30.13.77 NMAC - N, xx/xx/2018]

7.30.13.78 WATER HEATERS:

A. Must be able to supply hot water to all hot water taps within the facility at full pressure during peak demand periods and maintain a maximum temperature of 120 degrees F.

B. Fuel fired hot water heaters must be enclosed and separated from other parts of the building by construction as required by current state and local building codes.

C. All water heaters must be equipped with a pressure relief valve (pop-off valve).

[7.30.13.78 NMAC - N, xx/xx/2018]

7.30.13.79 ADDITIONAL REQUIREMENTS FOR FACILITIES SERVING YOUTH: All requirements in the above rules apply to all facilities. For facilities serving youth, the additional requirements of this section must also be met.

A. Physical environment for general building requirements: Facilities serving adults and youth must locate youth resident rooms and restrooms in a unit or wing that is separated by sight and sound barriers from the adult facilities.

B. Enforcement involving suspension of license without prior hearing: Any facility that allows any person, subject to all applicable statutes and regulations, to work at the facility if that person is listed on the CYFD unreasonable risk background check and related regulations, as amended, may be subject to immediate suspension of its license without prior hearing.

C. Reporting of incidents: All facilities licensed under these regulations, must comply with all incident intake, processing, training and reporting requirements under all applicable NM Children's Code, Section 32A-1-1 NMSA 1978, Children's Mental Health and Developmental Disabilities Act, Section 32A-6A-1 NMSA 1978, Section 7.20.11 and Section 7.20.12 NMAC.

D. **Policies And Procedures:** The facility shall establish written policies and procedures that are reviewed annually and approved by the governing body, which govern the facility's operation. The administrator shall ensure that these policies and procedures are adopted, administered and enforced to provide quality services in a safe environment. At a minimum, the facility's written policies and procedures shall include how the facility intends to comply with all requirements of these regulations and address:

(1) immediate reporting of suspected child abuse, neglect or exploitation, pursuant to the NM

Children's Code and these licensing regulations;

(2) actions to be taken in case of accidents or emergencies involving a youth, including

death;

(3) immediate personnel actions to be taken by the facility if child abuse or neglect

allegations are made involving a direct service staff;

(4) confidentiality of youth' records;

(5) management of a youth who is a danger to him/herself or others or presents a likelihood

of serious harm to him/herself or others. The facility procedures must specify that immediate actions be taken to prevent such harm. At a minimum, the policies and procedures require that the following actions be taken and documented in the youth's file:

(a) all appropriate actions to protect the health and safety of other youth, clients and

staff who are endangered;

(b) all appropriate efforts to manage the youth's behavior prior to proposing

emergency discharge;

(6) Clinically appropriate and legally permissible methods of youth behavior management

and discipline.

(7) The facility shall prohibit in policy and practice the following:

(a) degrading punishment;

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- (b) corporal or other physical punishment;
 - (c) group punishment for one individual's behavior;
 - (d) deprivation of an individual's rights and needs (e.g., food, phone contacts, etc.) when not based on documented clinical rationale;
 - (e) aversive stimuli used in behavior modification;
 - (f) punitive work assignments;
 - (g) isolation or seclusion;
 - (h) harassment; and
 - (i) chemical or mechanical restraints.
- (8) For those CTCs that serve mixed age occupants, the facility shall establish policies and procedures to ensure the health and safety of all residents.
[7.30.13.79 NMAC - N, xx/xx/2018]

7.30.13.80 RISK ASSESSMENT: Use of physical restraint must be consistent with federal and state laws and regulations and must include the following:

A. Physical restraints of youth are implemented only by staff who have been trained and certified by a state recognized body in the prevention and use of physical restraint. This training emphasizes de-escalation techniques and alternatives to physical contact with clients as a means of managing behavior. Clients and youth do not participate in the physical restraint of other clients and youth.

B. Youth treatment plans document the use of physical restraints and include: consideration of the client's medical condition(s); the role of the client's history of trauma in his/her behavioral patterns; the treatment team's solicitation and consideration of specific suggestions from the client regarding prevention of future physical interventions.

C. Physical restraints orders for youth are issued by a restraint clinician within one hour of initiation of physical restraint and include documented clinical justification for the use of physical restraint.

D. If the youth has a treatment team physician or advanced practice registered nurse and he or she is available, only he or she can order physical restraint.

