



MICHELLE LUJAN GRISHAM  
Governor

DAVID R. SCRASE, M.D.  
Acting Cabinet Secretary

June 15, 2022

Craig T. Erickson, Esq.  
Utton & Kery, P.A.  
500 Tijeras Ave., NW  
Albuquerque, NM 87102

**Re: Hearing Officer Appointment, Rulemaking Hearing on adoption of new rule 7.4.8 NMAC - Maternal Mortality and Severe Morbidity Review.**

Dear Mr. Erickson:

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 July 26, 2022. This rulemaking hearing is scheduled for 9:00 a.m. and will be conducted via Cisco Webex online and via telephone, per the attached Notice of Public Hearing.

The hearing will be conducted to receive public comment regarding the proposed adoption of a new rule 7.4.8 NMAC - Maternal Mortality and Severe Morbidity Review. An exhibit binder will be provided to you prior to the date of the hearing.

Thank you for accepting this appointment.

Sincerely,

DocuSigned by:  
*David Scrase*  
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David R. Scrase, M.D.  
Acting Cabinet Secretary

6/16/2022  
Date \_\_\_\_\_

cc: M. Shelley Strong, Assistant General Counsel

## NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the proposed new rule, 7.4.8 NMAC, “Maternal Mortality and Severe Maternal Morbidity Review”. The public hearing will be held on July 26, 2022 at 9:00 a.m. via Cisco WebEx online, via telephone, and comments will be received via email through the conclusion of the hearing.

The hearing is being held via internet, email, and telephonic means due to the concerns surrounding Coronavirus and in consideration of Governor Michelle Lujan Grisham’s Executive Order 2020-004, Declaration of a Public Health Emergency, and any subsequent executive orders. Members of the public who wish to submit public comment regarding the proposed rule changes will be able to do so via video conference and via telephone during the course of the hearing, and by submitting written comment before the conclusion of the hearing.

The hearing will be conducted to receive public comments regarding the proposed new rule 7.4.8 NMAC, concerning the review of maternal mortality and severe maternal morbidity in New Mexico. The proposed rule is intended address the statutory requirements of the Maternal Mortality and Morbidity Prevention Act, Section 24-32-1 to 24-32-5, NMSA 1978.

The legal authority authorizing the proposed repeal and replacement of the rule by the Department is at Subsection E of Section 9-7-6 NMSA 1978, Section 24-1-3 NMSA, 1978, and Sections 24-32-1 to 24-32-5 NMSA 1978.

Purpose of the proposed rules are listed below:

### 7.4.8.1 - Issuing Agency:

- To identify the Department of Health, family health bureau of the public health division as the agency and division responsible for issuing and implementing these rules.

### 7.4.8.2 - Scope:

- Included to identify the community and population that will be affected by these regulations.

### 7.4.8.3 - Statutory Authority:

- Identifies the statutory authority allowing the department of health to issue these rules.

### 7.4.8.4 - Duration

- Identifies these rules as permanent rules in effect until lawfully removed.

### 7.4.8.5 - Effective date

- Provides for when these rules will be in effect.

### 7.4.8.5 - Objective

- Defines the objective of the rules and the purpose and duties of the maternal mortality review committee.
- This section includes acknowledgement of disparities in morbidity and mortality experienced by people of color in New Mexico and establishes a framework of health equity, representation and justice intended to be applied throughout the rules.

### 7.4.8.7 - Definitions

- Provides necessary definitions for terms as they are applied throughout the rules.

### 7.4.8.8 - Program Administration

- Describes how the maternal mortality and morbidity review committee will be administered.

### 7.4.8.9 - Executive Committee

- This section allows for an executive committee to be called, describes the makeup of the committee and describes the duties of such a committee. The purpose of this section is to permit, but not require, an executive

committee to be established if it is determined that such a committee would be helpful to the purpose of the larger maternal mortality review committee.

