

**New Mexico Department of Health**  
**Proposed Adoption of Amendments to Rule 7.30.13 –**  
**“Crisis Triage Centers”**  
Hearing Date: December 14 , 2023

**LIST OF EXHIBITS**

<b>1.</b>	Proposed Rule Amendments 7.30.13 NMAC – “Crisis Triage Centers”
<b>2.</b>	Notice of Public Hearing
<b>3.</b>	Affidavit of Publication in the Albuquerque Journal
<b>4.</b>	Affidavit of Publication in the New Mexico Register
<b>5.</b>	Affidavit of Notice to the Public
<b>6.</b>	Letter Appointing Hearing Officer
<b>7.</b>	Written Public Comments

This is an amendment to 7.30.13 NMAC, Sections 7, 9 & 29 effective 01/16/2024.

**7.30.13.7 DEFINITIONS:**

**A. Definitions beginning with “A”:**

(1) **“Administrator”** means the person who is delegated the administrative responsibility for interpreting, implementing, and applying policies and procedures at the crisis triage center. The administrator is responsible for establishing and maintaining safe and effective management, control and operation of the CTC and all of the services provided at the CTC including fiscal management. The administrator must meet the minimum administrator qualifications in these regulations.

(2) **“Advanced practice registered nurse”** means a registered nurse that includes a certified nurse practitioner, or a clinical nurse specialist as defined and licensed under the Nursing Practice Act, as amended, and related regulations, and is currently in good standing.

(3) **“Applicant”** means the individual or legal entity that applies for a CTC license to provide services in a particular facility. If the applicant is a legal entity, the individual signing the license application on behalf of the legal entity must have written legal authority from the legal entity to act on its behalf and execute the application. The license applicant must be the legal owner of the entity providing services, but not necessarily the facility.

**B. Definitions beginning with “B”:** **“Basic life support” (BLS)** means training and current certification in adult cardiopulmonary resuscitation equivalent to American heart association class C basic life support and in emergency treatment of a victim of cardiac or respiratory arrest through cardiopulmonary resuscitation and emergency cardiac care.

**C. Definitions beginning with “C”:**

(1) **“Caregivers criminal history screen”** means pursuant to the criminal history screening for Caregivers Act, Section 29-17-1 through Section 29-17-5 NMSA 1978, the process for health facilities and medicaid home and community-based waiver providers to complete a caregiver criminal history screening for all caregivers no later than 20 calendar days after the employment hire date. The screening or background check includes the submission of fingerprints required for obtaining state and federal criminal history used to conduct the fitness determination. The caregiver’s criminal history screening program receives and processes background check applications for criminal history screenings from care providers in the state of New Mexico. Caregivers may be prohibited from employment if the caregiver has a disqualifying condition.

(2) **“Chemical restraint”** means a drug or medication when it is used as a restriction to manage a client’s behavior or restrict a client’s freedom of movement and is not a standard treatment or dosage for a client’s condition. If a drug or medication is used as a standard treatment to address the assessed current symptoms and needs of a client with a particular medical or psychiatric condition, its use is not considered a chemical restraint.

(3) **“CLIA”** means clinical laboratory improvement amendments of 1988 as amended.

(4) **“Client”** means any person who receives care at a crisis triage center.

(5) **“Compliance”** means the CTC’s adherence to these regulations, as well as all other applicable state and federal statutes and regulations. Compliance violations may result in sanctions, civil monetary penalties and revocation or suspension of the CTC license.

(6) **“Crisis stabilization services”** means behavioral health services that are provided to help the client return his baseline level of functioning before the crisis.

(7) **“Crisis Triage Center”** means a health facility that:

(a) is licensed by the department of health; and

(b) provides stabilization of behavioral health crises and may include residential and nonresidential stabilization.

(8) **“CYFD”** means the New Mexico children youth and families department.

(9) **“CYFD criminal records and background checks”** means pursuant to the Criminal Offender Employment Act, Section 28-2-1 to Section 28-2-6 NMSA 1978, the New Mexico Children’s and Juvenile Facility Criminal Records Screening Act, Section 32A-15-1 to Section 32A-15-4 NMSA 1978, amended, and 8.8.3 NMAC, the process of conducting a nationwide criminal history records check, background check and employment history verification on all operators, staff and employees and prospective operators, staff and employees of treatment facilities and programs with the objective of protecting children/youth and promoting the children’s/youth’s safety and welfare while receiving service from the facilities and programs. The process shall include submission of electronic fingerprints for those individuals to the department of public safety and the federal bureau of investigation for the purpose of conducting a criminal history and background check; identification of information in applicants’ background bearing on whether they are eligible to provide services; a screening of CYFD’s information databases

in New Mexico and in each state where the applicant resided during the preceding five years; and any other reasonably reliable information about an applicant in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply.

**D. Definitions beginning with “D”:**

(1) **“Deficiency”** means a violation of or failure to comply with any provision(s) of these regulations.

(2) **“Department”** means the New Mexico department of health.

**E. Definitions beginning with “E”:** **“Employee”** means any person who works at the CTC and is a direct hire of the owner entity or management company, if applicable.

**F. Definitions beginning with “F”:** **“Facility”** means the physical premises, building(s) and equipment where the crisis triage center services are provided, whether owned or leased and which is licensed pursuant to these regulations.

