

AMENDMENT TO NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Developmental Disabilities Council Office of Guardianship's (NMDDC OOG) public rule hearing on **July 31, 2023**, and public comment period remain the same. This notice is to add the correct web address to "**Details for Obtaining a Copy of Proposed Rules.**" The hearing will begin at 10:00 a.m. and will be held at the NMDDC OOG at 625 Silver Avenue SW, Suite 100, Albuquerque, NM 87102-3185, and via Zoom (<https://us02web.zoom.us/j/82414945939?pwd=dGtOS05rdWVrTXZYzaG5UM0ZTMlN1QT09>, Meeting ID: 824 1494 5939, Passcode: 090711, One tap mobile +17193594580,,82414945939#,,,,*090711# US). Following the public rule hearing, the NMDDC OOG will convene an executive leadership meeting to adopt the rules. The proposed rule was published in the Notice of Proposed Rulemaking on June 13, 2023.

Statutory Authority: Legal authority for this rulemaking may be found in the Office of Guardianship Act, Section 28-16B-3 NMSA 1978, among other provisions which specifically authorize the NMDDC OOG to "promulgate rules in accordance with the State Rules Act [Chapter 14, Article 4 NMSA 1978] to carry out the provisions of the Office of Guardianship Act."

Purpose: The purpose of the public rule hearing is to take public comments regarding the proposed repeal and replacement of **9.4.21 NMAC – GUARDIANSHIP SERVICES**. Every person attending the public rule hearing will be given the opportunity to present their comments. **Interested persons may submit their written comments to the NMDDC OOG at 625 Silver Avenue SW, Suite 100, Albuquerque, NM 87102-3185, or DDC.OOG-Rulemaking@ddc.nm.gov.** If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. **Written comments must be received no later than 5:00 p.m. on July 30, 2023.** Any written comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal, and be accessible to the public.

Special Needs: Any person with a disability who needs a reader, amplifier, qualified signed language interpreter, auxiliary aid, or service to attend or participate in the public rule hearing should contact the NMDDC OOG at DDC.OOG-Rulemaking@ddc.nm.gov or (505) 526-0551 at least ten (10) business days prior to the hearing.

Details for Obtaining a Copy of Proposed Rules: The proposed rules are available at the NMDDC OOG located at 625 Silver Avenue SW, Suite 100, Albuquerque, NM 87102-3185, and are posted on the NMDDC OOG's website at <https://www.nmddpc.com/>. To request that a copy of the proposed rules be sent to you by mail or email, please contact the NMDDC OOG at DDC.OOG-Rulemaking@ddc.nm.gov or (505) 526-0551.

Summary of Proposed Repeal and Replacement: The NMDDC OOG proposes to repeal and replace 9.4.21 NMAC – Guardianship Services as follows:

9.4.21.7 Definitions. Revising the definition of "complaint"; defining "comprehensive service review", "corrective action plan", and "service provider"; and deleting the definitions of "complaint against the office of guardianship", "comprehensive evaluation", "contracted guardianship provider", "contractor", and "designated entity".

9.4.21.8 Eligibility. Repealing language that is unclear and outdated and replacing it with language that uses defined terms and comports with the United States Department of Health and Human Services' guidelines on poverty.

9.4.21.9 Prioritization of Service. Repealing language that uses the terms "high need guardianships" and "low need guardianships" and replacing it with the NMDDC OOG's criteria that are used when prioritizing applications.

9.4.21.10 Designation of Service Area. Repealing language that specifies the area within which the NMDDC OOG provides services, and adding language that states services are provided within the jurisdiction of New Mexico courts.

9.4.21.11 Services to Be Provided by the NMDDPC Office of Guardianship. Repealing section.

9.4.21.12 Requirements of Contracted Guardianship Providers. Repealing section.

9.4.21.13 Referral Process. Repealing section.

9.4.21.14 Complaints Against a Contracted Provider with the NMDDPC Office of Guardianship.

Repealing language that describes outdated processes and that limits the scope of the complaint process and replacing it with language that clearly communicates how the NMDDC OOG responsibly, promptly, and impartially handles and investigates complaints.

9.4.21.15 Complaints Against the NMDDPC Office of Guardianship. Repealing section.

9.4.21.16 Transfer of Protected Person from a Private Pay Guardianship to a Program Funded Through the NMDDPC Office of Guardianship. Repealing section.

9.4.21.17 Requests for Information. Repealing section.

9.4.21.18 Comprehensive Evaluations. Repealing section.

9.4.21.19 Comprehensive Service Reviews. Adding a new section with the minimum requirements of personnel that conduct comprehensive service reviews (CSR), the components of a CSR, and the provision of a CSR report.

9.4.21.20 Corrective Action Plans. Adding a new section to outline when the NMDDC OOG may require a service provider to complete a corrective action plan upon failure to provide services in accordance with the service agreement or within the scope of the order granted by the court.