E. If physical restraint is ordered by someone other than the youth's treatment team physician or advanced practice registered nurse, the restraint clinician will consult with the youth's treatment team physician or advanced practice registered nurse as soon as possible and inform him or her of the situation requiring the youth to be restrained and document in the youth's record the date and time the treatment team physician or advanced practice registered nurse was consulted and the information imparted.

F. The restraint clinician must order the least restrictive emergency safety intervention that is most likely to be effective in resolving the situation.

G. If the order for physical restraint is verbal, the verbal order must be received by a restraint clinician or a New Mexico licensed registered nurse (RN) or practical nurse (LPN). The restraint clinician must verify the verbal order in a signed, written form placed in the youth's record within 24 hours after the order is issued.

H. A restraint clinician's order must be obtained by a restraint clinician or New Mexico licensed RN or LPN prior to or while the physical restraint is being initiated by staff, or immediately after the situation ends.

I. Each order for physical restraint must be documented in the youth's record and will include:

- (1) the name of the restraint clinician ordering the physical restraint;
- (2) the date and time the order was obtained;
- (3) the emergency safety intervention ordered, including the length of time;
- (4) the time the emergency safety intervention actually began and ended;
- (5) the time and results of any one-hour assessment(s) required; and
- (6) the emergency safety situation that required the client to be restrained; and
- (7) the name, title, and credentials of staff involved in the emergency safety intervention.

J. The facility will notify the parent(s) or legal guardian(s) that physical restraint has been ordered as soon as possible after the initiation of each emergency safety intervention. This will be documented in the client's record, including the date and time of notification, the name of the staff person providing the notification, and who was notified.

K. After an incident of restraint, the professionals involved in the incident shall conduct a debriefing with the client to discuss the event with the intent of preventing future incidents. Within five days of a incident of restraint, the treatment team must meet to review the incident and revise plan of treatment if appropriate.

[7.30.13.80 NMAC - N, xx/xx/2018]

7.30.13.81 CLIENT RIGHTS: All licensed facilities shall understand, protect and respect the rights of all youth demonstrating substantial compliance with all applicable New Mexico Children's Code, Section 32A-1-1 NMSA 1978, including the NM Children's Mental Health and Developmental Disabilities Act, Section 32A-6A-1 NMSA 1978.

[7.30.13.81 NMAC - N, xx/xx/2018]

7.30.13.82 CLIENT CLINICAL RECORD:

The client clinical records maintained by a crisis triage center in a paper-based or electronic system shall document the degree and intensity of the treatment provided to clients who are furnished services by the facility. A client's clinical record shall contain at a minimum all required NM Children's Code documentation defined in Subsection A through Subsection O of Section 32A-6A-10 NMSA 1978 associated with the use of any emergency interventions such as physical restraint.

[7.30.13.82 NMAC - N, xx/xx/2018]

7.30.13.83 STAFFING REQUIREMENTS: Other staff requirements:

A. All CYFD background check requirements governing criminal records clearances must remain in effect while a program is accredited.

B. When a prospective employee that will work with or have access to youth has not lived in the United States continuously for the five years prior to hire, the facility must obtain the equivalent of a criminal records and background clearance from any country in which the prospective employee has lived within the last five years, for a period longer than one year.

C. If the facility receives reliable evidence that indicates that an employee or prospective employee poses an unreasonable risk, as defined or pursuant Subsection A of Section 8.8.3 NMAC, the facility may not hire the prospective employee or retain the employee.

[7.30.13.83 NMAC - N, xx/xx/2018]

7.30.13.84 PERSONNEL RECORDS: Each facility licensed pursuant to these regulations intending to work with youth must maintain a complete record on file for each staff member or volunteer including:

A. Completed CYFD criminal records and background check, including the FBI-approved electronic fingerprint for each employee that serves as direct service staff working with youth including licensed and certified staff. (supervisors, physicians, nurses, therapists, client care workers, coordinators, or other agency personnel who work in immediate direct unsupervised contact with youth.) The agency must have received the background clearance from the CYFD background check unit prior to the employee's direct, unsupervised contact with youth.

B. The date the employee was first employed and dates of transfers or changes in position.

C. Documentation that of a minimum of three references were checked.

D. A clearance letter from CYFD stating the applicant's background check has been conducted with negative results or a signed statement by the administrator, director, or operator attesting to direct supervision of an uncleared employee by a cleared employee until official clearance is received.