**G. Definitions beginning with “G”:** [RESERVED]

**H. Definitions beginning with “H”:**

(1) **“High risk behavior”** means behaviors that place clients, staff or visitors’ physical and mental health and safety at risk.

(2) **“HSD”** means the New Mexico human services department.

**I. Definitions beginning with “I”:**

(1) **“Incident”** means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

(2) **“Incident management system”** means the written policies and procedures adopted or developed by the CTC for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

(3) **“Incident report form”** means the reporting format issued by the department for the reporting of incidents or complaints.

**J. Definitions beginning with “J”:** [RESERVED]

**K. Definitions beginning with “K”:** [RESERVED]

**L. Definitions beginning with “L”:**

(1) **“Level III.7-D: Medically Monitored Inpatient Detoxification”** means the types of detoxification services described by American Society of Addiction Medicine (ASAM) in its *Patient Placement Criteria, Second Edition, Revised* (PPC-2R) Level III &-D includes 24-hour medically supervised detoxification services requiring 24-hour nursing care and physician visits as necessary, unlikely to complete detox, without medical, nursing monitoring and more intensive detoxification services.

(2) **“Licensee”** means the person(s) or legal entity that operates the CTC and in whose name the CTC license has been issued and who is legally responsible for compliance with these regulations.

(3) **“Licensing authority”** means the New Mexico department of health.

(4) **“Licensed mental health professional”** means a psychologist, social worker, physician, psychiatrist, physician assistant, registered nurse, practical nurse, advanced practice registered nurse, each shall have behavioral health training and shall be licensed in the state of New Mexico.

**M. Definitions beginning with “M”:** **“Management company”** means the legal entity that manages the CTC program, if different from the legal owner of the facility.

**N. Definitions beginning with “N”:**

(1) **“NFPA”** means the national fire protection association which sets codes and standards for fire and life safety. NFPA 101 and related standards, current edition as required by the department.

(2) **“NMSA”** means the New Mexico Statutes Annotated 1978 compilation and all subsequent amendments, revisions and compilations.

**O. Definitions beginning with “O”:**

(1) **“Onsite medical professional”** means in this regulation a registered nurse, emergency medical service provider, emergency medical technician, licensed practical nurse, medical assistant, mental health technician, and certified nurse assistant.

(2) **“Outpatient services”** means immediate crisis stabilization services provided to clients who are not admitted to the residential setting. Outpatient crisis stabilization services are not ongoing behavioral health treatment services.

**P. Definitions beginning with “P”:**

(1) **“Physical restraint”** means the use of physical force, consistent with State and Federal laws and regulations, without the use of any device or material that restricts the free movement of all or a portion of

a body, but does not include: briefly holding a client in order to calm or comfort the client; holding a client's hand or arm to escort the client safely from one area to another; or intervening in a physical fight.

(2) **“Physician”** means a licensed individual, currently in good standing, authorized to practice medicine as defined and licensed under the New Mexico Medical Practice Act, Section 61-6-1 to Section 61-6-34 NMSA 1978, as amended, and related regulations or osteopathic medicine as defined and licensed under Section 61-10-1 to Section 61-10-22 NMSA 1978, as amended, and related regulations.

(3) **“Physician's assistant”** means an individual, currently in good standing, who is licensed and authorized to provide services to patients under the supervision and direction of a licensed physician under the Physician Assistant Act, Section 61-6-7 to Section 61-6-10 NMSA 1978, as amended and related regulations, or is authorized and licensed to provide services to patients under the supervision and direction of a licensed osteopathic physician under the Osteopathic Physicians' Assistants Act, Section 61-10A-1 to Section 61-10-7 NMSA 1978 as amended, and related regulations.

(4) **“Plan of correction”** (POC) means the plan submitted by the licensee or its representative(s) addressing how and when deficiencies identified through a survey or investigation will be corrected. A plan of correction is a public record once it has been approved by the regulatory authority and is admissible for all purposes in any adjudicatory hearing and all subsequent appeals relating to a CTC license, including to prove licensee compliance violations or failures.

(5) **“Policy”** means a written statement that guides and determines present and future CTC decisions and actions.

(6) **“Premises”** means all of the CTC including buildings, grounds and equipment.

(7) **“Primary source verification”** means the act of obtaining credentials directly from the original or primary source(s).

(8) **“Procedure”** means the action(s) that must be taken in order to implement a written policy.

**Q. Definitions beginning with “Q”:**

(1) **“Quality assurance”** means the CTC’s on-going comprehensive self-assessment of compliance with these regulations and other applicable statutes and regulations.

(2) **“Quality committee”** means a committee comprised at a minimum of the administrator, clinical director, director of nursing, licensed mental health professional, and psychiatrist. Other committee members may be specified by rules governing payor requirements. The committee shall establish and implement quality assurance and quality improvement systems that monitor and promote quality care to clients.

(3) **“Quality improvement system”** means systematic and continuous actions that lead to measurable improvement in services and focus on reduction and stabilization of crises for clients.

**R. Definitions beginning with “R”:**

(1) **“Registered nurse”** means an individual, currently in good standing, who is licensed and authorized to provide nursing services under the Nursing Practice Act, Section 61-3-1 to Section 61-3-30 NMSA 1978, as amended, and related regulations.

