NMAC Transmittal Form



STATE RECORDS OF STATER

2025 AUG 28 PM 12: 35

/olume: XXXVI Issue: 17 Publication date: 9/	9/2025 Number of pages: 1	ALD Use Only) 2.4 Sequence No.
ssuing agency name and address:		Agency DFA code:
NM Department of Health, 1190 St. Francis Dr, Sui	te N-4095, P.O. Box 26110, Santa Fe	NM 87502 665
	e number: E-mail address:	
ontact person's name.		rd@doh.nm.gov
ype of rule action:		(ALD Use) Recent filing date:
New Amendment Repeal Emergency	Renumber	12/16/2005
Title number: Title name:		
7 Health		
Chapter number: Chapter name:		
27 Emergency Medical Services		
Part number: Part name:		
6 Emergency Medical Services Adv		
Amendment description (If filing an amendment):	Amendment's NMAC citation	ı (If filing an amendment):
·		. W I.I.
Are there any materials incorporated by reference? Ple	ease list attachments or Internet sites if app	plicable.
Yes No X		
If materials are attached, has copyright permission been i	received? Yes No	Public domain
Specific statutory or other authority at	uthorizing rulemaking:	
9-7-6(E) NMSA 1978; 24-10B-4 NMSA 19	978; 24-10B-5 NMSA 1978	·
Notice date(s): Hearing date(s):	Rule adoption date:	Rule effective date:
5/6/2025 6/6/2025	8/26/2025	9/9/2025

Concise Explanatory Statement For Rulemaking Adoption:

STATE RECORD SCENITER

2025 AUG 28 PM 12: 35

Findings required for rulemaking adoption:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary Findings MUST include: of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and

ee Statement of I	Reasons for Adoption, attached.		
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	elegated, authority letter must be on file with ALD):	Check if authority has been delegi	ate
Name:		X	
Christopher D V	/oodward] []	
Title:			
Assistant Gener	l Counsel		
	nk only OR Digital Signature)	Date signed:	
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Christopher Woodward	Woodward Date: 2025,08.28 11:52:18	0,20,2	



2025 AUG 28 PM 12: 35

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

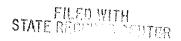
The Cabinet Secretary for the New Mexico Department of Health, Gina DeBlassie ("Secretary"), adopts the proposed repeal and replacement of parts 7.27.2, 7.27.4, 7.27.5, 7.27.6, and 7.27.11 NMAC, for the reasons stated below. This decision is based on the rulemaking record in this matter, which includes 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

education programs for emergency medical services personnel; adoption 26 rptes2: 35 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 prehospital 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



publication in the New Mexico Register on May 6, 2025. See Exhibit 2011 ffidavits of PM 12: 36 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.

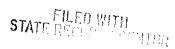
STATE RECOGNITION

13. The following substantive modifications were made to the proposed rule text after: 36 the rule hearing, based on public comments:

D. J. ONING A CO.	Location		Justification
Rule (NMAC)	Throughout	Deleted all	Public comments
7.27.2; Licensing	Imoughour	references to an	requested that the
of EMS Personnel;		EMS-RN level of	proposed creation of
7.27.11;		licensure	an EMS-RN license
Supplemental			designation be
Provisions (Scope)			struck from the rules
	7.27.5.7(C)(4)	Expanded definition	Several public
7.27.5; Air	1.21.3.1(C)(T)	of Critical Care, and	comments requested
Ambulance		included	a clearer definition
		"respiratory	of critical care, and
	1	therapist" as an	one comment
	}	example of a	requested that the
		provider	definition of
		"specifically trained	"critical care
		in the area of care	provider" include
		required"	"respiratory
		required	therapist"
		Clarified definition	Public comment
7.27.5; Air	7.27.5.7(C)(5)	of Critical Care	requested
Ambulance		Provider	clarification of
		LioMidei.	definition of
			"critical care
			provider"
		T 1 definition	
7.27.5; Air	7.27.5.7(S)(3)	Expanded definition	requested clearer
Ambulance		of Specialty Care	definition of
			Specialty Care
		101 1 1 01 1,1	Public comment
7.27.5; Air	7.27.5.7(S)(4)	Clarified definition	
Ambulance		of Specialty Care	requested clarification of
Mindidian		Provider	Specialty Care
Ì			
į			Provider Public comment
7.27.5; Air	7.27.5.13(A)(3)	Expanded	Public comment
Ambulance		description of	requested that
Ambulance		Critical Care	expanded Critical
		Ambulance Service	Care definition be
			matched with better
			clearer description
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			ambulance

