

2020 FEB 13 PM 2: 04

This amendment creates a new rule section at 7.34.4.28 NMAC, effective February 25, 2020.

**7.34.4.28 RECIPROCITY:** Beginning July 1, 2020, an individual who holds proof of authorization to participate in the medical cannabis program of another state of the United States, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo may lawfully purchase and possess cannabis, provided that the quantity of cannabis does not exceed the reciprocal limit identified in this section.

**A. Reciprocal participation:**

**(1) General requirements:** A reciprocal participant:

**(a)** may participate in the medical cannabis program in accordance with department rules;

**(b)** shall not be required to comply with the registry identification card application and renewal requirements established pursuant to this section and department rules;

**(c)** shall at all times possess proof of authorization to participate in the medical cannabis program of another state, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo and shall present proof of that authorization when purchasing cannabis from a licensee; and

**(d)** shall register with a licensed non-profit producer for the purpose of tracking sales to the reciprocal participant in an electronic system specified by the department.

**(2) Minors:** In the event that a reciprocal participant is a minor, a licensed non-profit producer shall not sell or transfer cannabis to the minor, but may sell or transfer cannabis to a parent or legal guardian of the minor who holds proof of authorization to purchase cannabis on the minor's behalf that was issued by another state of the United States, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo.

**B. Reciprocal limit:** A reciprocal participant may collectively possess within any three-month period a quantity of usable cannabis no greater than 230 total units. For purposes of department rules, this quantity is deemed the reciprocal limit. (For ease of reference: 230 units is equivalent to 230 grams, or approximately eight ounces, of dried usable cannabis plant material.)

**C. Registration; verification; tracking:** A licensed non-profit producer shall require the submittal of a reciprocal participant's contact information for registration purposes, to include the individual's full name, date of birth, mailing address, and the enrollment number specified in the individual's medical cannabis program enrollment card (if applicable); and shall record that information in an electronic tracking system specified by the department. The licensed non-profit producer shall confirm the accuracy of a reciprocal participant's contact information prior to each transaction. A licensed non-profit producer that registers a reciprocal participant or that sells or transfers cannabis or a cannabis product to a reciprocal participant shall first verify the reciprocal participant's identity by viewing the individual's proof of authorization from the other state, territory or tribe, and also viewing the reciprocal participant's government-issued photo identification card. A licensed non-profit producer that sells or otherwise transfers cannabis or a cannabis product to a reciprocal participant shall track the sale or transfer using an electronic system specified for that purpose by the department.

**D. Refusal of service:** A non-profit producer that reasonably suspects that either a person's proof of authorization or identification card is falsified may refuse to dispense cannabis to that individual.

**E. Informational materials:** At the time of a sale or transfer of cannabis to a reciprocal participant, a non-profit producer shall provide informational materials to the reciprocal participant that include, at a minimum, a notice of the time and quantity limits for reciprocity under this section, and a notice concerning state and federal prohibitions against the transport of cannabis across state and international boundaries.

[7.34.4.28 NMAC – N, 02/25/2020]

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# NMAC Transmittal Form

Volume:  Issue:  Publication date:  Number of pages:  (ALD Use Only)  Sequence No.

Issuing agency name and address:  Agency DFA code:

Contact person's name:  Phone number:  E-mail address:

Type of rule action:  New  Amendment  Repeal  Emergency  Renumber  (ALD Use Only)  Most recent filing date:

Title number:  Title name:

Chapter number:  Chapter name:

Part number:  Part name:

Amendment description (If filing an amendment):  Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes  No  Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes  No  Public domain

**Specific statutory or other authority authorizing rulemaking:**

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

# Concise Explanatory Statement For Rulemaking Adoption:

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Findings required for rulemaking adoption:

Findings **MUST** include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

The findings in support of this amendment are as stated in the attached Statement of Reasons for Adoption of the rule, which is hereby incorporated by reference.