(2) **“Residential services”** means any crisis stabilization services provided to a client admitted to the residential setting.

(3) **“Restraint clinician”** means a New Mexico licensed medical doctor, doctor of osteopathy, advanced practice registered nurse, clinical nurse specialist, physician assistant or doctoral level psychologist (Psy.D., Ph.D., or E.D.), who is trained in the use of emergency safety interventions.

**S. Definitions beginning with “S”:**

(1) **“Sanitize clothes”** means the use of water at a temperature of 212 degrees or use of a disinfectant agent to wash clothes.

(2) **“Scope of practice”** means the procedures, actions, and processes that a healthcare practitioner is permitted to undertake under the terms of their professional license. The scope of practice is limited to that which the applicable law allows for specific education, training, experience and demonstrated competency.

(3) **“Seclusion”** means the involuntary confinement of a client alone in a room where the client is physically prevented from leaving.

(4) **“Short-term residential stay”** means the limit of a client’s stay is eight days for the residential setting.

(5) **“Staff”** means any person who works at the CTC, and includes employees, contracted persons, independent contractors and volunteers who perform work or provide goods and services at the CTC.

**T. Definitions beginning with “T”: [RESERVED]**

**U. Definitions beginning with “U”:** “U/L approved” means approved for safety by the national underwriter’s laboratory.

**V. Definitions beginning with “V”:**

(1) “Variance” means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a period that expires upon remodel of the CTC or change of ownership, providing the variance does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A variance can be renewed upon approval of the licensing authority. A variance may be revoked at the discretion of the licensing authority due to changes in state or federal regulations and statutes, or change of circumstances that may jeopardize the health, safety or welfare of clients.

(2) “Violation” means all actions or procedures by the CTC or licensee that are not in compliance with these regulations and all other applicable state and federal statutes and regulations.

**W. Definitions beginning with “W”:**

(1) “Waiver” means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a limited and specified time period not to exceed the duration of the license, providing the waiver does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A waiver can be renewed on an annual basis upon approval of the licensing authority. A waiver may be revoked at the discretion of the licensing authority due to changes in state or federal regulations, or change of circumstances that may jeopardize the health, safety or welfare of clients.

(2) “Withdrawal management” means the immediate psychological stabilization, diagnosis and treatment of a client who is intoxicated, incapacitated, or experiencing withdrawal of alcohol or drugs.

**X. Definitions beginning with “X”:** [RESERVED]

**Y. Definitions beginning with “Y”:**

(1) “Youth” means residents 14 years of age and older up to age 18.

(2) “Youth Staff” means a person who has contact with youth in a licensed facility and includes the owner, operator or director of a program, volunteers, full-time, part-time, and contract employees.

**Z. Definitions beginning with “Z”:** [RESERVED]

[7.30.13.7 NMAC - N, 10/30/2018; A, 01/16/2024]

### **7.30.13.9 SCOPE OF SERVICES:**

**A. General scope of services:** These regulations apply to crisis triage centers (CTC) which are health facilities offering youth and adult outpatient and residential care services. A CTC provides stabilization of behavioral health crises as outpatient stabilization or short-term residential stabilization in a residential rather than institutional setting, which may provide an alternative to hospitalization or incarceration. The CTC services may vary in array of services offered to meet the specific needs of different communities in New Mexico. A CTC may provide limited detoxification services but is differentiated from a detoxification center in that it does treat individuals who require treatment beyond Level III.7-D: Medically Monitored Inpatient Detoxification. The CTC provides emergency behavioral health triage and evaluation [and on a voluntary basis]. The CTC may serve individuals 14 years of age or older who meet admission criteria. The CTC shall offer services to manage individuals at high risk of suicide or intentional self-harm. The CTC shall not refuse service to any individual who meets criteria for services.

**B. Type of services:**

(1) a CTC structured for less than 24-hour stays providing only outpatient withdrawal management or other stabilization services;

(2) a CTC providing outpatient and residential crisis stabilization services; and

(3) a CTC providing residential crisis stabilization services.

**C. Limitations on scope of services:**

(1) the CTC may accept voluntary admissions, individuals who are voluntarily seeking treatment, involuntary admissions and individuals who are not voluntarily seeking treatment [shall not accept involuntary commitments or individuals who are not voluntarily seeking treatment];

(2) the CTC shall not provide detoxification services beyond Level III.7-D: Medically Monitored Inpatient Detoxification services;

(3) the CTC shall not provide medical care not related to crisis triage intervention services beyond basic medical care of first aid and CPR;

(4) the CTC shall not provide residential services in excess of 14 calendar days, unless an involuntary admission is accepted and the CTC shall comply with all hearing and treatment provisions of Section 43-1-1 et.al NMSA;

(5) the CTC shall not provide ongoing outpatient behavioral health treatment;

(6) the CTC shall not exceed the capacity for which the CTC is licensed;

(7) a CTC with both adult and youth occupants must locate youth rooms and restrooms in a unit or wing that is physically separated from the adult facilities;

(8) A CTC shall not administer emergency psychotropic medications as described in Subsection M of 43-1-15 NMSA 1978 if admitting only voluntary admissions. Any use of emergency psychotropic medications for involuntary admissions shall only be done in accordance with subsection M of Section 43-1-15 NMSA 1978.

