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

Issuing agency name and address:

Agency DFA code:

Contact person's name:

Phone number:

E-mail address:

Type of rule action:

(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?

Yes ☐ No ☒

Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received?

Yes ☐ No ☐ Public domain ☐

Specific statutory or other authority authorizing rulemaking:

Notice date(s):

Hearing date(s):

Rule adoption date:

Rule effective date:

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

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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.

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 11:52:18
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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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7.27.5; Air Ambulance	7.27.5.13(A)(4)	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
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 12:36 connotation 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.

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7.27.5.15(C)(10)

17. The Department received multiple public comments regarding 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 7.27.6 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.

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

Issuing agency name and address:

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

Agency DFA code:

Contact person's name:

Phone number:

E-mail address:

Type of rule action:

New



Amendment



Repeal



Emergency



Renumber



(ALD Use) Recent filing date:

Title number:

Title name:

Chapter number:

Chapter name:

Part number:

Part name:

Amendment description (If filing an amendment):

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

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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 11:51:44
-06'00'

Date signed:

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

2025 AUG 28 PM 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.
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.

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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 public 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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TITLE 7 HEALTH
CHAPTER 27 EMERGENCY MEDICAL SERVICES
PART 6 EMERGENCY MEDICAL SERVICES ADVANCE DIRECTIVES

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

7.27.6.2 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]

7.27.6.3 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 NMAC - Rp, 7.27.6.3 NMAC, 9/9/2025]

7.27.6.4 DURATION: Permanent.
[7.27.6.4 NMAC - Rp, 7.27.6.4 NMAC, 9/9/2025]

7.27.6.5 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]

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

7.27.6.7 DEFINITIONS:

A. Definitions beginning with "A":

(1) **"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.

(2) **"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.

(3) **"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.

B. 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.

C. 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.

D. Definitions beginning with "D":

(1) **"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.

(2) **"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

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Uniform Health-Care Decisions Act, which designates an agent or surrogate to make health care decisions for an individual.

E. Definitions beginning with "E":

(1) "Emergency medical services (EMS)" means the services rendered by emergency 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.

(2) "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.

(3) "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.

(4) "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.

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

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": [RESERVED]

M. Definitions beginning with "M": "Medical control" means supervision provided by or under the direction of physicians to EMS personnel by written protocol or direct communications.

N. 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.

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

P. Definitions beginning with "P":

(1) "Physician" means a doctor of medicine or doctor of osteopathy licensed or otherwise authorized to practice medicine or osteopathic medicine.

(2) "Physician's Assistant (PA)" means a person who has received the education, training and approval from the State of New Mexico to practice as a PA in New Mexico.

(3) "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.

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

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

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

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

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]

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

7.27.6.8 EMS DO NOT RESUSCITATE (DNR) ORDER:

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

(1) 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 beneath 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.

(3) An EMS DNR or MOST order shall remain in effect indefinitely unless revoked or unless an expiration date is specified in the document.

(4) 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.

(5) A person for whom an EMS DNR order is executed may choose to wear an optional EMS bracelet indicating the existence of the order.

B. Revocation of an EMS DNR or MOST order:

(1) 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.

(2) If an EMS DNR or MOST order is revoked, EMS personnel shall initiate appropriate resuscitation measures.

C. Execution and duration of a durable power of attorney:

(1) Any adult with decisional capacity may execute a durable power of attorney.

(2) A durable power of attorney shall remain in effect indefinitely unless revoked or unless an expiration date is specified in the document.

D. 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]

7.27.6.9 EMS PERSONNEL AND PROCEDURES:

A. 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.

B. EMS procedures for verifying EMS DNR orders: EMS personnel shall comply with the following procedures when encountering a possible EMS DNR order:

(1) primary assessment - perform initial primary assessment, i.e., assess airway, breathing and carotid pulse;

(2) verification of identification - verify by:

(a) using a driver's license or other signed photo identification;

(b) identification by a family member; or

(c) positive third-party identification by someone who knows the person;

(3) verification of existence of the appropriately completed MOST form by the steps in

Subsection D of this section;

(4) verification of EMS DNR or MOST order - verify the existence of an EMS DNR or MOST order for the person, using the following indicators:

(a) EMS DNR order only: if a valid EMS DNR order is immediately accessible, proceed to Subsection C of this section;

(b) 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;

(c) non-intact or defaced EMS bracelet with an EMS DNR order: if the person is wearing an EMS bracelet that is not fully intact or is defaced, but an EMS DNR order is immediately accessible, proceed to Subsection C of this section;

(d) non-intact or defaced EMS bracelet without an EMS DNR order: 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;

(e) 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;

(5) 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.

C. 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:

(1) 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:

- (a) administering oxygen by mask or cannula;
- (b) suctioning;
- (c) managing airways except intubation and other advanced airway maneuvers;
- (d) administering analgesics, as authorized by the New Mexico scopes of practice
- (e) controlling bleeding;
- (f) other care indicated on MOST form if utilized;
- (g) making patient comfortable; and
- (g) comforting family.

(2) for all persons in cardiac or respiratory arrest: the following procedures shall be withheld:

- (a) external cardiac compressions;
- (b) artificial ventilations, intubation or other advanced airway maneuvers;
- (c) defibrillation/external cardiac pacing;
- (d) administration of cardiac medications; and
- (e) artificial respiration.

(3) if there is any question about the validity of an EMS DNR order, or there is evidence of an attempted homicide, initiate resuscitation until such time that the questions have been answered; if possible, contact medical control for consultation.

D. EMS procedures for implementing the instructions on the MOST form or other durable powers of attorney:

(1) EMS personnel shall comply with the following procedures when encountering a MOST form, a DNR or advance directive form from any other source, or other durable power of attorney:

- (a) primary assessment - perform initial primary assessment, i.e., assess airway, breathing and carotid pulse;
- (b) 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;

(2) 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.

E. 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.

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

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.