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

Issuing agency name and address:

Agency DFA code:

NM Department of Health, 1190 St. Francis Dr, Suite N-4095, P.O. Box 26110, Santa Fe NM 87502

Contact person's name:

Phone number:

E-mail address:

Type of rule action:

(ALD Use) Recent filing date:

New ☐ Amendment ☐ Repeal ☒ Emergency ☐ Renumber ☐

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?

Please list attachments or Internet sites if applicable.

Yes ☐ No ☒

If materials are attached, has copyright permission been received?

Yes

No

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

9-7-6(E) NMSA 1978; 24-10B-4 NMSA 1978; 24-10B-5 NMSA 1978

Notice date(s):

Hearing date(s):

Rule adoption date:

Rule effective date:

Concise Explanatory Statement For Rulemaking Adoption:

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.

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See Statement of Reasons for Adoption, attached.

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

Name:

Christopher D Woodward

Check if authority has been delegated

☒

Title:

Assistant General Counsel

Signature: (BLACK ink only OR Digital Signature)

Christopher
Woodward

Digitally signed by Christopher
Woodward
Date: 2025.08.28 11:49:06
-06'00'

Date signed:

8/28/25

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**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF HEALTH**

**IN THE MATTER OF PROPOSED
REPEAL AND REPLACEMENT OF
7.27.2, 7.27.4, 7.27.5, 7.27.6, AND
7.27.11 NMAC**

**STATEMENT OF REASONS
FOR ADOPTION OF PROPOSED
REPEAL AND REPLACEMENT OF 7.27.2,
7.27.4, 7.27.5, 7.27.6, AND 7.27.11 NMAC**

The Cabinet Secretary for the New Mexico Department of Health, Gina DeBlassie (“Secretary”), adopts the proposed repeal and replacement of parts 7.27.2, 7.27.4, 7.27.5, 7.27.6, and 7.27.11 NMAC, for the reasons stated below. This decision is based on the rulemaking record in this matter, which includes Exhibits 1 through 24, the recording of the hearing, and the Report and Recommendation of the Hearing Officer, Jared Najjar, dated July 14, 2025.

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

1. The Department of Health (“Department”) is authorized to promulgate regulations as may be necessary to carry out the duties of the Department and its divisions. NMSA 1978, Section 9-7-6(E).
2. Pursuant to the Emergency Medical Services Act (EMS Act) at NMSA 1978, § 24-10B-5, the Department is responsible for adopting licensing requirements for all persons who provide emergency medical services within the state of New Mexico, irrespective of whether the services are remunerated.
3. Pursuant to the EMS Act at NMSA 1978, § 24-10B-4, the Department is also responsible for: adoption of rules for emergency medical services medical direction upon the recommendation of the medical direction committee; approval of continuing

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education programs for emergency medical services personnel; adoption of rules pertaining to the training and licensure of emergency medical dispatchers and their instructors; adoption of rules, based upon the recommendations of the air transport advisory committee, for the certification of air ambulance services; and adoption of rules pertaining to authorization of providers to honor advance directives, such as emergency medical services do not resuscitate forms, to withhold or terminate care in certain pre-hospital or interfacility circumstances.

4. By letter dated April 14, 2025, the Secretary designated Mr. Najjar to serve as hearing officer for the purpose of conducting the hearing and submitting a recommendation regarding the proposed rule. Exhibit 22.

5. The purpose of the proposed repeal and replacement of rules 7.27.2, 7.27.5, 7.27.6, and 7.27.11 NMAC is to implement the EMS Act, NMSA 1978, § 24-10B-1 *et seq.*, by adopting rules concerning licensing of emergency medical services personnel (7.27.2 NMAC) and their scopes of practice (7.27.11 NMAC); rules concerning the certification of air ambulance services (7.27.5 NMAC); and rules concerning EMS advance directives (7.27.6 NMAC).

6. The purpose of the proposed repeal and replacement of rule 7.27.4 NMAC is to implement the purpose of the EMS Fund Act, NMSA 24-10A-1 *et seq.*, by adopting rules regulating programs under that statute.

7. Notice of the June 6, 2025 hearing concerning the proposed rule replacements was provided to the public in accordance with the Department of Health Act at NMSA 1978, Section 9-7-6(E), and the State Rules Act at NMSA 1978, § 14-4-5.2, which included publication in the Albuquerque Journal newspaper on May 6, 2025, and

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publication in the New Mexico Register on May 6, 2025. *See* Exhibit 20 (Affidavit of Publication in the Albuquerque Journal); Exhibit 21 (Affidavit of Publication in the NM Register).

8. The proposed rule was posted on the New Mexico Sunshine Portal website at http://statenm.secure.force.com/public/SSP_RuleHearingSearchPublic in accordance with NMSA 1978, § 14-4-5.4(A). *See* Exhibit 23 (Affidavit of Notice to the Public).

9. The proposed rule was also posted on the Department of Health website at <http://www.nmhealth.org/about/asd/cmo/rules/>, and an Internet link to that website was included within the published notice of rulemaking in accordance with NMSA 1978, § 14-4-5.2(C). *See* Exhibit 23 (Affidavit of Notice to the Public).

10. A public rule hearing was held via the Internet-based video conference platform Microsoft Teams on June 6, 2025 in accordance with NMSA 1978, Section 9-7-6(E).

11. Members of the public were afforded the opportunity to submit data, views, and arguments on the proposed rule orally and in writing, in accordance with NMSA 1978, Section 14-4-5.3, and those comments were received by the Hearing Officer until the close of the rule hearing.

12. Oral comments were received from the public during the hearing, and written comments from the public were entered into the record of the hearing as Exhibit 24.

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13. The following substantive modifications were made to the proposed rule text after the rule hearing, based on public comments:

Rule (NMAC)	Location	Edit/Adjustment	Justification
7.27.2; Licensing of EMS Personnel; 7.27.11; Supplemental Provisions (Scope)	Throughout	Deleted all references to an EMS-RN level of licensure	Public comments requested that the proposed creation of an EMS-RN license designation be struck from the rules
7.27.5; Air Ambulance	7.27.5.7(C)(4)	Expanded definition of Critical Care, and included "respiratory therapist" as an example of a provider "specifically trained in the area of care required"	Several public comments requested a clearer definition of critical care, and one comment requested that the definition of "critical care provider" include "respiratory therapist"
7.27.5; Air Ambulance	7.27.5.7(C)(5)	Clarified definition of Critical Care Provider	Public comment requested clarification of definition of "critical care provider"
7.27.5; Air Ambulance	7.27.5.7(S)(3)	Expanded definition of Specialty Care	Public comment requested clearer definition of Specialty Care
7.27.5; Air Ambulance	7.27.5.7(S)(4)	Clarified definition of Specialty Care Provider	Public comment requested clarification of Specialty Care Provider
7.27.5; Air Ambulance	7.27.5.13(A)(3)	Expanded description of Critical Care Ambulance Service	Public comment requested that expanded Critical Care definition be matched with better, clearer description of critical care ambulance

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			capabilities 2015 AUG 28 PM 12:40
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7.27.5; Air Ambulance	7.27.5.13(D)	Added CAMTS to list of examples of bureau-approved accreditation services	Public comment requested inclusion of CAMTS
7.27.5; Air Ambulance	7.27.5.15(C)(10)	Clarified who may develop protocols to include the air ambulance advisory, and removed reference to the regional trauma advisory committee	Public comments from Air Advisory Committee and others
7.27.5; Air Ambulance	7.27.5.15(C)(27)	Clarified the EMS Bureau notification requirements, noting that accidents and "major" incidents are the requirement	Air advisory public comment that every "incident" would be overly burdensome
7.27.5; Air Ambulance	7.27.5.16(C)(3)(a-g)	Clarified who must be notified along with the CONCERN network about incidents, repeating that the EMS Bureau notification is for "major" incidents – not every incident. Identified those incidents that constitute "major incidents"	Public comment requested clarification regarding what constitutes a "major incident"
7.27.5; Air Ambulance	7.27.5.16 C(9)(g)	Removed word "tactical", leaving only the word	Public comment that the term "tactical" has different

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		"processes" 2025 AUG 28 PM 12:40	connotation than intended by this usage
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14. The Department received a comment on behalf of the EMS Medical Direction Committee that recommended against the amendment to the Reciprocity rule 7.27.2.10(A) NMAC, which will allow an individual licensed in another state to apply for reciprocity if they meet the requirement (among various others) that, "if the applicant has joined an EMS agency as a volunteer or employee and this is verified by agency leadership, the agency's medical director may verify the applicant's competency in lieu of the applicant taking a bureau exam".