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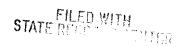
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7.27.5; Air Ambulance		Expanded description of Specialty Care Ambulance Service	Public comment requested that expanded Specialty Care definition be matched with better, clearer description of critical care ambulance capabilities Public comment
7.27.5; Air Ambulance	7.27.5.13(D)	list of examples of bureau-approved accreditation services	requested inclusion of CAMTS Public comments
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	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	
7.27.5; Air Ambulance	7,27.5.16(C)(3)(a-g)		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 the term "tactical" has different



"processes"	connotation 18 an PM 12: 36 intended by this usage

- 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".

- 17. The Department received multiple public comments regarding 7.27.5.48 (CRITO): 36 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



reasonably necessitate intervention by the EMS Bureau; and accordingly, the feet of the: 36 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

an air ambulance service's continued operation would present a threaton while 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

members of the public were afforded a fair opportunity to present their views of 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.

STATE REPORTED WITH YER 2025 AUG 28 PM 12: 36

NEW MEXICO DEPARTMENT OF HEALTH

Gina DeBlassie

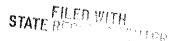
Gina DeBlassie

Gina DeBlassie

Cabinet Secretary

Aug 26, 2025 | 9:46 AM MDT

Date



The New Mexico Department of Health approved the repeal of its rule 7.27.6 NMAC - Emergency Medical Services Advance Directives (filed 12/16/2005) and replaced it with 7.27.6 NMAC - Emergency Medical Services Advance Directives adopted on 8/26/2025, and effective 9/9/2025.

NMAC Transmittal Form

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Christopher Wood	dward		505-690-5987		cnns.woodwa		
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Specific sta	atutory or	other authorit	y authorizin	g rulema	king:		
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Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

2075 AUG 28 PH 12: 36

- 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.

ee Statement of Reasons for Adoption, attached.	
ssuing authority (If delegated, authority letter must be on file with ALD):	Check if authority has been delegat
lame:	X
Christopher D Woodward	
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Assistant General Counsel	
Signature: (BLACK ink only OR Digital Signature)	Date signed:
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STATE OF NEW MEXICO BEFORE THE SECRETARY OF HEALTH

2025 AUG 28 PH 12: 36

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

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Supplemental			designation be
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		example of a	requested that the
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		Clarified definition	Public comment
7.27.5; Air	7.27.5.7(C)(5)	of Critical Care	requested
Ambulance			clarification of
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	1		"critical care
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Ambulance		of Specialty Care	definition of
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Ambumie	ļ	Provider	Specialty Care
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			Public comment
7.27.5; Air	7.27.5.13(A)(3)	Expanded	requested that
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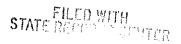
			capabilities 28 PM 2:
7.27.5; Air Ambulance	7.27.5.13(A)(4)	Expanded description of	Public comment requested that
Ampulance		Specialty Care Ambulance Service	expanded Specialty Care definition be
		Amodiance Service	matched with better,
			clearer description of critical care
			ambulance
			capabilities
7.27.5; Air	7.27.5.13(D)	Added CAMTS to	Public comment
Ambulance		list of examples of	requested inclusion of CAMTS
		bureau-approved accreditation	OFCAMIS
		services	
7.27.5; Air	7.27.5.15(C)(10)	Clarified who may	Public comments
Ambulance	7,27,61,35 (=,)()	develop protocols to	from Air Advisory
***************************************		include the air	Committee and others
		ambulance advisory, and removed	Others
		reference to the	
		regional trauma	
		advisory committee	Air advisory public
7.27.5; Air	7.27.5.15(C)(27)	Clarified the EMS Bureau	comment that every
Ambulance		notification	"incident" would be
		requirements, noting	overly burdensome
		that accidents and	
		"major" incidents are the requirement	
	7.27.5.16(C)(3)(a-g)		Public comment
7.27.5; Air Ambulance	7,27.3.10(0)(3)(4 6)	be notified along	requested
Ambulance		with the CONCERN	I clarification regarding what
		network about incidents, repeating	1 -
		that the EMS	incident"
		Bureau notification	
		is for "major"	
		incidents – not ever incident. Identified	у)
		those incidents that	
		constitute "major	
		incidents"	Public comment that
7.27.5; Air	7.27.5.16 C(9)(g)	Removed word	the term "tactical"
Ambulance		"tactical", leaving only the word	has different

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	"processes"	connotation than 2: 36 intended by this usage
		uougo

- 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".