E. Documentation that each uncleared employee is identified on the staff schedule.

[7.30.13.84 NMAC - N, xx/xx/2018]

7.30.13.85 STAFF TRAINING: At least 12 hours of on-going training shall be provided to staff that provides direct care at least annually; the training and proof of competency shall include at a minimum: NM Children's Mental Health and Developmental Disabilities Act Section 32A-6A-1 et. seq., NMSA 1978.

[7.30.13.85 NMAC - N, 7.30.13.85 xx/xx/2018]

HISTORY of 7.30.13 NMAC: [RESERVED]

TAB 14

REPORT AND RECOMMENDATION OF THE HEARING OFFICER

Public Hearing: New Mexico Department of Health

Proposed Actions in Question: Adoption of Proposed Rule: 7.30.13 NMAC "Crisis Triage Centers"

Hearing Date: May 30, 2018 **Report Date:** September 14, 2018

RECOMMENDATION: See attached Report and Recommendations of the Hearing Officer

The Hearing Officer recommends adopting the Proposed Rule, 7.30.13 NMAC Crisis Triage Centers ("CTC") as revised by the Department in its August 22, 2018, draft (Exhibit 13), with the following recommended changes:

1. **7.30.13.7(C):** Revise the definition of "Applicant" to further clarify that it is an individual or owner of a legal entity who applies to have a particular program within a facility licensed, whether or not the applicant owns, leases, or provides services in a facility. The Hearing Officer recommends the following language: **"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."
2. The Hearing Officer recommends that the Department use the terms "CTC" and "facility" more consciously and consistently throughout the Proposed Rule. Depending on the Department's intent, Hearing Officer recommends that the Department generally use the term "CTC" instead of "facility" to make it clearer that it is the CTC that is licensed to provide services in a particular physical space ("facility") as opposed to the physical space or owner of the physical space being the licensee.
3. The Hearing Officer recommends that the Department add a definition for "detoxification center" so as to more clearly distinguish those centers from CTCs. From the comments, it appears that there is quite a bit of overlap in how services are currently provided and that clients who would seek services from a CTC might also be in need of detoxification services. Because it is not the Department's intent to have detoxification centers covered by the Proposed Rule, it would be helpful if the Department were clearer in defining the differences between a CTC and a detoxification center.
4. **7.30.13.7(W):** Correct typographical error in the definition of "Level III.7-D: Medically Monitored Inpatient Detoxification" to use the correct designation, rather than "Level III.&-D". More importantly, the definition the Department provided in its revised Proposed Rule references and incorporates Level IV-D, which appears to be a higher level of care suitable for severe unstable withdrawal that requires medically managed intensive inpatient detoxification in a hospital setting. The Hearing Officer recommends that the Department review the definition of

“Level III.7-D: Medically Monitored Inpatient Detoxification” to clarify that definition captures the Department’s intent with respect to the level of care a CTC may provide, given the revision to 7.30.13.9(C)(2), which provides: “the CTC shall not provide detoxification services beyond Level III.7-D: Medically Monitored Inpatient Detoxification services.” Depending on the Department’s intent, the Hearing Officer recommends that the Department either remove the incorporation of Level IV-D from the definition of “Level III.7-D: Medically Monitored Inpatient Detoxification” or clarify that the CTCs are permitted to provide Level IV-D care.

5. Further revise Scope of Services provisions for clarification as follows:

a. **7.30.13.9(A):** Correct the typographical error. The provision should say “14 years of age” rather than “14 years or age” In addition, it appears that the Department intends to allow CTCs to admit clients but not require such admissions to occur 24/7. If that is the case, the word “admission” should not be struck from this section. Only the words “24 hours a day, seven days a week” should be deleted.

b. **7.30.13.9(C)(2):** See recommendation above for **7.30.13.7(W)**. If the Department intends for CTCs to not provide services beyond Level III.7-D, the definition set forth in 7.30.13.7(W) should not incorporate Level IV-D into that definition, which currently appears to be the case.

c. **7.30.13.9(C)(9):** Correct the citation in the new provision to be NMSA 1978, § 43-1-15(M), which addresses the administration of psychotropic medication. The current citation, § 43-1-15(G), does not appear to apply to this provision.

6. **7.30.13.9(C)(5):** Because several commenters raised thoughtful and well-reasoned concerns, the Hearing Officer recommends that the Department reconsider requests that CTCs be permitted to provide residential services for up to 14 days, rather than 8 calendar days.