**D. License required:**

(1) a CTC shall not be operated without a license issued by the department;

(2) any facility providing the services described in these regulations on the effective date of these regulations, shall apply for a CTC license within 180 days;

(3) a CTC licensed under these regulations shall not assert, represent, offer, provide or imply that the CTC is or may render care or services other than the services it is permitted to render under these regulations and within the scope of all applicable professional license(s);

(4) if an unlicensed CTC is found to be providing services for which a license is required under these regulations, the secretary may issue a cease-and-desist order, to protect human health or safety or welfare. The unlicensed facility may request a hearing that shall be held in the manner provided under these regulations and all other applicable regulations.

[7.30.13.9 NMAC - N, 10/30/2018; A, 01/16/2024]

**7.30.13.29 STAFFING REQUIREMENTS:**

**A. Minimum staffing requirements:**

(1) The CTC shall have an on-site administrator, which can be the same person as the clinical director.

(2) The CTC shall have a full time clinical director appropriately licensed to provide clinical oversight.

(3) The CTC shall have an RN present on-site 24 hours a day, seven days a week or as long as clients are present in programs that do not offer residential services, to provide direct nursing services. This requirement does not apply to CTCs offering 23 hours or less non-residential services; instead these CTCs may have onsite medical professionals who have access to immediate support and supervision by an RN or a higher-level provider in accordance with Section 24-25-1 et al.NMSA 1978 New Mexico Telehealth Act.

(4) An on-call physician or advanced practice registered nurse shall be available 24 hours a day by phone, and available on-site as needed or through telehealth.

(5) Consultation by a psychiatrist or prescribing psychologist may be provided through telehealth.

(6) The CTC shall maintain sufficient staff including direct care and mental health professionals to provide for supervision and the care of residential and non-residential clients served by the CTC, based on the acuity of client needs.

(7) At least one staff trained in basic cardiac life support (BCLS) and first aid shall be on duty at all times. In addition, one staff trained in the use of the automated external defibrillator (AED) equipment shall also be on duty.

**B. Other staff requirements:**

(1) The CTC shall ensure that the type and number of professional staff are:

(a) licensed, certified or credentialed in the professional field as required, and practice within the scope of the license;

(b) present in numbers to provide services, supports, care, treatment and supervision to clients as required; and

(c) experienced and competent in the profession they are licensed or practice.

(2) The CTC shall comply with all applicable laws, rules and regulations governing caregivers' criminal history screen requirements and employee abuse registry requirements.

(3) The CTC shall ensure that, within the first sixty days of providing direct care to individuals, all staff, volunteers and contractors having direct contact with clients shall receive required training.

(4) The CTC shall be staffed to ensure the safety of clients when staff are accused of abuse, neglect or exploitation.

(5) In instances of involuntary admission as allowed under amendments to Section 43-1-1 NMSA, Mental Health and Developmental Disabilities Code, adequate staffing must be provided to ensure patient and staff safety, and the CTC must meet medical records requirements for licensure of psychiatric hospitals as set forth, in 7.7.2.40 NMAC.  
[7.30.13.29 NMAC - N, 10/30/2018; A, 01/16/2024]

## NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the proposed adoption of amendments to rule Part 7.30.13 NMAC Crisis Triage Centers (CTC), Sections 7 (“Definitions”), 9 (“Scope of Services”), and 29 (“Staffing Requirements”). The public hearing will be held on December 14, 2023 at 9:00 a.m. MDT via web video conference and telephone. The hearing will be conducted to receive public comment regarding the adoption of amendments to 7.30.13 NMAC which will allow CTC facilities to accept involuntary admissions as set forth in recent statutory amendments to Section 43-1-1 et. al NMSA Mental Health and Disabilities Code which went into effect June 16, 2023, will set forth staffing and medical records requirements for CTC facilities accepting involuntary admissions, will change on-site RN requirements for CTCs offering 23 hours or less non-residential services, and will add a definition of CTCs to reflect the definition in Section 43-1-3 NMSA 1978.

The hearing will be conducted to receive public comments regarding proposed amendments of the rule, 7.30.13 NMAC, including the following rule parts:

- 7.30.13.7 NMAC - Definitions, Amend to include a definition for “crisis triage center” to reflect the definition in Section 43-1-3 NMSA 1978.
- Subsection C of 7.30.13.9 NMAC, - Amend to expand the scope of services to allow CTCs to accept involuntary admissions as set forth in Section 43-1-15.1 NMSA Crisis Triage Centers; admission or treatment.
- Subsection C of 7.30.13.9 NMAC, - Amend to provide that if a CTC facility accepts involuntary admissions, the CTCs shall comply with all hearing and treatment provisions of Section 43-1-1 et. al NMSA 1978.
- Subsection A of 7.30.13.29 NMAC, - Amend to remove the requirement of a 24 hour a day RN presence requirement for CTC facilities offering 23 hours or less non-residential services, instead allowing such facilities to have onsite medical professionals who have access to immediate support and supervision by an RN or higher-level provider in according with 24-25-1 et. al NMSA 1978 New Mexico Telehealth Act.
- Subsection B of 7.30.13.29 NMAC, - Amend to require CTCs accepting involuntary admissions to have adequate staffing and to meet medical record requirements for licensure of psychiatric hospitals.