15. The Department believes that this amendment is appropriate, and that it could prove beneficial to EMS services and reciprocity applicants. The text was proposed by the Statewide Emergency Medical Services Advisory Committee to expedite the reciprocity application process. Although concerns were raised regarding potential liability or legal issues that might arise, this text would not *require* medical directors to verify an applicant's competency, but would instead allow them to do so. A medical director who is uncomfortable verifying an applicant's competency may opt against it.

16. The Department received a comment regarding 7.27.5.7 NMAC, proposing that the definition of "critical care provider" be revised to include "respiratory therapists". To address this, and rather than editing the definition of "critical care provider", the Department revised the definition of "critical care" at 7.27.5.7 NMAC to include respiratory therapist as an example of an "additional provider licensed at or above the ALS level of care or specifically trained in the area of care required".

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17. The Department received multiple public comments regarding 7.27.2.15(C)(10) NMAC, proposing that the Air Medical Transport Advisory Committee (AMTAC) make recommendations on standards for the Regional Trauma Advisory Councils (RETRACs) concerning air ambulance protocols, or proposing that the AMTAC should exclusively evaluate instances of alleged noncompliance by air ambulance services, rather than RETRACs.

18. In response, the Department revised 7.27.2.15(C)(10) NMAC to state, “Air ambulance certification may be denied, suspended, or revoked, or subject to other disciplinary action, based on the following grounds: ... (10) failure of a service to comply with a rotor wing response protocol or the fixed/rotor wing inter-facility transportation protocol *developed by the air medical transport advisory committee and implemented by a regional trauma advisory committee*, or any other bureau protocol or patient care-related policy as outlined in these rules”. (Emphasis added.) This text was included to acknowledge the respective roles of AMTAC and the RETRACs.

19. The Department received various public comments asserting that portions of the air ambulance enforcement rule section 7.27.5.15 NMAC were either too vague, too broad, or left too much discretion to the agency. However, the Department drafted those rule provisions broadly, to provide sufficient discretion to the agency to render case-by-case determinations.

20. For example, whether the conduct of air medical transport personnel constitutes a “significant threat to the health or safety of individuals receiving emergency care”, pursuant to 7.27.5.15(C)(19) NMAC, will vary depending on the facts and circumstances of each case. The Department cannot specify in the rule every scenario that could

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reasonably necessitate intervention by the EMS Bureau; and accordingly, the text of the rule must be broad to enable the agency sufficient discretion.

21. Similarly, whether repeated delays in transport of critical patients by an air medical transport provider warrants enforcement action under 7.27.5.15(B)(19)(b) NMAC will vary depending on individual facts and circumstances. The text as written provides NMDOH discretion to assess each incident according to individual facts and circumstances.

22. The Department received public comment regarding 7.27.5.15(D)(3) NMAC, requesting that the Department not deem air ambulance services ultimately responsible for the actions of their staff. Here again, the agency has discretion in determining whether to pursue disciplinary action in each case; but the Department believes that it is important that it be able to hold air ambulance services accountable for the actions of their staff.

23. The Department received public comment regarding the air ambulance hearings rule section 7.27.5.15(H) NMAC, expressing concern that a delay of up to 20 days leading up to a hearing on an immediate suspension would be harmful to licensees. While the Department understands the concern raised, it believes that the 20-day period is reasonable, and that a hearing conducted within 20 days would be sufficiently prompt.

24. This public comment included a request that the air ambulance service be allowed to continue its operations pending the outcome of a hearing. However, allowing continued operations in this situation would mean that the Department could never immediately suspend an air ambulance service's license. The Department must reserve the ability to immediately suspend a license if circumstances warrant it, particularly when

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an air ambulance service's continued operation would present a threat to the health and safety of the public.

25. The Department received public comments from the AMTAC and others, suggesting that the AMTAC could establish a Performance Improvement Committee (PIC) to play a role in evaluating the performance of a licensed air medical transport service. The Department did not include any revisions to the rule based on these proposals, firstly because the Department does not agree that the RETRAC should be divested of its role in evaluating the performance of air medical transport providers; but also because any such subcommittee of the RETRAC may be created outside of the rule.

26. The Department received comments concerning the Air Ambulance Licensing rule 7.27.5 NMAC, alleging that portions of the rule are preempted by the federal Airline Deregulation Act (ADA) of 1978, 49 U.S.C. 41713 *et seq.* The Department disagrees with those comments.

27. The ADA at 49 U.S.C. 41713 states in pertinent part that "a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation under this subpart."

28. The provisions of 7.27.5 NMAC do not "relate[]" to a price, route, or service of an air carrier" within the terms of 49 U.S.C. 41713, because they do not purport to regulate prices, routes, or types of services that may be offered by an air ambulance service. For this reason, the rule is not preempted.

29. The Secretary finds that the finished rules fall within the scope of the rulemaking proceeding, are a logical outgrowth of the notice given and comment received, and that

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members of the public were afforded a fair opportunity to present their views on the contents of the final plans. See 1.24.25.14(C) NMAC; see also N.M. Att'y Gen. Op. 87-59 (1987) (citing *BASF Wyandotte Corp. v. Costle*, 598 F.2d 637, 642 (1st Cir. 1979)); see also *Wylie Bros. Contracting Co. v. Albuquerque-Bernalillo Cty. Air Quality Control Bd.*, 1969-NMCA-089, ¶ 39, 80 N.M. 633, 642.

30. The Secretary finds that the Hearing Officer has appropriately considered the proposed rules and the public comments received, and finds that the recommendations of the Hearing Officer are reasonable and appropriate; and the Secretary adopts the Hearing Officer's recommendations and incorporates the Hearing Officer's Report and Recommendation by this reference.

31. The Secretary finds that the proposed rules are consistent with the statutory purposes of the New Mexico Department of Health, including but not limited to those expressed in the Department of Health Act, NMSA 1978, Section 9-7-3; the Emergency Medical Services Act, NMSA 1978, Section 24-10B-1 through -13; and the EMS Fund Act, NMSA 1978, Section 24-10A-1 through -10.

32. The Secretary further finds that the rule promulgation process satisfied the requirements of the State Rules Act, NMSA 14-4-1 through -11 and the New Mexico Attorney General's Default Procedural Rule for Rulemaking at 1.24.25 NMAC.

33. The Secretary has familiarized herself with the rulemaking record, and finds that the proposed rules are appropriate and consistent with the authorizing law; and the proposed repeal and replacement of rules 7.27.2, 7.27.4, 7.27.5, 7.27.6, and 7.27.11 NMAC is hereby adopted.

NEW MEXICO DEPARTMENT OF HEALTH

Signed by:

Gina DeBlassie

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Gina DeBlassie

Cabinet Secretary

Aug 26, 2025 | 9:46 AM MDT

Date

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The New Mexico Department of Health approved the repeal of its rule 7.27.4 NMAC - Emergency Medical Services Fund Act (filed 7/29/2004) and replaced it with 7.27.4 NMAC - Emergency Medical Services Fund Act adopted on 8/26/2025, and effective 9/9/2025.

NMAC

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Agency DFA code:

Contact person's name:

Phone number:

E-mail address:

Type of rule action:

(ALD Use) Recent filing date:

New ☒ Amendment ☐ Repeal ☐ Emergency ☐ Renumber ☐

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?

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Yes ☐ No ☒

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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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- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

See Statement of Reasons for Adoption, attached.

