STATE OF NEW MEXICO
BEFORE THE SECRETARY OF HEALTH

IN THE MATTER OF PROPOSED ADOPTION OF 7.35.3 NMAC AND AMENDMENTS TO 7.35.2, SECTIONS 7, 10, AND 24

STATEMENT OF REASONS FOR ADOPTION OF RULE 7.35.3 NMAC AND AMENDMENTS TO 7.35.2, SECTIONS 7, 10, AND 24

The Cabinet Secretary for the New Mexico Department of Health, Gina DeBlassie ("Secretary"), adopts the proposed rule 7.35.3 NMAC and proposed amendments to 7.35.2 NMAC at sections 7, 10, and 24, as revised, for the reasons stated below. This decision is based on the rulemaking record in this matter, which includes Exhibits 1 through 9, the recording of the hearing, and the Report and Recommendation of the Hearing Officer, Craig T. Erickson, dated November 13, 2026.

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 Medical Psilocybin Act at NMSA 1978, § 26-2D-7, the Medical Use of Psilocybin Program was established within the Department, and the Department is responsible for establishing appropriate qualifying conditions for qualified patients; necessary initial and ongoing training for producers and clinicians; treatment protocols, including patient selection criteria, medical service standards, dosage standards and approved settings for administration of psilocybin to patients; safety protocols for

transporting, storing and handling psilocybin and treating patients; other best practices for producers and clinicians; requirements for data collection to evaluate the program and the use of best practices by producers and clinicians; and other requirements, restrictions and limitations to ensure an efficacious program.

3. By letter dated August 24, 2026, the Cabinet Secretary designated Mr. Erickson to serve as hearing officer for the purpose of conducting the hearing and submitting a written recommendation regarding adoption of the proposed rule and rule amendments. Exhibit 6.

4. The purpose of the proposed adoption of the rule is to implement the Medical Psilocybin Act, NMSA 1978, Section 26-2D-1 through -11.

5. Notice of the October 2, 2026 hearing concerning the proposed rule and rule amendments 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, and included publication in the Albuquerque Journal newspaper on August 25, 2026, and publication in the New Mexico Register on August 25, 2026. *See* Exhibit 4 (Affidavit of Publication in the Albuquerque Journal); Exhibit 5 (Affidavit of Publication in the NM Register).

6. The proposed rule was posted on the New Mexico Sunshine Portal website at statenm.my.salesforce-sites.com/public/SSP_RuleHearingSearchPublic in accordance with NMSA 1978, § 14-4-5.4(A). *See* Exhibit 7 (Affidavit of Notice to the Public).

7. 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 7 (Affidavit of Notice to the Public).

8. A public rule hearing was held in-person and via the Internet-based video conference platform Microsoft Teams on October 2, 2026 in accordance with NMSA 1978, Section 9-7-6(E).

9. 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.

10. 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 8. In response to written public comments received prior to the rule hearing, the Department announced certain proposed revisions to the rules at the rule hearing.

11. The Department also proposed making several additional revisions after the rule hearing in response to public comments. Those revisions are discussed in the letter to the Hearing Officer dated November 9, 2026, which is contained at Exhibit 9. That letter also explains why the agency did not propose adopting various substantive revisions recommended by members of the public. The Secretary adopts the reasoning of the agency's November 9, 2026 letter to the Hearing Officer and, by this reference, incorporates it as though fully set forth herein.

12. 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 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.

13. The Secretary finds that the Hearing Officer has appropriately considered the proposed rule, rule amendments, 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 reasoning and recommendations, and incorporates the Hearing Officer's Report by this reference.

14. 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.

15. 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.

16. The Secretary has familiarized herself with the rulemaking record, and finds that the proposed rule and proposed rule amendments are appropriate and consistent with authorizing law; and the Secretary adopts the proposed new rule 7.35.3 NMAC ("Patients, Pracittioners, Facilitators, Healing Centers, Other Approved Locations, and Educational Programs") as revised in response to public comments, and the amendments to 7.35.2 NMAC, Section 7 ("Definitions"), Section 10 ("General Producer Requirements"), and Section 24 ("Requirements for the Transportation of Psilocybin") as revised in response to public comments.

NEW MEXICO DEPARTMENT OF HEALTH

Gina DeBlassie
Cabinet Secretary

11/19/2026
Date