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Subject: [EXTERNAL] Public comment on proposed rule 7.35.3 NMAC, hearing of October 2, 2026
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Dear Jacob,

I am a New Mexico resident submitting public comment on the proposed rules for the Medical Psilocybin Act. I am a Licensed Clinical Social Worker in New Mexico and Colorado, a Licensed Natural Medicine Clinical Facilitator in Colorado, and the founder of the Psychedelic Studies Certificate Program at Southwestern College School of Counseling in Santa Fe.

My comments are informed by my experience as a mental health clinician and by my direct experience working within Colorado's regulated natural medicine program. I respectfully request that the Department consider the following changes to the proposed rules.

1. Certifying Clinician — 7.35.3.8 and 7.35.3.9(D)

I recommend revising these provisions so that, for qualifying mental health conditions, certification may be provided by a licensed mental health professional whose scope of practice includes diagnosis and assessment of those conditions, rather than requiring certification by a medical prescriber.

There are several reasons for this recommendation:

First, the proposed requirement may create an unnecessary barrier to patient access.

Requiring a patient who already has an established mental health provider to locate a separate medical prescriber willing to conduct a certification evaluation adds another step, additional expense, and potentially significant delays in accessing the program.

Second, medical prescribers may be reluctant to assume this role. Medical prescribers with whom I have spoken have expressed concern about assuming responsibility for certifying a patient following what may be a single diagnostic encounter, particularly when they are not providing the patient's ongoing mental health treatment. Several have indicated that they would be unlikely to participate in the program for this reason. If this experience is widespread, the requirement could substantially limit the number of clinicians willing to provide certifications.

Third, licensed mental health professionals already diagnose and assess mental health conditions within their professional scopes of practice. Licensed mental health clinicians complete graduate-level education, supervised clinical practice, licensure examinations, continuing education, and ongoing professional regulation. Their clinical work routinely includes assessment, diagnosis, differential diagnosis, risk assessment, and treatment of mental health

conditions.

For qualifying psychiatric conditions, these clinicians are therefore well positioned to determine whether a patient meets the diagnostic criteria required by the Medical Psilocybin Act.

It is also important, however, to distinguish **eligibility for the program from clinical readiness and safety for a psilocybin administration session**. A determination that a patient has a qualifying diagnosis should not itself be interpreted as a determination that psilocybin administration is safe or clinically appropriate for that individual at that particular time.

A patient may meet criteria for a qualifying condition while also having co-occurring psychiatric conditions, current symptoms, medications, psychosocial instability, or other factors that require additional assessment before proceeding. Some of these concerns may not be apparent during a single certification visit.

For this reason, I recommend that the rules clearly distinguish between:

1. certification that the patient meets the statutory criteria for participation in the Medical Psilocybin Program; and
2. the subsequent assessment of whether that individual can safely and appropriately participate in a psilocybin administration session.

Without this distinction, patients may understandably interpret certification as a clinical “green light” to proceed. Facilitators may likewise place inappropriate reliance on the certification when making their own safety determinations.

In Colorado, my responsibilities as a Licensed Natural Medicine Clinical Facilitator include assessing whether consultation with other members of a client's health care team is necessary before proceeding. When medical or pharmacological issues fall outside my professional scope, I seek appropriate consultation. In my own practice, I also consult with a PhD-level pharmacologist when medication interactions, contraindications, or other pharmacological concerns require specialized expertise.

I recommend that New Mexico adopt a similarly interdisciplinary approach: when a patient's medical needs fall outside the scope of the evaluating mental health professional or facilitator, consultation with an appropriately qualified medical professional should be required or obtained as clinically indicated.

Finally, I recommend that the Department establish clear screening and safety standards addressing conditions and histories associated with increased risk during psilocybin administration, including bipolar-spectrum conditions, histories of psychosis, and other clinically significant risk factors. Rather than treating every such factor as an automatic exclusion, the rules should clearly identify conditions requiring exclusion, additional evaluation, medical or psychiatric consultation, or heightened clinical consideration.