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

Name:

Christopher D Woodward

Check if authority has been delegated

☒

Title:

Assistant General Counsel

Signature: (BLACK ink only OR Digital Signature)

Christopher
Woodward

Digitally signed by Christopher
Woodward
Date: 2025.08.28 11:47:58 -06'00'

Date signed:

8/28/2026

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STATE OF NEW MEXICO 2025 AUG 28 PM 12:40
BEFORE THE SECRETARY OF HEALTH

**IN THE MATTER OF PROPOSED
REPEAL AND REPLACEMENT OF
7.27.2, 7.27.4, 7.27.5, 7.27.6, AND
7.27.11 NMAC**

**STATEMENT OF REASONS
FOR ADOPTION OF PROPOSED
REPEAL AND REPLACEMENT OF 7.27.2,
7.27.4, 7.27.5, 7.27.6, AND 7.27.11 NMAC**

The Cabinet Secretary for the New Mexico Department of Health, Gina DeBlassie (“Secretary”), adopts the proposed repeal and replacement of parts 7.27.2, 7.27.4, 7.27.5, 7.27.6, and 7.27.11 NMAC, for the reasons stated below. This decision is based on the rulemaking record in this matter, which includes Exhibits 1 through 24, the recording of the hearing, and the Report and Recommendation of the Hearing Officer, Jared Najjar, dated July 14, 2025.

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

1. The Department of Health (“Department”) is authorized to promulgate regulations as may be necessary to carry out the duties of the Department and its divisions. NMSA 1978, Section 9-7-6(E).
2. Pursuant to the Emergency Medical Services Act (EMS Act) at NMSA 1978, § 24-10B-5, the Department is responsible for adopting licensing requirements for all persons who provide emergency medical services within the state of New Mexico, irrespective of whether the services are remunerated.
3. Pursuant to the EMS Act at NMSA 1978, § 24-10B-4, the Department is also responsible for: adoption of rules for emergency medical services medical direction upon the recommendation of the medical direction committee; approval of continuing

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4. By letter dated April 14, 2025, the Secretary designated Mr. Najjar to serve as hearing officer for the purpose of conducting the hearing and submitting a recommendation regarding the proposed rule. Exhibit 22.

5. The purpose of the proposed repeal and replacement of rules 7.27.2, 7.27.5, 7.27.6, and 7.27.11 NMAC is to implement the EMS Act, NMSA 1978, § 24-10B-1 *et seq.*, by adopting rules concerning licensing of emergency medical services personnel (7.27.2 NMAC) and their scopes of practice (7.27.11 NMAC); rules concerning the certification of air ambulance services (7.27.5 NMAC); and rules concerning EMS advance directives (7.27.6 NMAC).

6. The purpose of the proposed repeal and replacement of rule 7.27.4 NMAC is to implement the purpose of the EMS Fund Act, NMSA 24-10A-1 *et seq.*, by adopting rules regulating programs under that statute.

7. Notice of the June 6, 2025 hearing concerning the proposed rule replacements was provided to the public in accordance with the Department of Health Act at NMSA 1978, Section 9-7-6(E), and the State Rules Act at NMSA 1978, § 14-4-5.2, which included publication in the Albuquerque Journal newspaper on May 6, 2025, and

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			capabilities
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7-27-15 (C)(10)
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18. In response, the Department revised 7.27.2.15(C)(10) NMAC to state, “Air ambulance certification may be denied, suspended, or revoked, or subject to other disciplinary action, based on the following grounds: ... (10) failure of a service to comply with a rotor wing response protocol or the fixed/rotor wing inter-facility transportation protocol *developed by the air medical transport advisory committee and implemented by a regional trauma advisory committee*, or any other bureau protocol or patient care-related policy as outlined in these rules”. (Emphasis added.) This text was included to acknowledge the respective roles of AMTAC and the RETRACs.

19. The Department received various public comments asserting that portions of the air ambulance enforcement rule section 7.27.5.15 NMAC were either too vague, too broad, or left too much discretion to the agency. However, the Department drafted those rule provisions broadly, to provide sufficient discretion to the agency to render case-by-case determinations.

20. For example, whether the conduct of air medical transport personnel constitutes a “significant threat to the health or safety of individuals receiving emergency care”, pursuant to 7.27.5.15(C)(19) NMAC, will vary depending on the facts and circumstances of each case. The Department cannot specify in the rule every scenario that could

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reasonably necessitate intervention by the EMS Bureau; and accordingly, the text of the rule must be broad to enable the agency sufficient discretion.

21. Similarly, whether repeated delays in transport of critical patients by an air medical transport provider warrants enforcement action under 7.27.5.15(B)(19)(b) NMAC will vary depending on individual facts and circumstances. The text as written provides NMDOH discretion to assess each incident according to individual facts and circumstances.

22. The Department received public comment regarding 7.27.5.15(D)(3) NMAC, requesting that the Department not deem air ambulance services ultimately responsible for the actions of their staff. Here again, the agency has discretion in determining whether to pursue disciplinary action in each case; but the Department believes that it is important that it be able to hold air ambulance services accountable for the actions of their staff.

23. The Department received public comment regarding the air ambulance hearings rule section 7.27.5.15(H) NMAC, expressing concern that a delay of up to 20 days leading up to a hearing on an immediate suspension would be harmful to licensees. While the Department understands the concern raised, it believes that the 20-day period is reasonable, and that a hearing conducted within 20 days would be sufficiently prompt.

24. This public comment included a request that the air ambulance service be allowed to continue its operations pending the outcome of a hearing. However, allowing continued operations in this situation would mean that the Department could never immediately suspend an air ambulance service's license. The Department must reserve the ability to immediately suspend a license if circumstances warrant it, particularly when

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an air ambulance service's continued operation would present a threat to the health and safety of the public.

25. The Department received public comments from the AMTAC and others, suggesting that the AMTAC could establish a Performance Improvement Committee (PIC) to play a role in evaluating the performance of a licensed air medical transport service. The Department did not include any revisions to the rule based on these proposals, firstly because the Department does not agree that the RETRAC should be divested of its role in evaluating the performance of air medical transport providers; but also because any such subcommittee of the RETRAC may be created outside of the rule.

26. The Department received comments concerning the Air Ambulance Licensing rule 7.27.5 NMAC, alleging that portions of the rule are preempted by the federal Airline Deregulation Act (ADA) of 1978, 49 U.S.C. 41713 *et seq.* The Department disagrees with those comments.

27. The ADA at 49 U.S.C. 41713 states in pertinent part that "a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation under this subpart."

28. The provisions of 7.27.5 NMAC do not "relate[]" to a price, route, or service of an air carrier" within the terms of 49 U.S.C. 41713, because they do not purport to regulate prices, routes, or types of services that may be offered by an air ambulance service. For this reason, the rule is not preempted.

29. The Secretary finds that the finished rules fall within the scope of the rulemaking proceeding, are a logical outgrowth of the notice given and comment received, and that

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members of the public were afforded a fair opportunity to present their views on the contents of the final plans. See 1.24.25.14(C) NMAC; see also N.M. Att'y Gen. Op. 87-59 (1987) (citing *BASF Wyandotte Corp. v. Costle*, 598 F.2d 637, 642 (1st Cir. 1979)); see also *Wylie Bros. Contracting Co. v. Albuquerque-Bernalillo Cty. Air Quality Control Bd.*, 1969-NMCA-089, ¶ 39, 80 N.M. 633, 642.

30. The Secretary finds that the Hearing Officer has appropriately considered the proposed rules and the public comments received, and finds that the recommendations of the Hearing Officer are reasonable and appropriate; and the Secretary adopts the Hearing Officer's recommendations and incorporates the Hearing Officer's Report and Recommendation by this reference.

31. The Secretary finds that the proposed rules are consistent with the statutory purposes of the New Mexico Department of Health, including but not limited to those expressed in the Department of Health Act, NMSA 1978, Section 9-7-3; the Emergency Medical Services Act, NMSA 1978, Section 24-10B-1 through -13; and the EMS Fund Act, NMSA 1978, Section 24-10A-1 through -10.

32. The Secretary further finds that the rule promulgation process satisfied the requirements of the State Rules Act, NMSA 14-4-1 through -11 and the New Mexico Attorney General's Default Procedural Rule for Rulemaking at 1.24.25 NMAC.

33. The Secretary has familiarized herself with the rulemaking record, and finds that the proposed rules are appropriate and consistent with the authorizing law; and the proposed repeal and replacement of rules 7.27.2, 7.27.4, 7.27.5, 7.27.6, and 7.27.11 NMAC is hereby adopted.