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

Name:

Kathyleen M. Kunkel

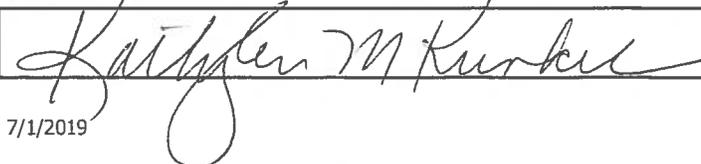
Check if authority has been delegated

Title:

Cabinet Secretary

Signature: (BLACK ink only)

Date signed:



02/13/2020

STATE OF NEW MEXICO FEB 13 PM 2: 04  
BEFORE THE SECRETARY OF HEALTH

**IN THE MATTER OF THE PROPOSED  
NEW RULE SECTION 7.34.4.28 NMAC**

**STATEMENT OF REASONS  
FOR ADOPTION OF NEW RULE SECTION 7.34.4.28 NMAC**

The Cabinet Secretary for the New Mexico Department of Health (“Department”), Kathyleen M. Kunkel, hereby adopts an amendment to Medical Cannabis Program rule 7.34.4 NMAC, to add a new section 7.34.4.28 NMAC, concerning Medical Cannabis Program reciprocity. This decision is based on the entire record in this matter, which includes Exhibits 1 through 29, the audio recording of the hearing, and the Report and Recommendation of the Hearing Officer, Craig Erickson, Esq., dated January 30, 2020 and received by the Cabinet Secretary on January 31, 2020 via Federal Express.

In further support of this action, the Cabinet Secretary finds the following:

1. The Department of Health is authorized to promulgate rules as may be necessary to carry out the duties of the Department and its divisions. NMSA 1978, § 9-7-6(E).
2. The Department is also authorized to promulgate rules to implement the purpose of the Lynn and Erin Compassionate Use Act. NMSA 1978, § 26-2b-7.
3. The Lynn and Erin Compassionate Use Act was amended in 2019 to include provisions for granting Medical Cannabis Program reciprocity for persons who hold proof of authorization to participate in the medical cannabis program of another state of the United States, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo; and the statute requires that the Department adopt and promulgate rules relating to reciprocity by March 1, 2020. NMSA 1978, § 26-2b-7(I).

4. By a letter dated October 7, 2019, the Cabinet Secretary designated Mr. Erickson to serve as Hearing Officer for the purposes of conducting the hearing, receiving and reviewing public comment, and submitting a recommendation regarding the proposed rule amendments.

5. In accordance with NMSA 1978, Section 9-7-6(E) and NMSA 1978, § 14-4-5.2, notice of the November 22, 2019 hearing for the proposed rule changes was provided to the public, which included publication in the Albuquerque Journal newspaper on October 15, 2019, and publication in the New Mexico Register on October 15, 2019.

6. In accordance with NMSA 1978, Section 9-7-6(E) and NMSA 1978, § 14-4-5.2, notice of the January 16, 2020 hearing for the proposed rule changes was provided to the public, which included publication in the Albuquerque Journal newspaper on December 17, 2019, and publication in the New Mexico Register on December 17, 2019.

7. Public rule hearings were held at the Harold Runnels Building Auditorium at 1190 Saint Francis Drive in Santa Fe, New Mexico, on November 22, 2019 and January 16, 2020 in accordance with NMSA 1978, Section 9-7-6(E).

8. Members of the public were afforded the opportunity to submit data, views and arguments on the proposed rules orally and in writing, and those comments were received by the Hearing Officer until the close of each respective hearing.

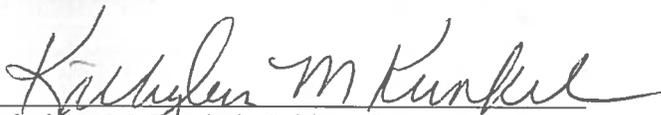
9. The Department initially proposed to repeal and replace 7.34.4 NMAC to include various revisions, including the addition of Section 7.34.4.28 NMAC, and also proposed to amend 7.34.2.7 NMAC and 7.34.3.7 NMAC.

10. The Department now adopts 7.34.4.28 NMAC as an amendment to 7.34.4 NMAC; the rulemaking concerning the repeal and replacement of 7.34.4 NMAC, as well as the proposed amendment of 7.34.2.7 NMAC and 7.34.3.7 NMAC, remains ongoing.

11. The Cabinet Secretary has familiarized ~~herself with the rulemaking~~ record, including the Report and Recommendation of the Hearing Officer, and finds that the Hearing Officer has appropriately considered the proposed rule changes and the substantive comments made through public comment; and the Secretary adopts the Hearing Officer's recommendations concerning the proposed rule changes.

12. The Cabinet Secretary finds that the proposed rule changes are appropriate and consistent with authorizing laws, and accordingly, the proposed new rule section 7.34.4.28 NMAC is hereby adopted.

