

From: [Amy Dunlap](#)
To: craig@uttonkery.com; [Apodaca, Sheila, DOH](#); [Kunkel, Kathy, DOH](#); [Woodward, Chris, DOH](#)
Cc: [Chris Mechels](#)
Subject: [EXT] Additional Comments from Rule Hearing on Proposed 7.1.30 NMAC
Date: Tuesday, August 4, 2020 2:26:00 PM

Dear Mr. Erickson:

I had provided public comment on this hearing, but my comments were not summarized by DOH General Counsel Woodward. I am providing additional comment based on his July 29, 2020 letter to you.

Related to Chris Mechels comments about the availability of public notice, Mr. Woodward responded: "The emergency rule was posted by the Department on both the Sunshine Portal at http://statenm.force.com/public/SSP_RuleHearingSearchPublic and the NMDOH regulations website at <http://nmhealth.org/about/asd/cmo/rules/>, in accordance with the State Rules Act." As a member of the public, I can tell you that I had a hard time finding this notice. In the notice itself, it states: "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/>." I don't know when that information was posted on the NMDOH website, because I couldn't find it. Also, the actual webpage to be cited should be <https://nmhealth.org/publication/rules®ulations>. I had then looked on the NMDOH website under "Newsroom" and did not find anything. I next looked under "Events" and from there "Public Meetings," and again could not find anything. It wasn't until Chris Mechels sent me the link to the Sunshine portal on July 19, 2020 that I was able to find the hearing information. This clearly seems to violate the notification requirement. Also, I don't see how publishing this notice in just the Albuquerque Journal and NM Commission of Public Records is enough notice for the average citizen to be aware of this meeting. Again, I tried searching for this notice in the online ABQ Journal site, and was unable to locate it. Most people do not read the printed Journal and may only view online, such as myself. I don't make it a habit of reading the Public Notices though. My suggestion is any further changes to the rules should include ways to make sure the public is informed of these meetings.

My final comment on NMAC 7.1.30 is there is no avenue for further appeal. Section Y reads: "Secretary's final decision: The secretary shall render a final decision within 45 calendar days of the submission of the hearing officer's written report. A copy of the final decision shall be mailed to the appealing party by certified mail, return receipt requested, within 15 days after the final decision is rendered and signed. [7.1.30.8 NMAC – N/E, 3/20/2020]." There doesn't seem to be any form of appeal after this ruling by the Secretary of Health. NMAC [7.1.2.39](#) allows for a judicial review. Again, these proposed changes to 7.1.30 do not. As a member of the public, I feel there should always be a channel for appeal to a higher body that may be more impartial than the Secretary of Health over a public health ruling.

Finally, I do not see the need to make these changes at this time, and certainly not without significant public input in the process.

Thank you for your time.

Sincerely,

Amy Dunlap

Sent from [Mail](#) for Windows 10