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NEW MEXICO DEPARTMENT OF HEALTH

Signed by:

Gina DeBlassie

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Gina DeBlassie

Cabinet Secretary

Aug 26, 2025 | 9:46 AM MDT

Date

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TITLE 7 HEALTH
CHAPTER 27 EMERGENCY MEDICAL SERVICES
PART 4 EMERGENCY MEDICAL SERVICES FUND ACT

7.27.4.1 ISSUING AGENCY: New Mexico department of health.
[7.27.4.1 NMAC - Rp, 7.27.4.1 NMAC, 9/9/2025]

7.27.4.2 SCOPE: The Emergency Medical Services Fund Act shall apply to requests made for funds available pursuant to the Emergency Medical Services Fund Act, Section 24-10A-1 et seq., NMSA 1978.
[7.27.4.2 NMAC - Rp, 7.27.4.2 NMAC, 9/9/2025]

7.27.4.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to the following statutory authorities: the Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to “. . . make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions”, and the Emergency Medical Services Fund Act, Section 24-10A-3.1 NMSA 1978, which authorizes the department of health to adopt rules to carry out the provisions of the act.
[7.27.4.3 NMAC - Rp, 7.27.4.3 NMAC, 9/9/2025]

7.27.4.4 DURATION: Permanent.
[7.27.4.4 NMAC - Rp, 7.27.4.4 NMAC, 9/9/2025]

7.27.4.5 EFFECTIVE DATE: September 9, 2025, unless a later date is cited at the end of a section.
[7.27.4.5 NMAC - Rp, 7.27.4.5 NMAC, 9/9/2025]

7.27.4.6 OBJECTIVE: The objective of this rule is to establish standards and procedures for regulating programs under the Emergency Medical Services Fund Act. These standards and procedures are designed for the purpose of making funds available to municipalities and counties, in proportion to their needs, for use in the establishment and enhancement of local emergency medical services in order to reduce injury and loss of life. This rule will inform New Mexico municipalities and counties of the procedures to access funds. The department of health, through the emergency medical systems bureau, will administer the fund pursuant to the Emergency Medical Services Fund Act and this rule.
[7.27.4.6 NMAC - Rp, 7.27.4.6 NMAC, 9/9/2025]

7.27.4.7 DEFINITIONS:

A. Definitions beginning with “A”:

(1) **“Accumulation”** means the expenditure or disposition in the current fiscal year of funds distributed in the prior fiscal year. However, a municipality or county may accumulate balances to purchase vehicles or equipment if the accumulation and a purchase plan have been approved by the bureau.

(2) **“Act”** means the Emergency Medical Services Fund Act, Section 24-10A-1 et seq., NMSA 1978.

(3) **“Advisory committee”** means those individuals, representing specific agencies, organizations, and consumers appointed by the secretary to advise the bureau on statewide EMS policy matters.

(4) **“Ambulance service”** means a publicly or privately owned entity holding a current certificate of the New Mexico public regulation commission as an emergency response ambulance service and subject to the rules of the public regulation commission or its successor agency.

(5) **“Applicant”** means an incorporated municipality or county applying on behalf of a local recipient. For special funding applications (i.e., statewide and local system improvement projects), applicant may also include an EMS regional office, approved training institution or the bureau.

(6) **“Area”** for purposes of pro-rata allocation of designated funds by county as described in Subsection D of 7.27.4.11 NMAC means the area, expressed in square miles, for each New Mexico county as reported by the U.S. department of commerce.

B. Definitions beginning with “B”: **“Bureau”** means the emergency medical systems bureau of the office of health emergency management, New Mexico department of health.

C. Definitions beginning with “C”: **“Chief”** means the chief of the emergency medical systems bureau.

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D. Definitions beginning with "D":

- (1) "Department" means the New Mexico department of health.
- (2) "Director" means the director of the epidemiology and response division.
- (3) "Division" means the epidemiology and response division.

E. Definitions beginning with "E":

(1) "Eligible item" means a cost or item of proposed expenditure under the local EMS funding program, which is eligible for funding under the act and includes those categories listed in Subsection N of 7.27.4.11 NMAC.

(2) "Emergency medical dispatch agency (EMDA)" means an organization, or a combination of organizations working cooperatively, that routinely accepts calls for emergency medical assistance and employs emergency medical dispatch priority reference system (EMDPRS) techniques.

(3) "Emergency medical services" or "EMS" means the services rendered by emergency medical technicians, licensed emergency medical services first responders or emergency medical dispatchers in response to an individual's need for immediate medical care to prevent loss of life or aggravation of physical or psychological illness or injury.

(4) "EMS regional office" means those regional planning and development agencies formally recognized and supported by the bureau.

F. Definitions beginning with "F":

(1) "Fiscal year" means the state fiscal year that runs from July 1 through June 30 each year.

(2) "Federal fiscal year" means the federal fiscal year that runs from October 1 through September 30 each year.

(3) "Fund" means the emergency medical services fund.

G. Definitions beginning with "G": [RESERVED]

H. Definitions beginning with "H": [RESERVED]

I. Definitions beginning with "I": [RESERVED]

J. Definitions beginning with "J": [RESERVED]

K. Definitions beginning with "K": [RESERVED]

L. Definitions beginning with "L":

(1) "Licensing fees" mean the licensure fees, licensure renewal fees, and travel and per-diem expenses associated with the licensing and the certification process in New Mexico required of emergency medical technicians and licensed EMS first responders under current rules governing the certification and licensing of EMS personnel.

(2) "Local EMS personnel" means an individual who is authorized to provide pre-hospital care and is affiliated with a local recipient.

(3) "Local emergency medical services system" means coordinated system of health care in a defined geographic area, including but not limited to community education and prevention programs, centralized access, emergency medical dispatch, law enforcement, licensed EMS personnel, fire medical rescue, ambulance, and hospital which support, respond to or provide emergency medical care in an organized fashion to the real or perceived needs of sick or injured persons in New Mexico and its border areas. For the purpose of funding, local emergency medical service system means one or more local recipients within a single EMS system.

(4) "Local recipient" means a publicly owned or contracted ambulance or air ambulance service, medical rescue service, fire department rescue service, regionalized emergency medical service agency; or other prehospital emergency medical service care provider based in the state:

(a) that routinely responds to an individual's need for immediate medical care in order to prevent loss of life or aggravation of physical or psychological illness or injury;

(b) whose application for funding through the Emergency Medical Services Fund Act is sponsored by a municipality or county;

(c) that meets department guidelines concerning personnel training, use of bureau-approved run forms, participation in mutual aid agreements and medical control; and

(d) receives funds distributed under the act and this rule.

M. Definitions beginning with "M":

(1) "Medical director" means a physician currently licensed or otherwise authorized to practice in New Mexico who directs or supervises the practice of EMS personnel, or assists in the development and approval of local protocols and who participates in the development and implementation of quality assurance activities and training programs in connection with an EMS provider.

(2) "Medical-rescue service" means a provider that is part of the emergency medical

services system but not subject to the authority of the public regulation commission or its successor agency, under the Ambulance Standards Act (Sections 65-6-1 to 65-6-6 NMSA 1978) and which may be dispatched to the scene of an emergency to provide rescue or medical care.

N. Definitions beginning with "N": [RESERVED]

O. Definitions beginning with "O": [RESERVED]

P. Definitions beginning with "P": [RESERVED]

(1) "Population" for purposes of pro-rata allocation of designed funds by county as described in Paragraph (1) of Subsection D of 7.27.4.11 NMAC of this rule, means the population estimates for each New Mexico county as shown in the most recent population report of the U.S. department of commerce.

(2) "Pre-hospital data base program" means the routine submission of essential pre-hospital data elements as defined by the bureau via bureau provided run forms or other methods.

(3) "Prevention program" means a planned activity with a defined purpose, stated objectives, implementation schedule and an evaluation component that seeks to prevent or reduce illness or injury. Examples include but not limited to bicycle helmet promotion, seat belt awareness campaign, child car seat distribution program, DWI prevention and first aid training.

Q. Definitions beginning with "Q": "Qualified instructor" means an individual who through education, training, and experience is approved by an approved EMS training program to teach local EMS personnel or by the bureau to teach continuing education.

R. Definitions beginning with "R":

(1) "Regionalized emergency medical service agency" means a rural or frontier emergency medical service agency composed of multiple geographic districts with response area populations of fewer than two hundred fifty people per square mile.