NEW MEXICO DEPARTMENT OF HEALTH

  
Kathyleen M. Kunkel, Cabinet Secretary

2/13/20  
Date

# Billing Information Sheet

Your agency must complete the following:

Publish in the *New Mexico Register*

Volume:  Issue:  Publication date:

Agency's 3-digit DFA code:

Purchase order 15-digit number:

Agency name:   
Division name (if applicable):   
Street address or P.O. Box:   
City, State and Zip code:

Contact person's name:   
Contact person's phone number:   
Contact person's e-mail address:

Notice name (if submitting a notice):  
Example: Notice of Rulemaking Hearing

**Or** Rule NMAC number and rule name (if filing an amendment, repeal & replace, repeal, new rule etc.)  
Example: 19.31.3 NMAC, Hunting and Fishing License Application

Electronic file name(s):   
**(ALD Use Only)**

Analyst's initials:

**(ALD Use Only)**



# State of New Mexico Purchase Order

PO Number to be on all Invoices and Correspondence

Page: 1

## Department of Health

1190 St. Francis Dr  
P. O. Box 26110  
Santa Fe NM 87502-6110  
United States

### Dispatched

<b>Purchase Order</b> 66500-0000163239	<b>Date</b> 07-30-2019	<b>Revision</b>
<b>Payment Terms</b> Pay Now	<b>Freight Terms</b> FOB Destination	<b>Ship Via</b> Best Way
<b>Buyer</b> Yancy P. Montoya	<b>Phone</b>	<b>Currency</b> USD

### Dispatch Via Print

**Supplier:** 0000000729  
STATE RECORDS CENTER &  
ARCHIVES  
COMMISSION OF PUBLIC  
RECORDS  
1205 CAMINO CARLOS REY  
SANTA FE NM 87507  
United States

**Ship To:** 1190 St. Francis Dr  
P. O. Box 26110  
Santa Fe NM 87502-  
6110  
United States

**Bill To:** 1190 St. Francis Dr  
P. O. Box 26110  
Santa Fe NM 87502-  
6110  
United States

Origin: EXE      Excl\Excl#: 13-1-98-A

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date
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1 - 1	Several regulatory changes required for implementation of Senate Bill 406 and other changes related to Medical Cannabis Program for FY20 8/1/2019-6/30/2020	1.00	EA	\$4,500.00	\$4,500.00	07/30/2019
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66500-11415-7870010000-546900 - - - -120-D0000

Attention: HEATH T. ROYBAL

Schedule Total      \$4,500.00

66500-11415-7870010000-546900  
Heath Roybal

Item Total      \$4,500.00

Total PO Amount      \$4,500.00

Agency Approval - I certify that the proposed purchase represented by this document is authorized by and is made in accordance with all State (and if applicable Federal) legislation rules and regulation. I further certify that adequate unencumbered cash and budget expenditure authority exists for this proposed purchase and all other outstanding purchase commitments and accounts payable.

Authorized Signature

*Heath Roybal*

**NOTIFICATION OF MINOR, NON-SUBSTANTIVE CORRECTION**

February 13, 2020

To: Kathyleen Kunkel, Secretary  
c/o Chris Woodward, General Counsel Office

From: Matthew Ortiz, Administrative Law Division  
by designation for the State Records Administrator



Re: **7.34.4 NMAC – Licensing Requirements for Producers, Couriers, Manufacturers and Laboratories, filed on February 13, 2020, to be published and effective on February 25, 2020.**

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

For all official rules and agency copies of the above rules, the transmittal form incorrectly identified the type of rule action as “New” when as a matter of law the type of rule action is “Amendment”. In addition, the notice date and the hearing date are incorrectly identified as “N/A”. In fact, for this rule filing, the notice date is “10/15/2019” and the hearing date is “11/22/2019”.

A copy of this *Notification* will be filed with the official version of each of the above rules.

1205 Camino Carlos Rey | Santa Fe, NM 87507 | [nmcpr.state.nm.us](http://nmcpr.state.nm.us)

**Hon. Hector Balderas**  
*Attorney General*

**Hon. Brian S. Colón**  
*Chairman/State Auditor*

**Hon. Maggie Toulouse Oliver**  
*Secretary of State*

**Debra Garcia y Griego**  
*Department of Cultural Affairs*

**Kenneth Ortiz**  
*General Services Department*

**Daniel Cordova**  
*Interim Director, NM State Law Library*

2020 FEB 14 AM 9:15

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For all official rule and agency copies of the above rule, the transmittal form and amendment incorrectly identified the new section number as “28”. The section number has been corrected as “30” in all places where the section number is located.

A copy of this *Notification* will be filed with the official version of each of the above rules.

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