- 17. The Department received multiple public comments regarding MITATISCO (19) [2: 36] 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



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



an air ambulance service's continued operation would present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat to 105 little that the and present a threat the and present a threat threat

- 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



members of the public were afforded a fair opportunity to present their Mews on their: 36 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	
Cina DeBlassie	
Cabinet Secretary	
Aug 26, 2025 9:46 AM MDT	
Date	

HEALTH TITLE 7

PART 6

EMERGENCY MEDICAL SERVICES CHAPTER 27

EMERGENCY MEDICAL SERVICES ADVANCE DIRECTIVES

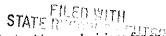
ISSUING AGENCY: New Mexico department of health, emergency medical systems bureau. 7.27.6.1 [7.27.6.1 NMAC - Rp, 7.27.6.1 NMAC, 9/9/2025]

- SCOPE: This regulation applies to all people of New Mexico who have capacity, or by a person duly appointed under a durable power of attorney for health care, physicians, advanced practice nurses, or physician assistants, and emergency medical services personnel. [7.27.6.2 NMAC - Rp, 7.27.6.2 NMAC, 9/9/2025]
- STATUTORY AUTHORITY: These regulations are promulgated pursuant to 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 Act, Subsection I of Section 24-10B-4 NMSA 1978, which authorizes the department of health to adopt "regulations pertaining to authorization of providers to honor advance directives to withhold or terminate care in certain pre-hospital or inter-facility circumstances, as guided by local medical protocols". [7.27.6.3 NMÁC - Rp, 7.27.6.3 NMAC, 9/9/2025]
- **DURATION:** Permanent. 7.27.6.4 [7.27.6.4 NMAC - Rp, 7.27.6.4 NMAC, 9/9/2025]
- EFFECTIVE DATE: September 9, 2025, unless a later date is cited at the end of a section. [7.27.6.5 NMAC - Rp, 7.27.6.5 NMAC, 9/9/2025]
- OBJECTIVE: These regulations will inform the public and New Mexico emergency medical services providers of the procedures to authorize the use of advance directives in pre-hospital and inter-facility

[7.27.6.6 NMAC - Rp, 7.27.6.6 NMAC, 9/9/2025]

DEFINITIONS: 7.27.6.7

- Definitions beginning with "A": A.
- "Advance directive" means a written instruction, such as a living will, durable power of attorney for health care or emergency medical services do not resuscitate form recognizable under state law and relating to the provision of health care when an individual is incapacitated.
- "Advanced practice nurse" means a registered nurse who has completed the required education and training and received state of New Mexico approval to practice as a certified nurse midwife or advanced practice registered nurse.
- "Authorized health care decision maker" means a person authorized under a durable power of attorney to make health care decisions on behalf of another, a court-appointed guardian or the parent of a minor or any other person authorized by law to make health care decisions for another.
- Definitions beginning with "B": "Bureau" means the emergency medical systems bureau of the office of health emergency management of the epidemiology and response division of the department.
- Definitions beginning with "C": "Capacity" means an individual's ability to understand and appreciate the nature and consequences of proposed health care, including its significant benefits, risks and alternatives to proposed health care and to make and communicate an informed health-care decision.
 - Definitions beginning with "D": D.
- "Designee" means a physician assistant, registered nurse or nurse practitioner, licensed or otherwise authorized to practice, who is designated by a physician to explain an EMS DNR order to a person who may execute the order.
- "Durable power of attorney" means a document executed according to the provisions of Sections 45-5-501 through 45-5-502 NMSA 1978 of the New Mexico Probate Code, which designates an individual to make health care decisions for the person executing the document, or an advance health-care directive executed according to the provisions of Sections 24-7A-1 through 24-7A-18 NMSA 1978 of the New Mexico



STATE REPORT HEALTH Care Decisions Act, which designates an agent or surrogate to make health care decisions for an individual. 2025 AUG 28 PM 12: 37 individual.