(2) "Routinely responds" means the local recipient is available and may be dispatched to a medical or traumatic emergency 24 hours per day, seven days per week.

(3) "Run" means an EMS response dispatched to an existing or potential medical event, by one or more local recipients to provide EMS assistance or transportation of a patient, regardless of the number of patients on scene.

S. Definitions beginning with "S":

(1) "Salaries and benefits" means regular compensation for services or work, including other payments made in accord with a salary agreement, such as insurance, retirement, leave accrual, etc.

(2) "Secretary" means the secretary of the New Mexico department of health.

(3) "Statewide" for the purpose of statewide EMS system improvement projects means two or more EMS local systems, a county, a training institution, an EMS regional office or the bureau, which support, respond to or provide medical care in an organized fashion to the real or perceived needs of at risk, sick or injured persons in New Mexico and its border areas.

T. Definitions beginning with "T":

(1) "Training program" means a course provided by an approved EMS training program or any continuing education approved by the bureau.

(2) "Tuition" means those charges, including fees and textbooks, for the enrollment of students in approved EMS training programs, continuing education, and conferences relevant to the education and training of local EMS personnel.

U. Definitions beginning with "U": [RESERVED]

V. Definitions beginning with "V": [RESERVED]

W. Definitions beginning with "W": [RESERVED]

X. Definitions beginning with "X": [RESERVED]

Y. Definitions beginning with "Y": [RESERVED]

Z. Definitions beginning with "Z": [RESERVED]

[7.27.4.7 NMAC - Rp, 7.27.4.7 NMAC, 9/9/2025]

7.27.4.8 DUTY OF THE BUREAU: The bureau shall administer the fund and provide for the distribution of the fund pursuant to the act and this rule. The bureau shall certify the names and the amount distributed to each applicant and local recipient in accordance with the provisions of the act and this rule. To accumulate funds, municipalities or counties shall submit an accumulation and purchase plan, in writing to the bureau. The bureau shall review and approve/disapprove the plan in writing. Accumulated funds shall only be expended as outlined in the bureau approved purchase plan.

[7.27.4.8 NMAC - Rp, 7.27.4.8 NMAC, 9/9/2025]

7.27.4.9 ANNUAL REPORT: The bureau shall prepare an annual report which includes a summary of the current fiscal year distribution, the number of approved applications for the local funding program, local and statewide system support projects, the vehicle purchase program and the approved budgets for administration and the trauma support program. In addition, the report will include the dollar amounts requested, amount of appropriation, average distribution amount, the types of local recipients, total number of runs, and a breakdown of the distribution by county. The report shall be made available to public entities and the public on request.
[7.27.4.9 NMAC - Rp, 7.27.4.9 NMAC, 9/9/2025]

7.27.4.10 EXTENSION OF TIME: An extension of time for the filing of an application or document may be granted, if the person seeking the extension can show good cause to the satisfaction of the chief. Requests for extension of time shall be received by email in advance of the date on which the application or document is due to be filed. No extension shall exceed 10 calendar days. Extensions shall be confirmed or denied by email.
[7.27.4.10 NMAC - Rp 7.27.4.10 NMAC, 9/9/2025]

7.27.4.11 LOCAL EMS FUNDING PROGRAM: In a fiscal year, no less than seventy-five percent of the money in the fund shall be used for the local emergency medical services funding program. The program shall provide for: the establishment or enhancement of local emergency medical services; operational costs other than salaries and benefits of local emergency medical services personnel, purchase, repair and maintenance of emergency medical services vehicles, equipment and supplies; implementation of prevention program and the training and licensing of local emergency services personnel.

A. Assurances: The bureau shall authorize distributions from money in the fund to the extent funds are available during a fiscal year. Distribution from money in the fund shall be made only to applicants on behalf of local recipients, that:

- (1) submit an approved online application to the bureau;
- (2) demonstrate a need for a distribution from the fund and the amount required;
- (3) agree to expend funds distributed from the fund only for the purposes stated in the application and approved by the bureau;
- (4) obtain authorization from the chief executive of the incorporated municipality or county on behalf of the local recipient upon vouchers issued by the treasurer or fiscal agent of each political subdivision; accountability and reporting of these funds shall be in accordance with the requirements set forth by the local government division of the New Mexico department of finance and administration; and
- (5) agree that the funds distributed under the act will not supplant other funds budgeted and designated for emergency medical service purposes by the applicant; applications for distributions of money from the fund shall be accompanied by a certified statement that the applicant shall not supplant any other public monies available for these same purposes.

B. Upper funding limitation - statutory requirement: No more than one percent of the amount appropriated to the local emergency medical services funding program shall be distributed from the fund to the benefit of a single local recipient in any fiscal year pursuant to the local emergency medical services funding program, with the exception of a regionalized emergency medical service agency, to ensure that appropriate emergency medical service is available statewide. The advisory committee will annually recommend maximum funding amount prior to the (November) availability of the online application.

C. Minimum funding base established - regulatory requirement: In a fiscal year, each local recipient which has been approved pursuant to this rule, may be allocated a minimum distribution based on the criteria established in this section. Approved applications requesting less than the minimum will be funded in the amount requested. For the purpose of determining funding eligibility, local EMS personnel cannot be affiliated with more than one local recipient.

(1) **Emergency medical service - start-up funding level:** This level is eligible to receive a one time, minimum distribution of seven thousand dollars (\$7,000) upon recommendation from the advisory committee. The minimum requirements for this level are to submit a:

- (a) letter of commitment from the chief;
- (b) letter of review and recommendation from the respective EMS regional office;
- (c) letter of support from the medical director; and
- (d) have been issued an EMS agency certification or DOT certification.

(2) **Medical rescue service - entry level:** This level is eligible to receive a minimum distribution of seven thousand dollars (\$7,000) if the following criteria are met and are verified by the applicant. The minimum criteria for this level are:

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(a) at least fifty percent of EMS runs covered by a licensed first responder within two years of the initial request for funding;

(b) the service has at least basic medical supplies and equipment;

(c) the service has at least one written mutual aid agreement or other written cooperative plan with a transporting ambulance and will submit online a copy or copies of this agreement(s) as part of the online application;

(d) the service has a designated training coordinator; and

(e) the service shall participate in the bureau's pre-hospital data collection system as determined by the bureau, by using the bureau's software, website or by submitting compatible data.

(3) **Medical rescue or ambulance service - stand ready level:** This level is eligible to receive a distribution of seven thousand dollars (\$7,000) if the following criteria are met and are verified by the applicant. The criteria for this level are:

(a) the service responds to less than seven EMS runs in the previous federal fiscal year, with at least eighty percent of EMS runs covered by a licensed EMS caregiver;

(b) the service has at least basic medical supplies and equipment;

(c) the service has at least one written mutual aid agreement or other written cooperative plan with a transporting ambulance and will submit online a copy or copies of this agreement(s) as part of the online application;

(d) the service has a designated training coordinator;

(e) the service shall participate in the bureau's pre-hospital data collection system as determined by the bureau, by using the bureau's software, website or by submitting compatible data; and

(f) the service has been issued an EMS agency certification or DOT certification.

(4) **Medical rescue service - first responder level:** This level of service is eligible to receive a minimum distribution of ten thousand dollars (\$10,000) if the following criteria are met and are verified by the applicant. The minimum criteria for this level are:

(a) at least eighty percent of EMS runs were covered in the prior federal fiscal year (October 1 - September 30), by a licensed EMS first responder or higher licensed medical personnel and shall continue to demonstrate that EMS response level; there shall be a minimum of at least two licensed EMS first responders with the service;

(b) the service has at least basic medical supplies and equipment;

(c) the service has at least one written mutual aid agreement or other written cooperative plan with a transporting ambulance and submit online a copy or copies of this agreement(s) as part of the online application;

(d) the service has a designated training coordinator;

(e) the service shall participate in the bureau's pre-hospital data collection system, as determined by the bureau, by using the bureau's software, website or by submitted compatible data;

(f) the service has a medical director; and

(g) the service has been issued a DOH EMS agency certification or DOT certification.