7. **7.30.13.9(C)(7):** Because several commenters raised thoughtful and well-reasoned concerns, the Hearing Officer recommends that the Department reconsider requests that the CTCs be permitted to have more than 16 short-term residential beds, as the statute does not appear to expressly supports such a restriction, NMSA 1978, § 24-1-2(B).

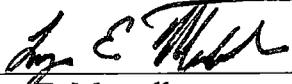
8. **7.30.13.22(U):** Delete the term “seclusion” from the list of safety plan management items to be consistent with the Department’s intent to prohibit seclusion as set forth in 7.30.13.24(A)-(B) and 7.30.13.79(D)(7)(g).

9. **7.30.13.24(E):** Unless the Department intends for CTCs to be allowed to use physical restraint on people other than clients, the Hearing Officer recommends that the revision use the term “client,” which is a defined term, instead of “individual.”

10. **7.30.13.24(M):** The Hearing Officer recommends cross referencing the statute(s) or rule(s) using the term “restraint/clinician” or defining the term. The only use of the term “restraint/clinician” the Hearing Officer could find in New Mexico law was in NMAC § 7.20.11.

The Hearing Officer recommends using the same definition as set forth in § 7.20.11.7(DP) in the Proposed Rule for added clarity.

11. **7.30.13.25(H):** Please correct the spelling of “applicable” in this provision.
12. **7.30.13.26:** Use “A licensed mental health professional . . .” instead of “An licensed mental health professional . . .”
13. **7.30.13.34:** Use “its” instead of “it’s” in the new language.
14. Generally consider using the defined term “client” when applicable instead of the term “individual” or “patient” for further clarity.



Lynn E. Mostoller

September 14, 2018
Date

HEARING OFFICER'S REPORT

A public hearing was held on May 30, 2018, at approximately 9:00 a.m. at the Harold Runnels Building Auditorium, 1190 St. Francis Drive, in Santa Fe, New Mexico, for the purpose of considering the adoption of the New Mexico Department of Health's ("Department") new Rule 7.30.13 NMAC "Crisis Triage Centers" ("Proposed Rule"). Lynn E. Mostoller, Esq., presided as Hearing Officer. Witter Tidmore, Assistant General Counsel, represented the Department. Christopher Burmeister, Interim Deputy Director for the Department of Health Improvement, attended the hearing and presented a summary of the proposed Regulations.

At the beginning of the hearing, the Hearing Officer introduced the public hearing, explained that the purpose of the hearing was to allow members of the interested public to comment on the proposed Rule, and requested members of the audience sign the attendance sheet available at the hearing.

I. SUMMARY OF RECORD

A. Documentary Evidence:

Mr. Tidmore described and submitted the following Exhibits, which were admitted and made a part of the hearing record:

1. 7.30.13 NMAC, "Crisis Triage Center" Proposed Rule
2. Hearing Officer Appointment Letter dated April 9, 2018
3. [Transmittal Forms—to be added to the record upon receipt]
4. Notice of Public Hearing
5. Affidavit of Publication for the New Mexico Register, dated April 26, 2018
6. Affidavit of Publication for the Albuquerque Journal, dated April 23, 2018
7. [Request for Copy of the Rule—none received]
8. Written Public Comments
 - a. Santa Fe Recovery Center
 - b. New Mexico Solutions
 - c. County of Santa Fe
 - d. Hidalgo Medical Services
 - e. Disability Rights New Mexico
 - f. County of Bernalillo
9. Visitor sign-in sheet
10. Recording of Hearing

B. Recording of Hearing:

The hearing was recorded on a digital recorder. A CD containing a copy of the recording of the hearing is part of the record, as noted above.

C. Statements Presented at Hearing

On behalf of the Department, Mr. Burmeister briefly summarized the purpose of the Proposed Rule.

No other statements were presented at the hearing.

D. Written Comments Presented

One additional written comment was received by the Department during the hearing on May 30, 2018, from Bernalillo County, which has been added to the record as Exhibit 8.f.

