NMAC Transmittal Form

Volume: XXX Issue: 23 Publication date: 12/17/2019 Number of pages: 32

Issuing agency name and address:
Department of Health, P. O. Box 26110, Santa Fe, NM 87502-6110

Contact person's name: Chris Burmeister Phone number: 505-252-4492 E-mail address: Chris.Burmeis@state.nm.us

Type of rule action:
New X Amendment Repeal Emergency Renumber

Title number: 7 Title name: HEALTH
Chapter number: 8 Chapter name: RESIDENTIAL HEALTH FACILITIES
Part number: 4 Part name: GENERAL REQUIREMENTS FOR BOARDING HOMES

Amendment description (If filing an amendment):
Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes X No

Please list attachments or Internet sites if applicable.

Specific statutory or other authority authorizing rulemaking:
This emergency rulemaking by the Secretary of the Department of Health is made in accordance with the following authorities:
Sections 9-7-6, 24-1-2, 24-1-3, 24-1-5, and 14-4-5.6 NMSA 1978.

Notice date(s): N/A Hearing date(s): N/A Rule adoption date: 12/05/2019 Rule effective date: 12/05/2019

7/1/2019
Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:
- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

The findings in support of this emergency rule are as stated in the attached letter from Cabinet Secretary Kathyleen M. Kunkel dated December 4, 2019, which is incorporated by reference.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name: Kathyleen M. Kunkel
Title: Cabinet Secretary
Signature: (BLACK ink only)

Check if authority has been delegated
XX
Date signed: 12/1/19

7/1/2019
December 4, 2019

State Records and Archives
Attn: Pamela Lujan y Vigil
Rules Management Analyst
Administrative Law Division
Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, NM 87505

Regarding Emergency Rule filing 7.8.4 NMAC, GENERAL REQUIREMENTS FOR BOARDING HOMES

Dear Ms. Lujan y Vigil,

The New Mexico Department of Health (Department) is filing an emergency rule under part NMAC titled “General Requirements for Boarding Homes”. This emergency rule is necessary to ensure the protection of individuals residing in boarding homes in the state of New Mexico.

The purpose of this emergency rule is to protect the immediate health and safety of individuals who reside in boarding homes and who may be vulnerable to abuses and poor living conditions. A boarding home is generally defined as any facility that provides 24-hour a day assistance with instrumental activities of daily living or assistance with the coordination of community services, for two (2) or more adults age 18 or older, not related to the owner, and that admits residents discharged from any mental or behavioral health care institution. Without regulation the health, safety and welfare of boarding home residents is in imminent peril.

Therefore, in accordance with the State Rules Act at NMSA 1978, Section 14-4-5.6, the Department now enacts rule 7.X.X NMAC “General Requirements for Boarding Homes” via emergency rulemaking. For the reasons stated, the Department finds that the time required to complete the procedures of the State Rules Act would cause an imminent peril to the public health, safety, and welfare. This emergency rule is temporary and will expire in 180 days pursuant to NMSA 1978, Section 14-4-5.6 unless a permanent rule is adopted under the normal rulemaking process in that period.

The Department intends to hold a public hearing in February of 2020 and will provide notice of such hearing pursuant to the State Rules Act.

Sincerely,

Kathyleen M. Kunkel
Cabinet Secretary