#### 7.4.8.10 - Membership

- This section describes the statutory makeup of the committee membership and the process for the appointment of the committee members.
- This section describes that members other than the nominated members will be recruited through an open call which will be posted along with an application on the Department's website. This will allow for the casting of a broad net in the recruitment of committee members.
- Once the applications are received, staff will use a scoring matrix to objectively evaluate the applications. The use of the scoring matrix is intended to assure a consistent and transparent means of evaluation. Scoring criteria will be applied to assure that applicants who are working in and representing communities that are the most impacted by maternal mortality will be prioritized when reviewing applications. This process will ensure the representation of highly impacted communities as required by the statute. Applicants with specific expertise in fields that encounter issues related to maternal mortality and morbidity will also be prioritized to ensure a well-rounded and knowledgeable committee composition.
- The rule also establishes service terms, reimbursement requirements, and training for committee members.

#### 7.4.8.11 - Case Identification

- Maternal Mortality
- This section identifies committee operational staff and the NM Department of Health Bureau of Vital Records and Health Statistics as the parties responsible for identifying cases of maternal mortality for the committee to review. A timeframe and reporting criteria are also identified.

#### 7.4.8.12 - Data Collection

- This section outlines the individuals that are required to report cases of maternal mortality, the committee's authority to obtain the health and any law enforcement information connected to those cases and how that information may be collected. This section also provides for interviews of individuals connected to a mortality case. This process is important as the information needed for the review may not be fully contained within the medical or law enforcement records alone.
- This section also provides that the race and ethnicity of the deceased will be noted in otherwise de-identified case summaries for the committee to consider the possibilities of racism, bias and inequity having had a role in the death of that individual. The importance of considering that information is to build awareness of those factors as potential contributors to maternal mortality and to inform committee recommendations on how to address those factors.

#### 7.4.8.13 - Committee Responsibilities

- This section describes the operation of the committees and what is expected of the committee members including what they will be responsible for producing.

#### 7.4.8.14 - Case Review Process

- This section provides the process by which the committee reviews case summaries and how the committee's decisions are recorded and reported. This section also provides a method for how a committee member might address concerns about information missed by the case abstractor. For example, if a committee member is concerned that information related to racial justice and health equity is missing from a case summary, that committee member may request a review of that work or request that a new abstractor be assigned.

#### 7.4.8.15 - Confidentiality of Records, Proceedings, and Findings:

- This section outlines the provisions for the maintenance of confidentiality during meetings, how the confidentiality records will be maintained and who will have access to those records.

#### 7.4.8.16 - Dissemination of Information; Development of Recommendations; Advancement of recommendations

- This section describes how the information produced by the committee including aggregated and de-identified data, analysis and prevention recommendations will be distributed.

Any interested member of the public may attend the hearing and submit data, views, or arguments either orally or in writing on the proposed rule amendments during the hearing. To access the hearing by telephone: please call 1-844-992-4726. Your telephone comments will be recorded. To access the hearing via internet: please go to [Webex.com](http://Webex.com); click the “Join” button; click the “Join a meeting” button; enter the following meeting number and password where indicated on screen—Meeting number (access code): 2491 423 0759 #, Meeting password: GmyeZQZs386; click the “OK” button. You may also provide comment via Chat during the live streaming.

Written public comment regarding the proposed rule amendments can be submitted by either mailing the comment to the following address:

Sheila Apodaca  
Office of General Counsel  
New Mexico Department of Health  
1190 St. Francis Drive, Suite N-4095  
Santa Fe, NM 87505  
(505) 827-2997

Or preferably by e-mailing the comment to the e-mail address: [Sheila.Apodaca@state.nm.us](mailto:Sheila.Apodaca@state.nm.us).

Written comments must be received by the close of the public rule hearing on July 26, 2022. All written comments will be published on the agency website at <http://nmhealth.org/about/asd/cmo/rules/> within three (3) days of receipt and will be available at the New Mexico Department of Health Public Health Division for public inspection.

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Sheila Apodaca by telephone at (505) 827-2997. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

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