E. Additional Correspondence

Included as part of the record is the following correspondence:

11. June 15, 2018, Letter from Lynn E. Mostoller, Esq. to Witter Tidmore, Esq. inviting the Department to respond to certain public comments
12. August 22, 2018, letter from Witter Tidmore, Esq. responding to public comments addressed in the June 15, 2018, letter

F. Revised Draft of Proposed Rule

13. Post-Hearing Comment Draft of Proposed Rule 7.30.13 NMAC, received from the Department on August 22, 2018

G. Public Comments

During the May 30, 2018, public hearing, oral comments were received from:

Rachel O'Conner, Directory of Community Services Department for the Santa Fe County
Alex Dominguez, Santa Fe County
Tasia Young, Contract Lobbyist for the New Mexico Association of Counties
Nancy Koenigsberg, Senior Attorney from Disability Rights New Mexico
David Ley, New Mexico Solutions
Katrina Lopez, Director of Behavioral Services for Bernalillo County
Dr. Kevin Foley, Na'Nizhoozhi Center in Gallup, New Mexico
Lupe Salazar, Barrios Unidos

The public comments received before and during the May 30, 2018, hearing regarding the Proposed Rule centered on issues that were raised in the Hearing Officer's July 15, 2018, letter to the Department (Exhibit 11), and incorporated by reference. These issues include:

1. Requests for clarification of numerous definitions, 7.30.13.7;

2. Requests for additional defined terms, 7.30.13.7;
3. Questions and concerns about the General Scope of Services, 7.30.13.9(A);
4. Questions and concerns about various Limitation on Scope of Services, 7.30.13.9(C), including:
 - a. Whether CTCs are required to do admissions 24/7;
 - b. Whether CTCs are required to serve youth (ages 14-18) clients;
 - c. Whether CTCs may provide services on only a voluntary basis;
 - d. Whether the prohibition on CTCs providing acute medical alcohol withdrawal management is too restrictive;
 - e. Whether CTCs may co-locate with other service providers;
 - f. Whether the restrictions on CTCs providing medical care unrelated to crisis triage intervention services beyond basis medical care of first aid and CPR were too restrictive;
 - g. Whether the limitation on CTCs providing residential services beyond 8 days was too restrictive; and
 - h. Whether the limitation on 16 short-term residential beds was too restrictive;
5. Questions and concerns about License Required provisions, 7.30.13.9(D);
6. Requests for clarification of provisions for Existing or Renovated Construction, 7.31.13.10(E);
7. Requests that Program Description be internally consist and clear, 7.30.13.10(G);
8. Addition of citations to Reporting of Incidents, 7.30.13.20;
9. Clarification of Governing Body provision, 7.30.13.21;
10. Numerous concerns and questions regarding Risk Assessment provisions, 7.30.13.24;
11. Concerns and questions as to whether CTCs will be required to provide admission and discharge services 24 hours a day/7 days a week, 7.30.13.25;
12. Questions and concerns over the authority of legal guardians to make mental health decisions, 7.30.13.25;
13. Numerous concerns and questions regarding other admission and discharge issues, 7.30.13.25;
14. Concerns about requiring client assessment by an independently licensed mental health provider, 7.30.13.26;

15. Numerous concerns and questions regarding client rights, 7.30.13.27;
16. Numerous concerns and questions regarding staffing requirements and staff training, 7.30.13.29 & .32;
17. Request that nutrition requirements be clarified to only apply to residential programs, 7.30.13.34;
18. Concerns, questions, and request for clarifications regarding the use of medications on clients in emergency situations, 7.30.13.34;
19. Suggested changes to Client Transfer provisions, 7.30.13.39(B);
20. Request for clarification regarding business hours to allow for CTCs to operate less than 24/7, 7.30.13.40;
21. Suggestion that custodial closets be required to be locked, 7.30.13.47;
22. Suggestion that pharmacy grade locked medication carts be sufficient to meet the staff station requirement, 7.30.13.52;
23. Concerns regarding the requirement for private or semi-private housing for co-located detox centers, 7.30.13.58;
24. Suggestion that CTCs housing adults and youth have separate mealtimes for the two populations, 7.30.13.61;
25. Suggestion that provisions of the Children's Code be incorporated into the restraint procedures for youth clients, 7.30.13.80;
26. Commenters generally requested that the Department take a more flexible approach to facility requirements, as requirements for residential facilities may not be necessary to license non-residential programs;
27. Commenters also raised significant concern regarding the application of the Proposed Rule to existing similar programs, such as detox and public inebriate programs that have been effective in their communities but might have difficulties meeting the licensing requirements; and
28. Commenters requested that facilities with federal accreditation have deemed status with respect to the Proposed Rule's standards.

H. Department Responses to Comments and Revisions to the Proposed Rule

On June 15, 2018, the Hearing Officer sent a letter to the Department inviting the Department to respond to certain oral and written comments, questions, and concerns raised by the public.