2. Patient Application — 7.35.3.8

I recommend eliminating the separate patient application process and instead allowing patient enrollment to occur through the certification process.

The certifying clinician could submit the minimum information necessary to establish program eligibility, while maintaining the patient's underlying clinical records in accordance with applicable professional recordkeeping and privacy requirements.

This approach would have several advantages.

It would reduce the administrative burden on patients, particularly patients who are seriously ill, disabled, experiencing significant psychiatric symptoms, or receiving end-of-life care. It would also reduce the administrative infrastructure required of the Department.

More importantly, the Department should consider the principle of **data minimization** when determining what patient information it needs to collect and retain. Psilocybin treatment may involve highly sensitive medical and mental health information. Every additional repository containing identifiable patient information creates an additional privacy and data-security exposure.

I therefore recommend that the Department collect and retain only the minimum patient information necessary to administer the Medical Psilocybin Program, while leaving detailed clinical records with the licensed professionals responsible for maintaining them.

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

I recommend deleting paragraph (B)(9) of 7.35.3.11 or, alternatively, adding the following exemption:

“This provision shall not apply to end-of-life patients or other patients receiving in-home care, or to residents of long-term care facilities.”

The proposed property-owner requirement creates a particularly significant access issue for patients receiving end-of-life care.

A person with a life-threatening illness may wish to receive psilocybin services in their own home because illness, disability, pain, fatigue, mobility limitations, or the nature of end-of-life care makes travel to another location difficult or inappropriate. A patient who rents their home should not face an additional barrier to receiving otherwise lawful health care solely because they do not own the property in which they live.

We do not ordinarily expect a landlord to make clinical decisions regarding whether a tenant may receive hospice, psychotherapy, physical therapy, nursing, or other lawful health services in the tenant's home. Requiring property-owner authorization for psilocybin services could create a substantially different standard for patients participating in this program.

At minimum, the Department should create an exemption for end-of-life patients, patients

receiving medically necessary in-home care, and residents of long-term care settings.

4. Education Requirements — Touch and Consent

The proposed educational requirements include “Touch and Somatic Awareness.” I recommend that this language explicitly include **touch consent**, for example:

“Touch, Somatic Awareness, and Touch Consent.”

Consent surrounding touch deserves explicit treatment in facilitator education rather than being presumed to fall within general instruction regarding somatic awareness.

Psilocybin can place patients in unusually vulnerable psychological and interpersonal states. Facilitators therefore need specific training regarding obtaining consent for touch, maintaining boundaries, recognizing withdrawal or changes in consent, and understanding that consent given before a session does not eliminate the need to attend to consent during the session.

5. Permissible Touch Between Facilitator and Patient

I also recommend that the Department establish explicit standards defining permissible and prohibited touch between a facilitator and patient during psilocybin services.

Colorado and Oregon have established regulatory boundaries concerning facilitator-client touch. New Mexico should likewise provide facilitators and patients with clear standards rather than leaving the boundaries of permissible touch ambiguous.

The rules should identify the areas of the body where supportive touch may be permitted, establish that such touch requires the patient's prior consent, clarify that consent may be withdrawn at any time, and explicitly prohibit sexualized or otherwise inappropriate touch.

Clear regulatory boundaries protect both patients and facilitators. They are particularly important in psychedelic care because patients may experience increased suggestibility, emotional openness, altered perception, and vulnerability during administration.

For these reasons, I respectfully ask the Department to incorporate explicit **touch-consent education** into facilitator training requirements and to establish clear standards governing permissible touch during psilocybin services.

Conclusion

I support the development of a Medical Psilocybin Program that is clinically responsible, accessible, trauma-informed, and protective of patients. My recommendations are intended to reduce unnecessary barriers to care while strengthening clinical assessment, informed consent, professional accountability, privacy, and patient safety.

Thank you for considering these comments as the Department finalizes the regulations implementing New Mexico's Medical Psilocybin Act.

Respectfully,

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