Definitions beginning with "E":

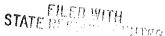
- "Emergency medical services (EMS)" means the services rendered by emergency F. medical technicians or certified emergency medical services first responders in response to an individual's need for immediate medical care to prevent loss of life or aggravation of physical or psychological illness or injury.
- "EMS bracelet" means a bracelet, medallion or some other item of personal wear, approved by the bureau for indicating in a standard, readily-recognizable manner that the person has executed an EMS DNR order.
- "EMS do not resuscitate (DNR) order" means an order issued by a physician, and signed by the person or authorized health care decision maker, on a form approved by the bureau, indicating that resuscitative measures should not be performed.
- "EMS personnel" means persons currently licensed or certified by the bureau to practice as emergency medical technicians (EMTs) or emergency medical services first responders in New Mexico.
 - Definitions beginning with "F": [RESERVED]
 - Definitions beginning with "G": [RESERVED] G.
 - Definitions beginning with "H": [RESERVED] H.
 - Definitions beginning with "I": [RESERVED] I.
 - Definitions beginning with "J": [RESERVED] J.
 - Definitions beginning with "K": [RESERVED] K.
 - Definitions beginning with "L": [RESERVED]
- L. Definitions beginning with "M": "Medical control" means supervision provided by or under M. the direction of physicians to EMS personnel by written protocol or direct communications.
- Definitions beginning with "N": "New Mexico Medical Orders for Scope of Treatment (MOST) form" is a bureau approved advanced healthcare directive/healthcare decision that may be used either in conjunction with or as an alternative to the EMS DNR order; it must be signed by a physician, advanced practice nurse, or physician's assistant and by the patient or patient's healthcare decision maker.
 - Definitions beginning with "O": [RESERVED] O.
 - Definitions beginning with "P":
- P. "Physician" means a doctor of medicine or doctor of osteopathy licensed or otherwise (1)authorized to practice medicine or osteopathic medicine.
- "Physician's Assistant (PA)" means a person who has received the education, training (2) and approval from the State of New Mexico to practice as a PA in New Mexico.
- "Pre-hospital setting" means any setting outside of a hospital where EMS personnel are called for assistance, including but not limited to long term care facilities, private homes or during transport.
 - Definitions beginning with "Q": [RESERVED] Q.
 - Definitions beginning with "R": [RESERVED] R.
 - Definitions beginning with "S": [RESERVED] S.
 - Definitions beginning with "T": [RESERVED] T.
 - Definitions beginning with "U": [RESERVED] U.
 - Definitions beginning with "V": [RESERVED] ٧.
 - Definitions beginning with "W": [RESERVED] W.
 - Definitions beginning with "X": [RESERVED] X.
 - Definitions beginning with "Y": [RESERVED] Y.
 - Definitions beginning with "Z": [RESERVED] 7.

[7.27.6.7 NMAC - Rp, 7.27.6.7 NMAC, 9/9/2025]

EMS DO NOT RESUSCITATE (DNR) ORDER: 7.27.6.8

Execution and duration of an EMS DNR order, including Section A of the MOST form: A.

Any physician, advanced practice nurse, or PA may execute an EMS DNR order on behalf of any person with capacity, with the person's informed consent. The physician, advanced practice nurse, or PA or designee shall explain to the person the full meaning of the order, the available alternatives, how the order may be revoked, and answer any questions the person may have about the order. Both the physician, or the physician's designee upon a verbal order from the physician, and the person for whom the order is executed, shall sign the document, as well as the physician, advanced practice nurse, or PA. A registered nurse may sign the EMS



DNR or MOST if a verbal order for the EMS DNR or MOST has been received from a physician, advanced practice

- nurse, or PA; the name of the physician, advanced practice nurse, or PA must be printed be find the signature.