In a letter dated August 22, 2018, the Department addressed those comments, questions, and concerns (Exhibit 12) and provided the Hearing Officer with a revised Proposed Rule in response to many of the public comments (Exhibit 13).

The Department stated that it would make the following revisions to the Proposed Rule in response to the public comments received:

1. The Department revised the definition of the following terms:
 - a. The definition of "Acute medical alcohol detoxification" was replaced with the definition of "Level III. &-D Medically Monitored Inpatient Detoxification"
 - b. The definition of "Applicant" was revised to clarify that the "Applicant" should be the legal owner of the legal entity applying for the license.
 - c. In response to concerns regarding the definition of "High risk behavior," the Department responded by keeping the definition of "High risk behavior" but added a provision that prohibits the use of emergency medications, 7.9.13.9(C)(9).
 - d. The Department clarified the definition "Licensed mental health professional" to indicate that each of the listed professionals shall have the training in behavioral health and shall be licensed in the state of New Mexico.
 - e. The Department clarified the definition of "Management company" to indicate that the company that manages the CTC, as opposed to the "facility."
 - f. The Department revised the definition of "Physical restraint" to indicate that any use of physical force must be in compliance with federal and state laws and regulations.
 - g. The Department considered the requests for additional defined terms and either revised the Rule to eliminate the use of some of the terms or otherwise determined that no further defined terms were needed.
2. The Department revised 7.30.13.9(A) to clarify that CTCs are not required to do admissions 24/7.
3. The Department revised 7.30.13.9 (C)(2) to prohibit CTCs from providing services beyond Level III.7-D: Medically Monitored Inpatient Detoxification services.
4. The Department revised 7.30.13.9(C)(5) to clarify that CTCs may not provide residential services in excess of eight calendar days.
5. The Department considered and rejected the request to increase the restriction on 16 residential beds set forth in 7.30.13.9(C)(7), stating that expanding beyond that 16-bed capacity was not consistent with the "residential" structure of the facility as designed and required by statute.
6. The Department revised 7.30.13.9(C)(9) to prohibit the use of emergency psychotropic medications by CTCs.

7. The Department considered and rejected requests to define parameters and timelines for the review and approval of building plans and specifications required to be submitted under 7.30.13.10(C) and (E).
8. The Department removed the 24/7 requirement for staffing plans in 7.30.13.10(G)(4)(d).
9. The Department revised the Proposed Rule to remove the requirement for operating agreements with aftercare agencies, 7.30.13.10(G)(4)(e).
10. The Department considered and rejected the request that 7.30.13.20 cite to statutes and regulations governing serious incident reporting.
11. In response to comments regarding the risk assessment section of the Proposed Rule, the Department revised 7.30.13.24 to allow only necessary force and removed references to seclusions, except for those provisions prohibiting seclusion.
12. The Department considered and rejected the request that prone restraint be expressly prohibited under the Proposed Rule, 7.31.13.24(E), opting instead to generally allow only use of only reasonable force necessary to protect from imminent and serious physical harm.
13. The Department responded to concerns about provisions referencing chemical restraints in 7.30.13.24(H) by prohibiting the use of emergency medications in 7.30.13.9(C)(9).
14. The Department revised 7.30.13.24(J) to require the client to be present for debriefing following a physical restraint, if possible.
15. In response to questions about the use of the term "restraint/clinician" the Department responded that it was purposefully using that term as it is the term used in statute.
16. The Department revised 7.30.13.24(N)(4) to allow for suicide risk assessment by a medical, psychiatric or independently licensed mental health provider.
17. The Department revised 7.30.13.25 to remove the requirement to accept admissions 24/7, removed references to guardians, and added a requirement that admissions of youth conform with state and federal law.
18. The Department considered and rejected the request that inspections for contraband and weapons not be limited to admission to residential care 7.30.13.25(I).
19. The Department removed references to guardian in 7.30.13.25(K).
20. The Department revised 7.30.13.25(L) to require documentation for continued care.