(5) **Medical rescue service or ambulance - basic level:** This level of service is eligible to receive a minimum distribution of twenty thousand dollars (\$20,000) if the following criteria are met and are verified by the applicant. The minimum criteria for this level are:

(a) at least eighty percent of EMS runs were covered in the prior federal fiscal year (October 1 - September 30), by a licensed EMT-basic or higher level of licensed medical personnel and shall continue to demonstrate that EMS response level; there shall be a minimum of at least two licensed EMT basics with the service;

(b) the service has at least basic medical supplies and equipment;

(c) the service has at least one written mutual aid agreement or other written cooperative plan with first response or transporting ambulance service(s) and submit online a copy or copies of this agreement(s) as part of the online application;

(d) the service has a designated training coordinator;

(e) the service shall participate in the bureau's pre-hospital data collection system as determined by the bureau by using the bureau's software, website or by submitting compatible data;

(f) the service has a service medical director and appropriate medical protocols; and

(g) the service complies with department of transportation rule 18.4.2 NMAC, if applicable, or such other rules as may be adopted by the DOT or its successor agency regarding certified ambulances or have an EMS agency certification.

(6) **Medical rescue service or ambulance - advanced level:** This level is eligible to receive a minimum distribution of twenty-eight thousand dollars (\$28,000) if the following criteria are met and are verified by the applicant. The minimum criteria for this level are:

- (a) at least eighty percent of EMS runs were covered in the prior federal fiscal year (October 1 - September 30), by licensed EMT intermediate or paramedic level personnel; or, if an emergency medical dispatch priority reference system (EMDPRS) is utilized, at least eighty percent of all runs determined by dispatch to require an advance level response shall be covered by licensed EMT intermediate or paramedic level personnel and there shall be at least one additional licensed EMT with the service;
- (b) the service has at least basic and advanced medical supplies and equipment;
- (c) the service shall maintain at least one transport capable vehicle if appropriate within the local EMS system;
- (d) the service has at least one written mutual aid agreement or other written cooperative agreement with first response or transporting ambulance service(s) and submit online a copy or copies of this agreement(s) as part of the online application;
- (e) the service shall participate in the bureau's pre-hospital data collection system as determined by the bureau by using the bureau's software, website or by submitting compatible data;
- (f) the service has a designated training coordinator;
- (g) the service has a service medical director and appropriate BLS and ALS medical protocols;
- (h) the service routinely responds when dispatched for all medical and traumatic emergencies within its primary response area;
- (i) the service complies with department of transportation rule 18.4.2 NMAC, if applicable, or such other rules as may be adopted by the DOT or its successor agency regarding registered certificated ambulances or have an EMS bureau EMS agency certification; and
- (j) the service complies with the department's certification of air ambulance services rules where applicable.

(7) **Consecutive failure to apply for funding:** - Agencies that fail or are prohibited to apply for EMS Fund monies for three or more years and want to re-initiate the application process and receive funding are eligible to receive a re-entry year distribution of seven thousand dollars (\$7,000). The following criteria must be met and verified by the applicant. The minimum criteria for re-entry into the EMS Fund process are:

- (a) at least eighty percent of EMS runs covered by a licensed EMS caregiver during the application cycles that were missed;
- (b) the service has at least basic medical supplies and equipment;
- (c) the service has at least one written mutual aid agreement or other written cooperative plan with a transporting ambulance and will submit online a copy or copies of this agreement(s) as part of the online application;
- (d) the service has a designated training coordinator;
- (e) the service has participated in the bureau's pre-hospital data collection system during the application cycles that were missed, using the bureau's software, website or by submitting compatible data; and
- (f) have been issued an EMS bureau EMS agency certification or DOT certification.

D. Funding formula definition: If the money available is not sufficient to meet the funding requested in the applications of all local recipients at the statutory maximum, the bureau shall allocate the funds according to the following formula.

(1) After computation of the sum of minimum allocations pursuant to Subsection C of 7.27.4.11 NMAC, a total county share shall be determined. The balance of funds shall be divided into two equal portions. For each county, the first portion shall be prorated according to area of the county as a percentage of total state area, and the other portion shall be prorated according to population of the county as a percentage of total state population.

(2) From the county share established above, the individual allocation to each local recipient shall be determined based on the relative number of runs in the prior federal fiscal year (October 1 through September 30) as reflected in the application of the local recipient and verified through the bureau's pre-hospital data base program.

(3) In the event that an incorporated municipality or county supports the applications of more than one local recipient, the bureau shall determine the pro-rata share for each local recipient in the allocation of

funds based on the number of annual runs reported.

E. Special conditions emergency funding: Subject to the availability of funds, the bureau will entertain applications for funding at any time based on the following criteria.

(1) The local recipient needs some immediate financial support for first year, startup services and the local community cannot provide adequate initial funding support. Financial need shall be verified by the bureau.

(2) The local recipient does not have financial support to continue operations due to an emergency situation. The bureau will consider an application for a one-time special financial award. The request for financial assistance will be verified by the bureau. To be eligible for emergency funding, applicant and local recipient shall provide a letter of support for the emergency funding from their respective EMS regional director and shall document the need for emergency funding based on the following criteria:

- (a) the need for emergency funding is unanticipated;
- (b) emergency funding is necessary to protect life, health and safety; and
- (c) applicant and local recipient have exhausted all reasonable alternative funding

sources.

(3) The bureau will advise the advisory committee of such distributions.

(4) The decision is subject to the appeal provision of Subsection J of this section.

F. Distribution method to ensure compliance with statutory limitation: To comply with the statutory limitation per local recipient, the department shall certify for distribution only funds computed and allocated according to Subsection G of this section. Individual distribution amounts computed that are in excess of the maximum amount for a local recipient shall be pro-rated in accordance with Paragraph (2) of Subsection D of this section, to all other eligible remaining local recipients in that county. If funding of all local recipients within a county is at the maximum amount set by the statewide emergency medical services advisory, and there still remains an overage in the county share, the balance shall be reallocated as described in Subsection G of this section to all other counties, and distributed to local recipients within those counties still remaining eligible, in addition to their first distribution.

G. Individual distribution: Subject to Subsection F of this section, the distribution to each local recipient shall be the sum of its share as calculated under Paragraph (2) of Subsection D of this section and the minimum allocation under Subsection C of 7.27.4.11 NMAC, unless the entity's total distribution shall have been otherwise established pursuant to the exception in Subsection B of this section.

H. Application: Applications will be made available online to service directors and EMS Operations officers of all counties, municipalities and local recipients.

I. Application cycle: The following cycle will apply for the local emergency medical services funding program.

(1) Application availability will be announced via email to all service directors and EMS operations officers November 15 of each year.

(2) The local recipient and applicant shall submit to the bureau, a completed application which shall be completed online by a day chosen by the bureau during the third week of January.

(3) The bureau shall review the applications, calculate the distribution of funds and notify the applicant and local recipients of its determination by May 1 of each year.

J. Procedures for appeal of determination: Pursuant to Section 24-10A-5 NMSA 1978, an applicant (county or municipality) desiring reconsideration of the bureau's determination as to its application for funding may appeal the determination by notifying the chief.

(1) The appeal shall be in writing and shall be received by the bureau within 10 working days after notification to the applicant of the bureau's determination.

(2) The bureau shall refer the appeal to the advisory committee for its review and recommendation. Upon receiving the advisory committee's recommendation, the secretary shall issue a final determination and send notice of that determination to the party appealing within 15 days of receiving the appeal.

K. Disbursement: The chief shall certify final determination to the state treasurer and the department of finance and administration on or before June 30 for distribution as early as possible in the next fiscal year.

L. Reporting requirements: The bureau may require special reports from applicants or local recipients regarding the appropriate use, maintenance and disposition of any items acquired with funds distributed under this section.