 (2) If the person for whom an EMS DNR order is contemplated has appointed an agent under a durable power of attorney, and the person for whom the DNR order is contemplated lacks capacity, the physician, advanced practice nurse, or PA or designee may discuss the situation with the person's authorized health care decision maker, if any. The physician, advanced practice nurse, PA, or designee shall explain to the authorized health care decision maker the full meaning of the order, the available alternatives, how the order may be revoked, and answer any questions the authorized health care decision maker may have about the order. If the authorized health care decision maker gives informed consent to the order, the decision maker will sign the EMS DNR or MOST, as will the physician, advanced practice nurse, or PA. A registered nurse may sign the EMS DNR or MOST if a verbal order for the EMS DNR or MOST has been received from a physician, advanced practice nurse, or PA; the name of the physician, advanced practice nurse, or PA must be printed beneath the signature.
- An EMS DNR or MOST order shall remain in effect indefinitely unless revoked or unless an expiration date is specified in the document.
- An EMS DNR or MOST order shall be periodically reviewed by the person for whom the EMS DNR order is executed or by the authorized health care decision maker.
- A person for whom an EMS DNR order is executed may choose to wear an optional EMS bracelet indicating the existence of the order.
 - Revocation of an EMS DNR or MOST order:
- An EMS DNR or MOST order may be revoked at any time orally, by executing a subsequent order, or by performing an act which indicates an attempt to revoke the order, such as by burning, tearing, canceling, obliterating or destroying the order or any part of it, by the person on whose behalf it was executed.
- If an EMS DNR or MOST order is revoked, EMS personnel shall initiate appropriate (2) resuscitation measures.
 - Execution and duration of a durable power of attorney:
 - Any adult with decisional capacity may execute a durable power of attorney. (1)
- A durable power of attorney shall remain in effect indefinitely unless revoked or unless (2)an expiration date is specified in the document.
- Revocation of a durable power of attorney: a durable power of attorney may be revoked at any time by executing a subsequent durable power of attorney or by performing an act which indicates an attempt to revoke the durable power of attorney, such as by burning, tearing, canceling, obliterating or destroying the document, or any part of it, by the person who executed it. It may also be revoked by an oral statement by the person who executed it.

[7.27.6.8 NMAC - Rp, 7.27.6.8 NMAC, 9/9/2025]

EMS PERSONNEL AND PROCEDURES: 7.27.6.9

- Authorization of EMS personnel: EMS personnel shall follow EMS DNR orders, MOST form instructions or durable powers of attorney when encountering persons in pre-hospital settings in accordance with these regulations and local EMS medical protocols.
- EMS procedures for verifying EMS DNR orders: EMS personnel shall comply with the following procedures when encountering a possible EMS DNR order:
- primary assessment perform initial primary assessment, i.e., assess airway, breathing (1)and carotid pulse;
 - verification of identification verify by:
 - using a driver's license or other signed photo identification; (a)
 - identification by a family member; or (b)
 - positive third-party identification by someone who knows the person; (c)
- verification of existence of the appropriately completed MOST form by the steps in (3)Subsection D of this section;
- verification of EMS DNR or MOST order verify the existence of an EMS DNR or MOST order for the person, using the following indicators:
- EMS DNR order only: if a valid EMS DNR order is immediately accessible, (a) proceed to Subsection C of this section;
- intact EMS bracelet: if the person is wearing an EMS bracelet that is fully intact and not defaced, proceed to Subsection C of this section;

- non-intact or defaced EMS bracelet with an EMS DNR order: if the person is (c) wearing an EMS bracelet that is not fully intact or is defaced, but an EMS DNR ordans intime dately accessible, proceed to Subsection C of this section;
- non-intact or defaced EMS bracelet without an EMS DNR order: follow the (d) regular resuscitation protocol and ask family member(s) or others present to locate the EMS DNR order; if the EMS DNR order is located, proceed to Subsection C of this section; if the EMS DNR order is not located, continue the regular resuscitation protocol and contact medical control for consultation;
- no EMS bracelet and no EMS DNR order: if the person is not wearing an EMS bracelet but there are other indications that the person is on DNR status, follow the regular resuscitation protocol and ask family member(s) or others present to locate the EMS DNR order; if the EMS DNR order is located, proceed to Subsection C of this section; if the EMS DNR order is not located, continue the regular resuscitation protocol and contact medical control for consultation;
- if there is any question about the validity of an EMS DNR order or MOST form, or there is any indication of an attempted homicide, initiate resuscitation until such time that the questions have been answered; if possible, contact medical control for consultation.
- EMS procedures for implementing EMS DNR orders or MOST form instructions: if a person has a valid EMS DNR order or MOST form as evidenced by the steps in Subsection B of this section, proceed as follows:
- for all persons: the following procedures may be initiated for the comfort of the person if they have not been refused by the person or by the authorized health care decision maker:
 - administering oxygen by mask or cannula; (a)
 - (b) suctioning;
 - managing airways except intubation and other advanced airway maneuvers; (c)
 - administering analgesics, as authorized by the New Mexico scopes of practice (d)
 - controlling bleeding; (e)
 - other care indicated on MOST form if utilized; **(f)**
 - making patient comfortable; and (g)
 - comforting family. (g)
 - for all persons in cardiac or respiratory arrest: the following procedures shall be (2)

