From: Brandon Johnson
To: Clark, Jacob, DOH
Subject: [EXTERNAL] Public comment on proposed 7.35.3 NMAC, October 2, 2026 hearing
Date: Wednesday, September 23, 2026 7:34:41 PM

To the New Mexico Department of Health:

I am a New Mexico resident in Santa Fe, and I am also a renter. I am writing to comment on proposed rule 7.35.3 NMAC ahead of the October 2, 2026 hearing.

Our community deserves access to this medicine and support.

I ask the department to make the following changes in the final rule.

1. The property-owner statement, 7.35.3.11(B)(9).
Add to paragraph (B)(9) of 7.35.3.11: “This provision shall not apply to end-of-life patients or others seeking in-home care, or to long-term care facility residents.”
The landlord interest that justifies the cannabis provision, smoking on the property, is not present in a supervised psilocybin session administered by a licensed facilitator. Federal illegality alone does not justify it either: New Mexico has already chosen to depart from federal law on this. Giving landlords the power to block care for vulnerable and disabled patients is contrary to that choice, and leaves the department exposed under state protections against discrimination.

2. The certifying clinician, 7.35.3.8 and 7.35.3.9(D).
Remove the certifying clinician design. In its place, regulate around the specific contraindications, medical histories and medications that warrant clinical review. Where a risk factor is identified, require an attestation from a clinician whose scope of practice fits that risk that screening was conducted and benefits outweigh risks.
The design exceeds the Act and misunderstands where the risk is. The most significant risks in psilocybin-assisted therapy are psychological, or medical risks that must be screened on the day of administration, such as intoxication. A one-time “prescriber” gateway misses them. It also creates a clinical encounter whose only purpose is program entry, which insurers will treat as lacking independent medical necessity, inviting claim denials and clawbacks.

3. The patient application, 7.35.3.8.
Strike the patient application process.
It has no legal or policy justification in a supervised-use program. It adds administrative burden for the department, lengthens the wait for care, creates another store of patient data that can be accessed without consent or unlawfully taken, and further stigmatizes patients.

Thank you for considering my comment.

Brandon Johnson
Santa Fe, New Mexico

Sent from my iPhone