

## NOTICE OF PUBLIC HEARING ON PROPOSED RULEMAKING

The Aging & Long-Term Services Department (“Department”) hereby gives notice that the written comment period for the proposed repeal and replace of 9.2.19 NMAC, Long Term Care Ombudsman is reopened.

The public hearing will be held on November 22, 2017 at 9:00 a.m., in Hearing Room 2 on the second floor of the Toney Anaya building located at 2550 Cerrillos Road in Santa Fe, New Mexico.

**Rule Change Summary and Explanation:** The purpose of the proposed rules change is to revise 9.2.19 NMAC, Long Term Care Ombudsman, to be consistent with recent amendments to both the Older Americans Act of 1965, 42 USC 3001, *et seq.*, as amended, and the New Mexico Long-Term Care Ombudsman Act, New Mexico Statutes Annotated 28-17-1 *et seq.* The proposed changes to the rules will take effect December 29, 2017.

The purpose of some of the changes to the rules include a new definition for informed consent and clarifying language outlining the duties of ombudsman to report on suspected or witnessed abuse. The amendments to the rule set standards by which ombudsman are required to report suspected abuse based on whether a resident of a long-term care facility can provide informed consent. Further standards are set for situations where the resident is unable to provide informed consent and when there is no surrogate decision-maker. The new rule also adds the definition of surrogate decision-maker to include guardians, legal representatives, fiduciaries authorized by law to act on the resident’s behalf, and individuals chosen by the resident to act on their behalf.

**Statutory Authorizations:** Older Americans Act of 1965, 42 USC 3001, *et seq.*, as amended, and the New Mexico Long-Term Care Ombudsman Act, New Mexico Statutes Annotated 28-17-1 *et seq.*

**Public Comment:** Interested individuals may submit written comments to Melissa B. Sisneros, State Long-Term Ombudsman, via email at [Melissa.Sisneros@state.nm.us](mailto:Melissa.Sisneros@state.nm.us); fax (505) 476-4910; or directed to Melissa B. Sisneros, State Long-Term Ombudsman, c/o Aging Long-Term Services Department 2550 Cerrillos Road, Santa Fe, New Mexico 87505. The written public comment period will be open from October 17, 2017 through the November 21, 2017 at 5 p.m. (MDT).

**Copies of the Proposed Rule:** Copies of the full text of the proposed rule may be accessed on the Department’s website (<http://www.nmaging.state.nm.us/>) under the Special Event link, or obtained from Melissa Sisneros at [Melissa.Sisneros@state.nm.us](mailto:Melissa.Sisneros@state.nm.us) at (505) 476-4810.

Individuals with disabilities who require this information in an alternative are asked to contact Irene Rubio by telephone at 505-476-4708. The Department requests at least ten days advance notice to provide requested special accommodations or as soon as possible prior to the hearing.