The purpose of the proposed rule amendments is to adopt the rule changes described, which are proposed in part in order to conform the Crisis Triage Centers rule to recent statutory amendments to Section 41-1-1 et.al NMSA Mental Health and Disabilities Code which went into effect June 16, 2023. The purpose of the proposed rule amendments is also to remove on-site RN presence requirements for CTC facilities offering 23 hours or less non-residential services, instead allowing such facilities to have onsite medical professionals who have access to immediate support and supervision by an RN or higher-level provider in according with 24-25-1 et. al NMSA 1978 New Mexico Telehealth Act. The purpose of the proposed amendments is also to require CTCs accepting involuntary admissions to have adequate staffing and to meet medical record requirements for licensure of psychiatric hospitals as set forth in 7.7.2.40 NMAC.

The legal authority authorizing the proposed amendments of the rule by the Department is at Subsection E of Section 9-7-6 NMSA 1978, Subsection D of 24-1-2 NMSA 1978 , Subsection J of Section 24-1-3 NMSA 1978, Section 24-1-5 NMSA 1978, and the Mental Health and Disabilities Code Section 43-1-1 et. al NMSA 1978.

A free copy of the full text of the proposed rule amendments can be obtained from the Department’s website at <https://nmhealth.org/publication/regulation/>.

Any interested member of the public may attend the hearing, and anyone may offer public comments on the proposed rule amendments orally at the hearing. To access the hearing by telephone: please call 1-505-312-4308, phone conference i.d. code 372 220 447#. To access the hearing via internet: please go to <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>, enter the following meeting i.d. code and passcode where indicated on screen—meeting i.d. code 244 302 554 623, Passcode: Yh2JgX, then click the “Join a meeting” button. All oral comments will be recorded.

Any person may submit written public comment concerning the rule amendments. Written comments may be submitted to the mailing address shown below. Please submit any written comments regarding the proposed rules to the attention of:

Via Postal Mail:

Christopher Burmeister  
Division Director, Health Improvement  
New Mexico Department of Health  
2040 S. Pacheco,  
Santa Fe, NM 87505  
[christopher.burmeis@doh.nm.gov](mailto:christopher.burmeis@doh.nm.gov)  
505-252-4492

Via E-mail: [christopher.burmeis@doh.nm.gov](mailto:christopher.burmeis@doh.nm.gov)

Mailed written comments must be received no later than 5:00 p.m. MDT on December 12, 2023. Written comments may also be submitted to the email address shown above through 5:00 pm MDT on the date of the hearing. All written comments will be published on the agency website at <http://nmhealth.org/publication/regulation/> within 3 business days of receipt, and will be available at the Office of the New Mexico Department of Health, at the address above, for public inspection.

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Brandy Sanchez by telephone at (505) 827-2997. The Department requests at least ten (10) days' advance notice to provide requested special accommodations.

# AFFIDAVIT OF PUBLICATION

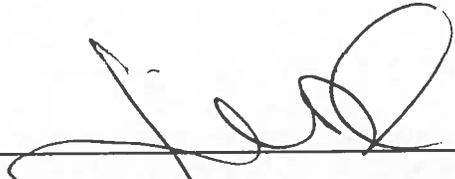
STATE OF NEW MEXICO

County of Bernalillo SS

NOTICE OF PUBLIC HEARING  
IN THE COUNTY OF BERNALILLO  
STATE OF NEW MEXICO  
RE: PROPOSED ADOPTION  
OF AMENDMENTS TO  
RULES 73013 NMAC  
CRISI

Wayne Barnard, the undersigned, authorized Representative of the Albuquerque Journal, on oath states that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Session Laws of 1937, that payment therefore has been made of assessed as court cost; and that the notice, copy of which is hereto attached, was published in said paper in the regular daily edition, for 1 time(s) on the following date(s):

11/07/2023

  
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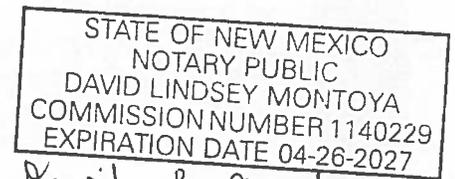
Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this

7 day of November of 2023

PRICE \$277.16

Statement to come at the end of month.

ACCOUNT NUMBER 1060434



*David L Montoya*

## HEARING

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The hearing will be conducted to receive public comments regarding proposed amendments of the rule, 7.30.13 NMAC, including the following rule parts:

\*7.30.13.7 NMAC - Definitions, Amend to include a definition for "crisis triage center" to reflect the definition in Section 43-1-3 NMSA 1978.

\*Subsection C of 7.30.13.9 NMAC, - Amend to expand the scope of services to allow CTCs to accept involuntary admissions as set forth in Section 43-1-15.1 NMSA Crisis Triage Centers; admission or treatment.

\*Subsection C of 7.30.13.9 NMAC, - Amend to provide that if a CTC facility accepts involuntary admissions, the CTCs shall comply with all hearing and treatment provisions of Section 43-1-1 et. al NMSA 1978.

