From: Catherine Warnock
To: Clark, Jacob, DOH
Subject: [EXTERNAL] Public comment 7.35.3 NMAC hearing Oct 2, 2026
Date: Thursday, September 24, 2026 8:10:59 AM

To the New Mexico Department of Health:

I am a New Mexico resident in Las Cruces, a licensed professional counselor, and an experienced psilocybin-assisted therapy practitioner and educator. I am submitting these comments regarding proposed Rule 7.35.3 NMAC in advance of the October 2, 2026 hearing.

I strongly support the development of a safe and responsible Medical Psilocybin Program in New Mexico. However, safety cannot be considered independently from **access and affordability**. A program can exist on paper and still fail the people it was created to serve if the regulatory structure makes treatment too expensive, complicated, or difficult to access.

I am particularly concerned about the cumulative effect of multiple requirements. Each additional appointment, professional, approval, document, and administrative step adds cost and creates another potential point at which a patient may be unable to proceed.

These burdens will not fall equally on all New Mexicans. They will disproportionately affect people with limited financial resources, rural residents, people without established medical providers, renters, and communities that already experience barriers to conventional healthcare.

I respectfully ask the Department to reconsider the following three provisions before adoption of the final rule.

1. Certifying Clinician, 7.35.3.8 and 7.35.3.9(D)

Recommendation: Replace universal certifying-clinician clearance with risk-based medical review.

I strongly support appropriate medical screening. I do not believe every patient should automatically be required to undergo a separate medical gatekeeping process regardless of their individual risk profile.

Instead, the rules should identify the specific medical histories, contraindications, medications, and other risk factors that require additional clinical review.

When one of those factors is identified during standardized screening, the patient could then be referred to a clinician whose scope of practice is appropriate to that particular concern. That clinician could attest that the relevant risk was evaluated and that the anticipated benefits of treatment outweigh the identified risks.

This would create a **risk-based model rather than a universal medical-clearance model.**

Universal certification creates an additional clinical encounter whose primary purpose is gaining entry into the psilocybin program. For patients without an established clinician, this may mean locating another provider, scheduling another appointment, paying another fee, obtaining an in-person examination, and transferring records before treatment can even begin.

For uninsured and underinsured New Mexicans, those requirements may be prohibitive. For rural New Mexicans, access to an appropriate clinician may itself be difficult. Insurance coverage for an encounter conducted primarily to satisfy a regulatory requirement may also be uncertain, potentially shifting the cost directly to the patient.

The requirement may also create a bottleneck by making every patient dependent upon a limited pool of certifying clinicians.

New Mexico has repeatedly expressed an interest in creating a program that is more accessible and affordable. We should be cautious about building a highly medicalized gateway that increases cost and delay when medical consultation could instead be targeted to the patients who actually need it.

A risk-based approach does not reduce safety. **It directs medical resources toward the risks that actually require medical expertise.**

2. Patient Application Process, 7.35.3.8

Recommendation: Eliminate the individual patient application and state approval process.

I also ask the Department to reconsider why individual patients must apply to the state for permission to participate in a supervised medical psilocybin program.

The proposed process adds another administrative layer between a qualified patient and treatment. It requires patients to submit sensitive information to the state and then wait for Department approval before proceeding.

This creates several concerns.

First, it delays care. Under the proposed rule, the Department may take up to **30 calendar days** to act on a completed patient application. NMAC-7.35.3-NewRule

Second, it increases administrative burden for both patients and the Department. Resources devoted to processing individual patient applications could instead be directed toward provider oversight, program quality, safety monitoring, and enforcement.

Third, it creates an additional repository of sensitive patient information. Every unnecessary collection of health information creates another privacy and data-security exposure.

Finally, requiring patients to register with the government before receiving treatment may reinforce stigma around both psychedelic treatment and the conditions for which patients are seeking care.

If eligibility can be appropriately established and documented by regulated professionals, it is

unclear what additional patient-safety function is achieved by requiring separate state approval of every individual patient.

3. Property-Owner Statement, 7.35.3.11(B)(9)

Recommendation: Delete Paragraph 7.35.3.11(B)(9).

Requiring written acknowledgment from a property owner creates a significant and unnecessary barrier to receiving treatment at a patient's residence.

The landlord interest that may justify similar requirements in cannabis programs, particularly smoking or cultivation on rental property, is not present in a supervised psilocybin administration session. Psilocybin is administered to a patient under regulated conditions. The property itself is not being used to manufacture, cultivate, or store a controlled substance on an ongoing basis.

From the property owner's perspective, there may be little incentive to sign such an acknowledgment and considerable perceived reason not to. A landlord who does not understand psilocybin treatment, is concerned about liability, or simply does not want involvement can refuse to sign.

The result is that **home-based treatment becomes available to homeowners but potentially unavailable to renters.**

That creates an inequitable distinction based not on patient safety, medical risk, or practitioner competency, but on property ownership.

This could particularly affect lower-income patients, people with disabilities, rural residents, older adults, and others for whom receiving treatment at home may be the most accessible option.

If the Department believes that property-owner interests require protection, I encourage it to consider a less restrictive alternative that does not give a third party effective veto authority over a patient's healthcare.

The Larger Concern: Affordability and Access Must Be Built Into the Program

These three provisions illustrate a larger concern.

When regulatory requirements are considered individually, each may appear reasonable. The problem becomes clearer when they are considered **cumulatively**.

A patient may need a recent medical examination, a certifying clinician, state enrollment and approval, an approved treatment location, and multiple professionals before receiving treatment. Each requirement adds another cost, delay, and potential barrier.

Those burdens will disproportionately affect the New Mexicans who already have the greatest difficulty accessing healthcare.

An Equity and Access Fund is valuable, but **equity should be built into the regulatory structure itself**. Subsidizing an unnecessarily expensive system is not the same as designing an affordable one.

New Mexico has an opportunity to create a program that protects patients without creating unnecessary barriers to the treatment the program was established to provide.

I encourage the Department to evaluate each proposed requirement by asking:

What specific risk does this requirement address? Is it necessary for every patient? Is there a less burdensome way to achieve the same safety objective? And what will this requirement ultimately cost the patient?

Safety, affordability, and accessibility are not competing goals. A thoughtful regulatory framework can accomplish all three.

I respectfully ask the Department to adopt a risk-based approach that protects patients while removing requirements that do not meaningfully improve safety. Doing so will help ensure that New Mexico's Medical Psilocybin Program is not merely available, but **actually accessible to the New Mexicans it was created to serve.**

Thank you for considering my comments and for the work being done to develop this program.

-Catherine

Catherine Warnock, MA, LPCC, NCC (she/her)
Mariposa Counseling Center
www.mariposacounselingcenter.com
www.catherinewarnock.com
125 W. Griggs Ave, Las Cruces NM 88001
575-201-3334 phone/text
575-205-8004 fax