

Via Electronic Mail

June 15, 2020

Craig T. Erickson, Esq.
Utton & Kery, P.A.
500 Tijeras Ave., NW
Albuquerque, NM 87102

Re: Rulemaking Hearing on adoption of New Rule 7.1.30 NMAC, Administrative Hearings for Civil Monetary Penalties Issued Pursuant to PHERA

Dear Mr. Erickson:

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 July 23, 2020. This rulemaking hearing is scheduled for 9:00 a.m. and will be conducted via Cisco Webex online and via telephone, per the attached Notice of Public Hearing.

The hearing will be conducted to receive public comment regarding the proposed permanent emergency rule 7.1.30 NMAC - Administrative Hearings for Civil Monetary Penalties Issued Pursuant to PHERA. An exhibit binder will be provided to you prior to the date of the hearing.

Thank you for accepting this appointment.

Sincerely,

/s/ Kathyleen M. Kunkel
Kathyleen M. Kunkel, Cabinet Secretary

June 15, 2020
Date

Attachment as stated

cc: Chris Woodward, Assistant General Counsel, OGC

OFFICE OF THE SECRETARY

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NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the adoption of a new rule, 7.1.30 NMAC, “Administrative Hearing for Civil Monetary Penalties Issued Pursuant to PHERA.” The hearing will be held on July 23, 2020, at 9:00 a.m. via Cisco Webex online, and via telephone. Written comments will be received via U.S. postal mail until the date of the hearing, and via email until the conclusion of the hearing.

The hearing is being held via internet and telephonic means due to the concerns surrounding the COVID-19 Coronavirus and in accordance with Governor Michelle Lujan Grisham’s Executive Order 2020-004 declaring a Public Health Emergency, and the various Public Health Emergency Orders limiting mass gatherings due to COVID-19. This hearing will be conducted to receive public comment regarding the proposed adoption of a new rule concerning the procedures for administrative hearings to govern the appeal of civil monetary penalties that are assessed pursuant to the Public Health Emergency Response Act (PHERA). A previous version of the rule was adopted on March 20, 2020 via emergency rulemaking, pursuant to Section 14-4-5.6, NMSA 1978.

The New Mexico Department of Health proposes the adoption of this rule to establish administrative hearing standards for administrative appeals of civil monetary penalties assessed pursuant to the Public Health Emergency Response Act (PHERA at Section 12-10a-19, NMSA 1978.

The legal authority authorizing the proposed rule and the adoption of the rule by the Department is at Subsection E of Section 9-7-6, and Section 12-10a-17, NMSA 1978.

A free copy of the full text of the proposed rule 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 offer public comments on the proposed rule during the hearing. To access the hearing by telephone: please call 1-408-418-9388. Your telephone comments will be recorded. To access the hearing via internet: please go to Webex.com; click the “Join” button; click the “Join a meeting” button; enter the following meeting number and password where indicated on screen—Meeting number (access code): 960 448 920 #, Meeting password: Xgvr9FFJN59; click the “OK” button. You may also provide comment via Chat during the live streaming.

Please submit any written comments regarding the proposed rule amendments to the attention of:

Sheila Apodaca
New Mexico Department of Health
Office of General Counsel
P.O. Box 26110
1190 St. Francis Drive, Suite N-4095
Santa Fe, NM 87502-6110
Sheila.Apodaca@state.nm.us
505-827-2997

All written comments will be published on the agency website at <https://nmhealth.org/publication/regulation/> within 3 days of receipt, and will be available at the New Mexico Department of Health Office of General Counsel 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 Sheila Apodaca by telephone at (505) 827-2997. The Department requests at least ten (10) days advance notice to provide requested special accommodations.