\*Subsection A of 7.30.13.29 NMAC, - Amend to remove the requirement of a 24 hour a day RN presence requirement for CTC facilities offering 23 hours or less non-residential services, instead allowing such facilities to have onsite medical professionals who have access to immediate support and supervision by an RN or higher-level provider in accordance with 24-25-1 et. al NMSA 1978 New Mexico Telehealth Act.

\*Subsection B of 7.30.13.29 NMAC, - Amend to require CTCs accepting involuntary admissions to have adequate staffing and to meet medical record requirements for licensure of psychiatric hospitals.

The purpose of the proposed rule amendments is to adopt the rule changes described, which are proposed in part in order to conform the Crisis Triage Centers rule to recent statutory amendments to Section 41-1-1 et.al NMSA Mental Health and Disabilities Code which went into effect June 16, 2023. The purpose of the proposed rule amendments is also to remove on-site RN presence requirements for CTC facilities offering 23 hours or less non-residential services, instead allowing such facilities to have onsite medical professionals who have access to immediate support and supervision by an RN or higher-level provider in accordance with 24-25-1 et. al NMSA 1978 New Mexico Telehealth Act. The purpose of the proposed amendments is also to require CTCs accepting involuntary admissions to have adequate staffing and to meet medical record requirements for licensure of psychiatric hospitals as set forth in 7.7.2.40 NMAC.

The legal authority authorizing the proposed amendments of the rule by the Department is at Subsection E of Section 9-7-6 NMSA 1978, Subsection D of 24-1-2 NMSA 1978, Subsection J of Section 24-1-3 NMSA 1978, Section 24-1-5 NMSA 1978, and the Mental Health and Disabilities Code Section 43-1-1 et. al NMSA 1978.

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mailing address shown below. Please submit any written comments regarding the proposed rules to the attention of:

Via Postal Mail:

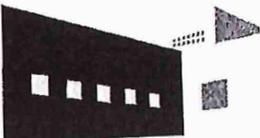
Christopher Burmeister  
Division Director, Health Improvement  
New Mexico Department of Health  
2040 S. Pacheco,  
Santa Fe, NM 87505  
christopher.burmeis@doh.nm.gov  
505-252-4492

Via E-mail: christopher.burmeis@doh.nm.gov

Mailed written comments must be received no later than 5:00 p.m. MDT on December 12, 2023. Written comments may also be submitted to the email address shown above through 5:00 pm MDT on the date of the hearing. All written comments will be published on the agency website at <http://nmhealth.org/publication/regulation/> within 3 business days of receipt, and will be available at the Office of the New Mexico Department of Health, at the address above, for public inspection.

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Brandy Sanchez by telephone at (505) 827-2997. The Department requests at least ten (10) days' advance notice to provide requested special accommodations.

Journal: November 7, 2023

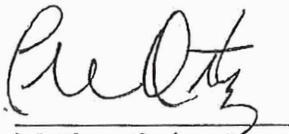


NEW MEXICO  
State Records Center and Archives  
COMMISSION OF PUBLIC RECORDS  
Your Access to Public Information

**Affidavit of Publication in New Mexico Register**

I, Matthew Ortiz, certify that the agency noted on Invoice # 7237 has published legal notice of rulemaking or rules in the NEW MEXICO REGISTER, VOLUME XXXIV, that payment has been assessed for said legal notice of rulemaking or rules, which appears on the publication date and in the issue number noted on Invoice # 7237, and that Invoice # 7237 has been sent electronically to the person(s) listed on the *Billing Information Sheet* provided by the agency.

Affiant:

  
Matthew Ortiz

Subscribed, sworn and acknowledged before me this 7<sup>th</sup> day of November, 2023.

Notary Public:

My Commission Expires:

  
2/19/2024

STATE OF NEW MEXICO  
NOTARY PUBLIC  
Pamela Anne Lujan Y Vigil  
Commission No. 1056580  
February 19, 2024

1205 Camino Carlos Rey | Santa Fe, NM 87507 | [www.srca.nm.gov](http://www.srca.nm.gov)

Hon. Hector Balderas  
*Attorney General*

Hon. Brian S. Colón  
*Chairman/State Auditor*

Hon. Maggie Toulouse Oliver  
*Secretary of State*

Debra García y Griego  
*Department of Cultural Affairs*

Stephanie Wilson  
*Acting Director, Supreme Court Law Library*

### Affidavit of Notice to the Public

I, Ann H. Washburn, the undersigned, on oath, swear and affirm that the Notice of the Public Hearing for the proposed adoption of amendments to 7.30.13 NMAC-Crisis Triage Centers, was provided to the public as identified below:

