From: Deru You
To: Clark, Jacob, DOH
Subject: [EXTERNAL] Public comment on proposed 7.35.3 NMAC, October 2, 2026 hearing
Date: Friday, September 25, 2026 10:00:05 AM

To the New Mexico Department of Health:

I am a New Mexico resident in Silver city. I am writing to comment on proposed rule 7.35.3 NMAC ahead of the October 2, 2026 hearing.

I know that for certain severe mental health conditions, psilocybin can provide relief when all other avenues have failed. Especially for those at risk of suicide, this can literally be life-saving. It is extremely important that people who need it are able to access this medicine and get the help they need.

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

1. The property-owner statement, 7.35.3.11(B)(9).
Delete paragraph (B)(9) of 7.35.3.11.
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. A signed acknowledgment gives an owner nothing to gain and something to lose, so many will decline to sign, and care at home for anyone who does not own their home will end before they are able to receive treatment.

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.

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Silver city, New Mexico