M. Eligible items of expenditure: Items eligible for funding are:

- (1) purchase, repair, and maintenance of ambulance or rescue vehicles;

- (2) purchase, repair, and maintenance of medical and rescue training equipment;
- (3) purchase, installation, repair, and maintenance of communications systems for use by local EMS systems;
- (4) payment of EMS training program tuition, per-diem, and mileage for local EMS personnel to attend EMS related training and continuing education programs, either in-state or within 150 miles of New Mexico's borders; training beyond the 150-mile limit shall be justified and receive prior written approval from the bureau, in order to be an eligible expense;
- (5) payment of fees to qualified instructors and reasonable expenses associated with the development and provision of EMS related training and continuing education programs on a local or regional basis;
- (6) payment of fees for medical direction;
- (7) the cost of New Mexico examination, certification or licensing fees for EMS personnel;
- (8) payment of costs related to legally mandated health and safety measures for the protection of local EMS personnel, such as vaccine, chest x-rays, etc;
- (9) all other operating expenses, including rent, utilities, insurance, gas and oil, etc., except those listed in Subsection N of this section;
- (10) per-call stipends for volunteer members of recipient agencies, as well as reimbursement for such items as uniforms, cleaning expenses, meals, travel, etc. for volunteer or career members of recipient agencies when on duty; and

N. Ineligible items of expenditure: Costs which are not eligible for funding include:

- (1) land;
- (2) buildings and construction, except as provided in Paragraph (3) of Subsection M of this section;
- (3) certification fees charged by the national registry of EMTs, unless required for New Mexico licensure;
- (4) costs for salaries and benefits of career emergency medical services personnel; and
- (5) medical care expenses for EMS personnel, except as provided in Subsection M of this section.

O. Budget adjustments:

- (1) An applicant or a local recipient may request a budget adjustment for any of the following reasons or other good cause shown:
 - (a) to permit the expenditure of any balance of funds subsequent to the purchase of an eligible item;
 - (b) to permit expenditure on a pro-rata basis of funds allocated when the allocations are insufficient to fund the cost of the eligible item;
 - (c) to change priorities or change requested items;
 - (d) to permit expenditure of all or part of a given fiscal year's distribution in the following fiscal year; the deadline to request the bureau's approval to carry over funds shall be made by email by October 31;
 - (e) to allow and facilitate intra-county or geographical region re-distribution of allocations to maximize the available funding; an intra-county or geographical region re-distribution of funds shall be requested by the applicant(s) and have the written concurrence of all involved local recipients.
- (2) Each proposed budget adjustment shall be submitted by email to the bureau and shall receive the bureau's approval prior to expending or encumbering the reallocated funds.
- (3) Budget adjustments totaling less than one thousand five hundred dollars (\$1,500) do not require bureau approval except as provided in Paragraph (2) of this subsection.
- (4) Agencies or their fiscal agent must provide expenditure reports for the previous fiscal year by December 1st of each calendar year for bureau review of local system fund expenditures and plans for any funds approved for carryover into the current fiscal year.

P. Other considerations:

- (1) In the event a county and one or more incorporated municipalities apply on behalf of the same local recipient, only the county's application shall be accepted and certified for distribution.
- (2) Individual applications may be approved by the bureau for separate locations of a local recipient that are at least 15 miles apart from the next closest station, as measured by the driving distance using the most direct route between the two locations.
- (3) Local recipient shall not submit multiple applications for the purpose of receiving

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additional EMS Fund Act distributions, except in special situations, as approved by the bureau on a case-by-case basis.

Q. Transition:

(1) In the event that a local recipient ceases operations, an itemized year-to-date expenditure report of EMS Fund Act money shall be submitted to the bureau.

(2) It is the responsibility of the applicant to inventory and redistribute all equipment purchased with the EMS Fund Act money, to other local recipients in its county or municipality, and provide a report to the bureau.

[7.27.4.11 NMAC - Rp, 7.27.4.11 NMAC, 9/9/2025]

7.27.4.12 LOCAL EMS SYSTEM IMPROVEMENT PROJECTS, EMS VEHICLE PURCHASE PROJECTS, STATEWIDE EMS SYSTEM IMPROVEMENT PROJECTS AND EMD AGENCY SUPPORT PROGRAMS:

A. Local EMS system improvement projects, EMS vehicle purchase projects, statewide EMS system improvement projects and EMD agency support programs: In a fiscal year, no more than eighteen percent of the fund may be used for local and statewide emergency medical services system improvement projects, the purchase of emergency medical services vehicles, and funding for certified emergency medical dispatch agencies. Applicants shall be funded on a competitive basis. Applications under this section shall be submitted online by incorporated municipalities or counties on behalf of local recipients, unless it is a statewide system improvement application, where applicant may be a training institution, EMS regional office or the bureau.

B. Application: The applications will be made available online to all applicants and local recipients.

C. Application cycle: The bureau shall make applications available to service directors and EMS operations officers for local EMS system improvement projects, EMS vehicle purchase projects, statewide EMS system improvement projects, and certified EMD agencies as set forth below.

(1) The bureau shall make these applications available to service directors and EMS operations officers by November 1.

(2) The applicant or EMS service, with authorization from its fiscal agent, shall submit to the bureau a completed application online by January 1. Technical assistance may be provided by the EMS regional office.

(3) The bureau shall make available digital copies of each local EMS system improvement application and EMS vehicle purchase project application to the respective EMS regional office and the statewide EMS system improvement applications to the EMS operations manager by no later than December 1 of each year.

D. Review process: The EMS regional offices shall review all applications for local EMS system improvement projects and EMS vehicle purchase projects submitted by applicants within their respective regional areas. Each regional EMS advisory committee/governing board shall review the applications within its region and submit a prioritized listing of applications for funding to the advisory committee no later than March 1 of each year. EMS regional offices and the bureau shall collaboratively assign applications to the appropriate category of funding (statewide system or local system improvement) which shall not be changed unless recommended by a majority of the advisory committee. The advisory committee will review the prioritized listing and make recommendations to the bureau at their annual spring meeting. The bureau shall make its determination on projects to be funded by May 1.

E. Local EMS system improvement projects: At a minimum, an application for the local EMS system improvement projects shall address the following areas:

(1) a complete description of the existing EMS system for which the local EMS system improvement project is requested; this description should include all pertinent information which describes all local EMS components that would be affected by the project;

(2) a complete description of the proposed local EMS system improvement project including a detailed analysis of the need and a narrative showing how the project will contribute to the enhancement or integration of the local EMS system;

(3) a detailed proposed budget depicting all anticipated costs for implementation of the proposed project including a clear demonstration of local support via cash or in-kind participation; the demonstration of local support will be considered in the final determination;

(4) assurances of support and involvement from all parties involved in the project proposal;

(5) a one-page abstract of the proposed project summarizing the request;

(6) notarized signature(s) of the appropriate municipal or county officials; and

(7) request for vehicles (ambulance, rescue, administrative etc.) are not considered to be a

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local system improvement project; requests for any type vehicle should be submitted under the EMS vehicle purchase program.

F. EMS vehicle purchase projects: The following are required for the EMS vehicle purchase projects:

- (1) the county or municipality submitting the application shall commit to providing matching funds of at least twenty-five percent of the base price of purchasing the vehicle only, without regard to equipment or operation costs; there shall be no restrictions on the source of the matching funds;
- (2) a complete description of the proposed vehicle including a detailed analysis of the need and a narrative showing how the purchase will contribute to the enhancement or integration of the local EMS system;
- (3) assurances by the applicant that the local recipient is capable of operating and maintaining the requested vehicle as evidenced by a proposed budget identifying all associated costs of equipping and operating the vehicle;
- (4) the applicant shall submit online the emergency medical service vehicle assessment form, which shall be completed at the time of application;
- (5) assurances of support from all parties involved in the project proposal;
- (6) a one-page abstract of the proposed project summarizing the request;
- (7) notarized signature(s) of the appropriate municipal or county officials; and
- (8) upon approval, local recipient will affix a bureau provided decal on the outside of the vehicle; the logo should always face, or be nearer to, the street side of the vehicle (i.e., left, rear left, driver side).

G. Statewide EMS system improvement projects: No more than three percent of the fund is authorized for projects, which improve the health, safety and training of emergency medical services personnel statewide.

- (1) Applications may be submitted by applicants, local recipients, EMTs or other interested parties.
- (2) The bureau will present a prioritized listing to the advisory committee for its review and consideration. The advisory committee will make a final recommendation to the bureau at its spring meeting.
- (3) The bureau will make a final determination by May 1.
- (4) Funds not committed for statewide EMS system improvement projects may be allocated for additional vehicle purchase or local EMS system improvement projects consistent with recommendations from the advisory committee.

H. EMD agency support program: Certified EMD agencies may apply for funding for allowable operational costs as an EMS system improvement project, as determined by the bureau, when funds are available. Funding of this program shall be recommended to the bureau by the advisory committee based on the available funds.