1. On November 7, 2023, I verified that the Notice of Public Hearing was electronically posted on the New Mexico Department of Health agency website at <http://nmhealth.org/publication/rules/>, in accordance with the State Rules Act at NMSA 1978, § 14-4-5.2.
2. On November 6, 2023, I verified that the Notice of Public Hearing was posted on the New Mexico Sunshine Portal website, in accordance with the State Rules Act at NMSA 1978, § 14-4-5.2.
3. On November 7, 2023, I emailed the Notice of Public Hearing to persons who have made a written request for notice from the agency of announcements addressing the subject of rulemakings and who have provided the agency an electronic mail address, in accordance with the State Rules Act at NMSA 1978, § 14-4-5.2. The list of persons who requested notice includes the following persons: Tim Gardner, [tgardner@drnm.org](mailto:tgardner@drnm.org); Marilyn Wolfe, [MWolfe@drnm.org](mailto:MWolfe@drnm.org); Crystal Hodges, [chodges@nmag.gov](mailto:chodges@nmag.gov).
4. No persons have provided a postal address to request written notice by postal mail.
5. On Nov. 7, 2023, I emailed the Notice of Public hearing to the New Mexico Legislative Counsel Service, at [lcsmail@nmlegis.gov](mailto:lcsmail@nmlegis.gov), in accordance with the State Rules Act at NMSA 1978, § 14-4-5.2.
6. On November 7, 2023, I was informed by the Division of Health Improvement that the Notice of Public Hearing was made available to the public at all district, field, or regional offices.
7. On Nov. 30, 2023, a copy of the Notice of Public Hearing was posted to the front window of the Office of the Secretary of the Department of Health, in the Harold Runnels building.

FURTHER AFFIANT SAYETH NAUGHT.

*Ann H. Washburn*

Ann H. Washburn, Affiant

State of New Mexico }

County of Santa Fe }

SWORN TO and SUBSCRIBED before me on the 7<sup>th</sup> day of December, 2023, by Ann H. Washburn.

*Melinda L. Wolinsky*  
Notary Public

NA  
My commission expires

State of New Mexico  
Notarial Officer  
Melinda L. Wolinsky  
New Mexico  
State Bar #5903



MICHELLE LUJAN GRISHAM  
Governor

PATRICK M. ALLEN  
Cabinet Secretary

**VIA ELECTRONIC MAIL**

November 27, 2023

Jared D. Najjar, Esq.  
Virtue & Najjar PC  
P.O. Box 22249  
Santa Fe, NM 87502-2249  
jnajjar@virtuelaw.com

**Re: Hearing Officer Appointment, Rulemaking Hearing on adoption of the proposed Amendments to 7.30.13 NMAC, Crisis Triage Centers**

Dear Mr. Najjar:

Pursuant to NMSA 1978, § 9-7-6(E), I hereby appoint you to serve as the hearing officer to preside at the Department of Health's public hearing on December 14, 2023. This rulemaking hearing is scheduled for 9:00 a.m., and will be conducted remotely via Microsoft Teams online and by telephone, per the attached Notice of Public Hearing.

The hearing will be conducted to receive public comment regarding the adoption of proposed amendments to 7.30.13 NMAC-Crisis Triage Centers. All exhibits will be provided to you prior to the hearing.

Thank you for accepting this appointment.

Sincerely,

DocuSigned by:

A handwritten signature in black ink, appearing to read "Patrick M. Allen", is written over a horizontal line.

Patrick M. Allen  
Cabinet Secretary

Nov 28, 2023 | 11:06 AM MST

Date

cc: Ann H. Washburn, Assistant General Counsel

**OFFICE OF THE SECRETARY**

1190 St. Francis Dr., Suite N4100 • P.O. Box 26110 • Santa Fe, New Mexico • 87502  
(505) 827-2613 • FAX: (505) 827-2530 • www.nmhealth.org

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**From:** Jamie Michael <[jamiem@donaanacounty.org](mailto:jamiem@donaanacounty.org)>

**Sent:** Wednesday, December 13, 2023 10:48 AM

**To:** Burmeister, Christopher, DOH <[Christopher.Burmeis@doh.nm.gov](mailto:Christopher.Burmeis@doh.nm.gov)>

**Cc:** Marleigh O'Meara, MC, LPC, NCC <[Marleigh.O'Meara@riinternational.com](mailto:Marleigh.O'Meara@riinternational.com)>; Downes, Betty, HSD <[betty.downes@hsd.nm.gov](mailto:betty.downes@hsd.nm.gov)>; Karina.Diaz <[Karina.Diaz@riinternational.com](mailto:Karina.Diaz@riinternational.com)>

**Subject:** [EXTERNAL] 7.30.13.24 Risk Assessment CTC Regulations Requested Change

**CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.**

On behalf of the Dona Ana County Crisis Triage Center, are asking to make an adjustment to the CTC Regulations under [7.30.13.24](#) Risk Assessment. We would ask that letters B & I be amended as noted below in blue:

**[7.30.13.24](#) RISK ASSESSMENT:**

**A.** The CTC shall develop policies and procedures addressing risk assessment and mitigation including, but not limited to: assessments, crisis intervention plans, treatment, approaches to supporting, engaging, and problem solving, staffing, levels of observation and documentation. The policies and procedures must prohibit seclusion and address physical restraint, if used, and the CTC's response to clients that present with imminent risk to self or others, assaultive and other high-risk behaviors.

**B.** Use of seclusion is prohibited [unless the organization is Joint Commission accredited](#). The use of physical restraint must be consistent with federal and state laws and regulation.

**C.** Physical restraint, as defined in these regulations, shall be used only as an emergency safety intervention of last resort to ensure the physical safety of the client and others, and shall be used only after less intrusive or restrictive interventions have been determined to be ineffective.