withheld:

- external cardiac compressions; (a)
- artificial ventilations, intubation or other advanced airway maneuvers; (b)
- defibrillation/external cardiac pacing; (c)
- administration of cardiac medications; and (d)
- artificial respiration.
- if there is any question about the validity of an EMS DNR order, or there is evidence of (3)an attempted homicide, initiate resuscitation until such time that the questions have been answered; if possible, contact medical control for consultation.
- EMS procedures for implementing the instructions on the MOST form or other durable powers of D. attorney:
- EMS personnel shall comply with the following procedures when encountering a MOST **(1)** form, a DNR or advance directive form from any other source, or other durable power of attorney:
- primary assessment perform initial primary assessment, i.e., assess airway, (a) breathing and carotid pulse;
- verification of identification verify, using a driver's license or other signed photo identification, by family member's positive identification, or identification by a person who knows the person, that the person is the one who executed the durable power of attorney; verify the identification of the person identified in the durable power of attorney as the authorized health care decision maker; if needed, contact medical control for consultation and then follow that person's instructions as authorized by the MOST form, other DNR form, other advance directive, or durable power of attorney;
- if there is any question about the validity of a MOST form, other DNR form, or other durable power of attorney, initiate resuscitation until such time that the questions have been answered; if possible, contact medical control for consultation.
- Relationship of EMS DNR orders to durable powers of attorney: Where a person has both an EMS DNR order and a MOST form or other durable power of attorney, the most recent document shall prevail for EMS treatment only.



[7.27.6.9 NMAC - Rp, 7.27.6.9 NMAC, 9/9/2025]

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7.27.6.10 ENFORCEABILITY AND PROGRAM ADMINISTRATION:

A. Enforceability of DNR orders and durable powers of attorney from other states: EMS personnel may honor DNR orders and durable powers of attorney that are executed in another state or jurisdiction in compliance with the laws of that state or jurisdiction, or in compliance with the laws of New Mexico, to the extent the document is not inconsistent with the public policy of New Mexico.

B. Program administration: the bureau shall distribute, or arrange for the distribution of, EMS DNR order forms and relevant information to interested citizens and appropriate health care providers. These materials shall include specific guidance on how to obtain additional forms and the EMS bracelet. [7,27.6.10 NMAC - Rp, 7.27.6.10 NMAC, 9/9/2025]

HISTORY OF 7.27.6 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center: DOH Regulation 94-10 (CHSD), Regulations Governing EMS Advance Directives For The State Of New Mexico, filed 12/28/1994.

History of Repealed Material:

DOH Regulation 94-10 (CHSD), Regulations Governing EMS Advance Directives For The State Of New Mexico (filed 12/28/94) repealed 01/1/2006.

7.27.6 NMAC, Emergency Medical Services Advance Directives, (filed 12/16/2005) Repealed effective 9/9/2025.

Other History:

DOH Regulation 94-10 (CHSD), Regulations Governing EMS Advance Directives For The State Of New Mexico (filed 12/28/94) was renumbered, reformatted and replaced by 7.27.6 NMAC, Emergency Medical Services Advance Directives, effective 01/1/2006.

7.27.6 NMAC, Emergency Medical Services Advance Directives, (filed 12/16/2005) Replaced by 7.27.6 NMAC, Emergency Medical Services Advance Directives, effective 9/9/2025.