I. Procedures for reconsideration: Applicants desiring reconsideration of the bureau's determination as to its application for funding under this rule may appeal the determination by notifying the chief.

- (1) The request for reconsideration shall be by email and shall be received by the bureau within 10 working days after notification to the applicant of the bureau's determination.
- (2) Upon receipt of the request for reconsideration, the chief shall issue a final determination and notify all parties on or before June 15.

J. Disbursement: The chief shall certify the results of final determination to the state treasurer on or before the last working day in June for distribution as early as possible in the next fiscal year.

K. Reporting requirements:

(1) All applicants that receive funding for local EMS system improvement projects, vehicle purchase projects and statewide EMS system improvement projects shall submit a final report of the project no later than 120 calendar days following project completion, or annually, whichever occurs first. Certification will be provided when the bureau provided decal is affixed to the vehicle which has been purchased with EMS Fund Act funds pursuant to Paragraph (8) of Subsection F of this section no later than 120 calendar days following delivery of vehicle.

(2) At a minimum, this report will include the name of the county or municipality, address, phone and contact person, the date submitted, the names of the local recipients involved in the project, the year the project was awarded, a brief description of the project, a fiscal accounting or summary of expenditures, total expenditures and any funds remaining, the project achievements and any changes from the originally submitted application.

(3) The bureau may require a special report from an applicant funded on the appropriate use

and maintenance of any eligible item acquired with funds distributed under section for local EMS system improvement projects, EMS vehicle purchase projects or statewide EMS system improvement projects.

L. Budget adjustments: For local EMS system improvement projects, EMS vehicle purchase projects and statewide EMS system improvement projects, the following will apply:

(1) an applicant or a local recipient may request a budget adjustment for any of the following reasons or other good cause shown:

(a) to permit the expenditure of any balance of funds subsequent to the purchase of an approved item;

(b) to change priorities or change requested items; and

(c) to permit expenditure of all or part of an approved project in the following fiscal year; the deadline to request the bureau's approval to carry over funds shall be made in writing by October 31;

(2) each proposed budget adjustment shall be stated in writing to the bureau and shall receive the bureau's approval prior to expending or encumbering the reallocated funds; and

(3) Agencies or their fiscal agent must provide expenditure reports for any special project funds for the previous fiscal year by December 1st of each calendar year for bureau review.

[7.27.4.12 NMAC - Rp, 7.27.4.12 NMAC, 9/9/2025]

7.27.4.13 STATEWIDE TRAUMA CARE SYSTEM PROGRAM AND STATEWIDE EMERGENCY MEDICAL SERVICES SYSTEM SUPPORT:

A. Statewide trauma care system program: The statewide trauma care system program shall provide for the support, development and expansion of the statewide trauma care system in accordance with rules adopted by the department. No more than two percent will be set aside from the fund for the purpose of supporting the statewide trauma care system program.

(1) **Program:** The program mission shall include but not be limited to the continued support of the trauma registry database, statewide trauma system leadership, and the development, implementation, expansion, monitoring and support of the statewide trauma care system.

(2) **Report:** The bureau will submit a final report to the advisory committee on the program by the end of the fiscal year. At a minimum the report will include current activities, improvements, evaluation of areas in need and future plans for the continued enhancement of the state trauma care program.

B. Regional emergency medical services system report: No more than two percent of will be set aside for the purpose of local and statewide emergency medical systems support projects which may be completed by EMS regional offices on behalf and at the direction of the bureau.

[7.27.4.13 NMAC - Rp, 7.27.4.13 NMAC, 9/9/2025]

7.27.4.14 ADMINISTRATION:

A. Administration: From the fund, three percent may be used by the bureau and EMS regional offices for administrative costs, including monitoring and providing technical assistance, as set forth in this section.

B. Inspection - statutory requirement: Inspections, pursuant to Section 24-10A-9 NMSA 1978 are to be constructive and informative to the local recipient to insure the highest possible standards of equipment and training are instituted by the local recipient and to identify any areas which could be of danger or harmful to the health, safety and welfare of staff and the public for whom service is provided.

(1) Applicants and local recipients shall be subject to reasonable visitation by authorized representatives of the bureau. Vehicle maintenance records, records of service under warranties, continuing education records, training certificates, and similar records shall be open for inspection, as well as tariff billings and fiscal and expenditure records relative to an area for which full or partial funding was made under the act.

(2) Upon completion of an inspection, the findings shall be discussed with the applicant's or local recipient's representative.

(3) If deficiencies are indicated, the applicant or local recipient shall submit a report stating how the deficiencies will be corrected and the estimated date of completion. In most cases corrections should be completed within 30 calendar days.

C. Loss of funding eligibility - statutory requirement: A municipality, county or local recipient that the bureau finds has expended money in violation of the act including misrepresentation on the EMS Fund Act application, may be ineligible to receive funding from the bureau for a period of not less than one year or more than three years; additionally, if it is found that an agency has unspent local system or special project funds from the previous fiscal year(s) that were not approved for carryover, the agency will be subject to a reduction of up to one hundred percent of local system funding or not being eligible for special project funds; this will apply to the next

fiscal year following the discovery, through the process set forth below:

(1) When a violation is suspected, the bureau will notify the applicant or local recipient in writing identifying the concerns and requesting an explanation or response.

(2) The applicant or local recipient shall respond by email within 20 working days.

(3) The bureau may initiate a formal investigation, including a formal audit, if deemed necessary.

(4) Based upon their findings, the bureau will notify the applicant or local recipient in writing of their determination and associated penalty, which can range from one to three years of ineligibility.

(5) The bureau may refer the matter to appropriate law enforcement agencies.

D. Oversight of mutual aid and regionalization plans: The bureau shall encourage the development of appropriate county EMS regionalized integrated response plans and mutual aid agreements between local recipients to ensure compliance with the act and this rule.

E. Coordination: The bureau shall facilitate the coordination of services between state agencies, EMS regional offices, applicants, and local recipients to execute the requirements of the act and this rule for the efficient and effective use of these funds.

F. Evaluation and audit of programs: The bureau shall be responsible for the periodic evaluation of all programs and projects receiving funds under the act. This evaluation may include initiation of an objective audit, if deemed necessary.

G. Technical assistance: The bureau shall be responsible to provide, as needed, technical assistance to counties, municipalities, EMS regional offices, state and local agencies and any other parties involved in any of the programs funded through the act and this rule.

[7.27.4.14 NMAC - Rp, 7.27.4.14 NMAC, 9/9/2025]

History of 7.27.4 NMAC:

Pre NMAC: The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

HED 78-9-1, Emergency Medical Services Fund Act Regulations, filed 9/29/1978.

HED 80-7 (HSD), Emergency Medical Services Fund Act Regulations, filed 10/9/1980.

HED 84-2 (HSD), Emergency Medical Services Fund Act Regulations, filed 8/8/1984.

HED 87-11 (PHD/HSD), Emergency Medical Services Fund Act Regulations, filed 10/26/1987.

DOH Regulation 94-11 (CHSD), Regulations Governing the Emergency Medical Services Fund Act for the State of New Mexico, filed 12/30/1994.

DOH Regulation 95-05 (CHSD), Regulation Governing the Emergency Medical Services Fund Act, filed 10/25/1995.

History of Repealed Material:

7 NMAC 27.4, Emergency Medical Services Fund Act (filed 11/26/1996), repealed 7/1/2000.

7.27.4 NMAC, Emergency Medical Services Fund Act (filed 06/16/2000), repealed 9/13/2001.

7.27.4 NMAC, Emergency Medical Services Fund Act (filed 7/29/2004), repealed 9/9/2025.

Other History:

7 NMAC 27.4, Emergency Medical Services Fund Act (filed 11/26/1996) replaced by 7.27.4 NMAC, effective 7/1/2000.

7.27.4 NMAC, Emergency Medical Services Fund Act (filed 06/16/2000) replaced by 7.27.4 NMAC, Emergency Medical Services Fund Act, effective 9/13/2001.

7.27.4 NMAC, Emergency Medical Services Fund Act (filed 7/29/2004) replaced by 7.27.4 NMAC, Emergency Medical Services Fund Act, effective 9/9/2025.