**D.** Physical restraint shall not be used as punishment or for the convenience of staff.

**E.** Physical restraint are implemented only by staff who have been trained and certified by a CYFD or HSD recognized program in the prevention and use of physical restraint. This training emphasizes de-escalation techniques and alternatives to physical contact with clients as a means of managing behavior and allows only the use of reasonable force necessary to protect the client or other person from imminent and serious physical harm. Clients and youth do not participate in the physical restraint of other clients and youth.

**F.** Crisis intervention plans must document the use of physical restraints and address: the client's medical condition(s); the role of the client's history of trauma in his/her behavioral patterns; specific suggestions from the client regarding prevention of future physical interventions.

**G.** All clients physically restrained shall be afforded full privacy away from other clients receiving services.

**H.** A chemical restraint shall not be utilized under any circumstance. A chemical restraint is a drug or medication when it is used as a restriction to manage the client's behavior or restrict the client's freedom of movement, and is not a standard treatment or dosage for the client's condition. If a drug or medication is used as a standard treatment to address the assessed current symptoms and needs of a client with a particular medical or psychiatric condition, its use is not considered a chemical restraint.

**I.** Mechanical restraint shall not be utilized under any circumstances [unless the organization is Joint Commission accredited](#). Mechanical restraint is the use of a mechanical device(s) to physically restrict a client's freedom of movement, performance of physical activity or normal access to his or her body and is distinct from physical restraint.

**J.** The staff implementing the physical restraint shall conduct a debriefing, with the client present if possible, immediately following the incident to include the identification of the precipitating event, unsafe behavior and preventive measures with the intent of reducing or eliminating the need for future physical restraint. The debriefing shall be documented in the client's record.

**K.** The client's crisis intervention plan shall be updated: within 24 hours of admission or prior to discharge, whichever comes first; and following physical restraint use to incorporate the debriefing and changes

needed to lessen the chance of the situation reoccurring.

**L.** Each incident of physical restraint shall be documented in the client's record including:

- (1) the less intrusive interventions that were attempted or determined to be inappropriate prior to the incident;
- (2) the precipitating event immediately preceding the behavior that prompted the use of physical restraint;
- (3) the behavior that prompted the use of a physical restraint;
- (4) the names of the mental health professional who observed the behavior that prompted the use of the physical restraint;
- (5) the names of the staff members implementing and monitoring the use of physical restraint; and
- (6) a description of the of the physical restraint incident, including the type and length of the use of physical restraint, the client's behavior during and reaction to the physical restraint and the name of the supervisor informed of the use of physical restraint.

**M.** Physical restraints orders are issued by a restraint/clinician within one hour of initiation of physical restraint and include documented clinical justification for the use of physical restraint.

- (1) if the client has a treatment team physician or advanced practice registered nurse and he or she is available, only he or she may order physical restraint;
- (2) if physical restraint is ordered by a restraint clinician, not the client's treatment team physician or advanced practice registered nurse, the restraint clinician will contact the client's treatment team physician or advanced practice registered nurse as soon as possible to inform him or her of the situation requiring the physical restraint, and document in the client's record the date and time the treatment team physician or advanced practice registered nurse was consulted and the information imparted;
- (3) if the order for physical restraint is verbal, the verbal order must be received by a restraint/clinician or a New Mexico licensed registered nurse (RN) or practical nurse (LPN). The restraint/ clinician must verify the verbal order in a signed, written form placed in the client's record within 24 hours after the order is issued;
- (4) each order for physical restraint must be documented in the client's record and must include:
  - (a) the name of the restraint/clinician ordering the physical restraint;
  - (b) the date and time the order was obtained;
  - (c) the emergency safety intervention ordered, including the length of time;
  - (d) the time the emergency safety intervention began and ended;
  - (e) the time and results of one-hour assessment(s), if ordered;
  - (f) the emergency safety situation that required the client to be physically restrained; and
  - (g) the name, title, and credentials of staff involved in the emergency safety intervention.

**N.** Suicide risk interventions must include the following:

- (1) a registered nurse or other licensed mental health professional may initiate suicide precautions and must obtain physician or advanced practice registered nurse order within one hour of initiating the precautions;
- (2) modifications or removal of suicide precautions shall require clinical justification determined by an assessment and shall be ordered by a physician or advanced practice registered nurse and documented in the clinical record;
- (3) staff and client shall be debriefed immediately following an episode of a suicide attempt or gesture, identifying the circumstances leading up to the suicide attempt or gesture;
- (4) an evaluation of the client by a medical, psychiatric or independently licensed mental health provider must be done immediately, or the client must be transferred to a higher level of care immediately.

[7.30.13.24 NMAC - N, 10/30/2018]

We are requesting the above listed changes to best create a safe recovery environment for all guests and staff. Allowing for seclusion and/or mechanical restraints, only when clinically indicated and overseen by Joint Commission, helps reduce the risk of the individual harming themselves and/or staff members on site. This also allows the individual time to de-escalate in a safe environment. This

change will help create safer environments for all of those working and receiving services at the CTCs similar to hospitals, which are also Joint Commission accredited.

Thank you for your consideration.

**Jamie Michael**

Director, Doña Ana County Health and Human Services  
845 N. Motel Blvd. | Las Cruces, NM 88007  
575-525-5969