21. The Department removed the requirement that an independently licensed mental health professional assess the stabilization needs of the client from 7.30.13.26.
22. The Department responded to comments on 7.30.13.27 by stating: “The information about a nourishing diet is in another section of the rule on Nutrition. The other suggestions are beyond the scope of the rule, this is not meant to be an exhaustive list of all state and federal rights regarding client rights, such as the right to access protection and advocacy, those requirements are in Federal law and are not needed to be repeated in the rule.”
23. The Department adjusted 7.30.13.29(A) to allow for an RN to be on-site when clients are present for CTCs that do not offer residential services and to allow for consultation by prescribing psychologist in addition to psychiatrists.
24. The Department revised 7.30.13.29(B) in accordance with commenter suggestions, including removing the requirement that all employees be tested for tuberculosis.
25. The Department considered and rejected suggestions that the Proposed Rule include training on peer-delivered services and recovery supports and information about locally available services.
26. The Department revised 7.30.13.34 to only require a CTC to provide meals if it is treating clients for 8 or more hours.
27. The Department revised 7.30.13.35 to remove the use of medication to protect the safety of clients and other persons and added a provision requiring CTCs to have a plan for the transfer of clients who do not have the capacity to consent to medications.
28. The Department removed the requirement that only physicians or advanced practice registered nurses be involved in client transfer. The revised Proposed Rule, 7.30.13.39, allows the CTC to delegate transfer functions to a variety of professionals.
29. The Department revised 7.30.13.40 to not require CTCs to be open 24/7.
30. The Department revised 7.30.13.47 to require that custodial closets be locked and restricted from client access.
31. The Department revised 7.30.13.52(B) to allow for the use of a pharmacy grade, locked medication cart for the storage of drugs at staff stations.
32. The Department revised 7.30.13.58(B) to allow for dormitory-style resident rooms, depending on the needs of the client and clarified that primary detoxification centers are not licensed as CTCs.

33. The Department revised 7.30.13.61 to require CTCs to feed adult and youth clients separately.

34. The Department revised 7.30.13.79 to allow for separation of adult and youth resident and restrooms in areas that are separated by sight and sound barriers.

35. The Department revised 7.30.13.80 to require debriefing with the client following an incident of restraint.

29. The Department considered and rejected the request that facilities with federal accreditation have deemed status with respect to the Proposed Rule's standards, noting that such a provision was not appropriate because federal accreditation uses different standards and criteria.

I. Department's Interpretation of the Proposed Rule Provisions

1. The Department stated in its response letter that provision 7.30.13.9(A) permits but does not require CTCs to provide services to youth.

2. The Department clarified that under the Proposed Rule, CTCs may only provide services on a voluntary basis. The Department stated that clients cannot be ordered to receive CTC services.

3. Regarding the restrictions on the provision of medical care in 7.30.13.9(C)(3), the Department stated that CTCs may co-locate with other service providers, but only the space or square-footage being used as a CTC will be licensed as a CTC. Other providers in the co-located services would not have to comply with the Proposed Rule, but might have other licensing requirements, depending on the services being offered. Under the Proposed Rule, CTCs provide behavioral and mental health services and are not designed or staffed to provide medical services.

4. Regarding the restriction against CTCs providing ongoing outpatient behavioral health treatment in 7.30.13.9(C)(6), the Department stated that there is no restriction on CTC clients receiving such services from co-located services, as those services are not part of the CTC licensed program.

5. In response to comments concerned about 7.30.13.9(D), the Department stated that the Proposed Rule is not intended to apply to detoxification centers and confirmed that programs offering services not fitting within the scope of CTC services are not required to be licensed as a CTC and will not be impacted by this Proposed Rule.

6. The Department, through its revision of the definition of "Applicant," indicated that 7.30.13.21 refers to the governing body of the entity licensed as a CTC and not the governing body of the entity owning the facility.

7. The Department acknowledged that 42 U.S.C. § 10805(a)(3) and 42 C.F.R. §§ 51.31(d)(1) and 51.42 require the CTC to grant representatives from the state's designated protection and advocacy system access to clients.

8. The Department stated that the Proposed Rule does not require on-site meal preparation.

III. HEARING OFFICER'S RECOMMENDATION

The Hearing Officer recommends adopting the Proposed Rule, 7.30.13 NMAC Crisis Triage Centers ("CTC"), as revised by the Department in its August 22, 2018, draft (Exhibit 13), with the following recommended changes:

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III.7-D: Medically Monitored Inpatient Detoxification services.” Depending on the Department’s intent, the Hearing Officer recommends that the Department either remove the incorporation of Level IV-D from the definition of “Level III.7-D: Medically Monitored Inpatient Detoxification” or clarify that the CTCs are permitted to provide Level IV-D care.

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