From: Danielle Leonard
To: Clark, Jacob, DOH
Subject: [EXTERNAL] Public comment on proposed rule 7.35.3 NMAC – Danielle Leonard, LMHC
Date: Friday, September 25, 2026 9:35:14 AM

To the New Mexico Department of Health
Re: Public comment on proposed rule 7.35.3 NMAC, hearing of October 2, 2026

I am a New Mexico resident commenting on the certifying clinician provisions in 7.35.3.8 and 7.35.3.9(D). As a licensed mental health clinician, I urge the department to place entry decisions with the clinicians best trained to diagnose mental health conditions, rather than defaulting to prescribers.

The rule confuses prescribing authority with diagnostic competency. The proposed rule requires every patient to see a DOH-permitted clinician with a controlled-substance registration before entering the program. This design comes from the medical cannabis statute, which required it. The Medical Psilocybin Act does not. It requires only a qualifying condition confirmed by a New Mexico licensed provider with authority to diagnose and treat it. The programs are also different in kind. Medical cannabis serves a broad range of medical conditions, while psilocybin therapy is a mental health intervention for specific conditions such as treatment-resistant depression, PTSD, and substance use disorders.

The certifying judgment should rest with clinicians trained to assess those conditions. A DEA number shows that a clinician can prescribe. It says nothing about training in diagnosing treatment-resistant depression, PTSD, or alcohol use disorder. Many of the clinicians best trained in diagnosis, including psychologists and psychotherapists from APA- and MPCAC-accredited programs, do not prescribe, yet their training covers psychopathology, differential diagnosis, structured assessment, neuroscience, and psychopharmacology. Research shows diagnostic reliability depends heavily on this kind of training (Osório et al., 2019; Nordgaard et al., 2012; Kvig et al., 2023).

Entry decisions call for clinical judgment. Whether a person has a qualifying condition, and whether they are ready to begin, are separate questions that depend on their full clinical picture. For instance, someone with co-occurring symptoms may still be a good candidate, while someone with a clear qualifying condition may not yet be ready. These judgments belong with the clinician who has assessed the person and can decide when they are ready and how much preparation would help. A one-time visit with a prescriber who may have no ongoing relationship with the client, and whose mental health training may have been limited to a brief rotation during medical school, adds a step without adding that judgment.

An extra gateway adds burden without adding safety. Requiring an additional in-person visit with a separately permitted prescriber adds cost, delay, and travel, especially in rural parts of the state where such clinicians are already scarce, without adding a meaningful safeguard. In fact, a diagnosis from a clinician without specialized training in mental health is less reliable, and therefore less safe, than one from a clinician who has that training.

I ask the department to:

1. Remove the certifying clinician requirement and follow the Act, allowing any licensed New Mexico provider with authority to diagnose and treat a qualifying condition to confirm it.
2. Recognize that the diagnosing clinician's judgment governs whether a qualifying condition is present, when a client is ready, and how much preparation is beneficial.
3. Allow that clinician to consult with an appropriate medical provider when medical or medication questions fall outside their scope, as mental health clinicians are trained to do and routinely do for clients on medication.

Thank you for considering my comment.

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