TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 1 GENERAL PROVISIONS

16.34.1.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.1.1 NMAC - Rp 16 NMAC 34.1.1, 06-16-01]

16.34.1.2 SCOPE: All barbers, cosmetologists, estheticians, manicurist/pedicurists, manicurist/estheticians, instructors, electrologists, schools, enterprises and establishments.
[16.34.1.2 NMAC - Rp 16 NMAC 34.1.2, 06-16-01]

16.34.1.3 STATUTORY AUTHORITY: Section 61-17A-2 - Definitions
[16.34.1.3 NMAC - Rp 16 NMAC 34.1.3, 06-16-01]

16.34.1.4 DURATION: Permanent
[16.34.1.4 NMAC - Rp 16 NMAC 34.1.4, 06-16-01]

16.34.1.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.1.5 NMAC - Rp 16 NMAC 34.1.5, 06-16-01]

16.34.1.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part establishes definitions.
[16.34.1.6 NMAC - Rp 16 NMAC 34.1.6, 06-16-01]

16.34.1.7 DEFINITIONS: As used in the Barbers and Cosmetologists Act:

A. "applicant" means a person who has applied for a license;

B. "approval number" means the number assigned by the board to designate an approved provider;

C. "approved" means accepted as a provider by the board;

D. "barber" means a person, other than a student, who for compensation engages in barbering;

E. "barbering" means shaving or trimming the beard or cutting the hair, curling and waving, including permanent waving, straightening the hair, giving facial and scalp massage or treatments with oils, creams, lotions or other preparations, either by hand or mechanical appliances, shampooing, bleaching or dyeing the hair or applying tonics or applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to the scalp, face, neck or upper part of the body, caring for and servicing wigs and hair pieces or removing of unwanted hair except by means of electrology;

F. "board" means the board of barbers and cosmetologists;

G. "booth establishment license" means a license required of an individual who rents space within another licensed establishment for the purpose of rendering licensed services as a separate, independent business;

H. "branch campus/additional location" means an additional location that provides the same administrative services as the main campus, and offers at least one complete program entered into the programs offered at the main campus; a branch campus/additional location must be approved by the board as a separate school with a stand-alone license;

I. "clean or cleansing" means washing with liquid soap and water, detergent, antiseptics, or other adequate methods to remove all visible debris or residue. Cleansing is not disinfection;

J. "contact hour" means one contact hour equals a minimum of fifty minutes of instruction;

K. "cosmetologist" means a person, other than a student, who for compensation engages in cosmetology;

L. "cosmetology" means arranging, dressing, curling, waving, cleansing, cutting, bleaching, coloring, straightening or similar work upon the hair of a person, whether by hand or through the use of chemistry or of mechanical or electrical apparatus or appliances, using cosmetic preparations, antiseptics, tonics, lotions or creams or massaging, cleansing, stimulating, manipulating, beautifying or performing similar work on the body of a person, manicuring and pedicuring the nails of a person, caring for and servicing wigs and hair pieces or removing of unwanted hair except by means of electrology. A cosmetologist shall not perform any type of shaving using a straight edge (or razor blade in any form) with or without a safety guard without obtaining appropriate licensure.

M. "current work experience" means verified work that has occurred within the previous five years;

N. "disinfect or disinfection" means the use of chemical agents (after cleaning) to destroy potentially dangerous pathogens on non-porous items;

O. "disinfectant" means an EPA-registered bactericidal, virucidal and fungicidal chemical effective against pathogens of concern when used as directed on the manufacturer's label. For purposes of this rule alcohol and UV light boxes are not approved for disinfection;

P. "electrologist" means a person, other than a student, who for compensation removes hair from or destroys hair on the human body through the use of an electric current applied to the body with a needle-shaped electrode or probe;

Q. "electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;

R. "enterprise" means a business venture, firm, or organization;

S. "expansion campus facility" means any separate classroom or clinic used for educational purposes that is separate, detached and apart from the primary facility and main address; its purpose is to allow the licensed school to provide adequate space to train students who are enrolled through the primary facility and the expansion campus facility must be within a two-mile radius of the main campus;

T. "establishment" means an immobile beauty shop, barbershop, electrology clinic, salon or similar place of business in which cosmetology, barbering or electrolysis is performed;

U. "esthetician" means a person, other than a student, who for compensation uses cosmetic preparations, including makeup applications, antiseptics, powders, oils, clays or creams or massaging, cleansing, stimulating or manipulating the skin for the purpose of preserving the health and beauty of the skin and body or performing similar work on any part of the body of a person; using the term or title of "medical esthetician" is not allowable under the act; this term is misleading and could be deemed deceptive or fraudulent;

V. "executive director" means the director for the board;

W. "expansion campus facility" means any separate classroom or clinic used for educational purposes that is separate, detached and apart from the primary facility and main address; its purpose is to allow the licensed school to provide adequate space to train students who are enrolled through the primary facility and the expansion campus facility must be within a two-mile radius of the main campus;

X. "externship" means a student enrolled in any course licensed by this act may, at the school's option, participate in an externship program upon completion of seventy-five percent of the contracted course of study. The externship program would allow students to train in a licensed establishment for one day or up to eight hours per week until graduation. The training would be supervised by a designated salon licensee and would include any activity that is routine in a salon except for offering complete services on the public, applying any chemicals, or receiving any compensation;

Y. "HSD" means the New Mexico human services department;

Z. "hands-on training" means student training on clients, students or models that includes active personal participation and practical experience necessary to gain knowledge. Training on mannequins is considered hands-on training;

AA. "instructor" means a person licensed to teach in a school of cosmetology, barbering or in a school of electrology;

BB. "jurisprudence exam" means the examination given regarding the laws, rules and regulations, which relate to the practice of barbers and cosmetologists in the state of New Mexico;

CC. "license" means a certificate, permit or other authorization to engage in each of the professions and occupations regulated by the boards enumerated in Subsection A of the act;

DD. "license in good standing" refers to a current, valid, board-issued license with no restrictions placed on the license by the board;

EE. "main campus" means a school, which has been licensed by the board; any change in location of the main campus must comply with the procedures set forth in 16.34.8 NMAC of these rules; the main campus includes the primary facilities and any separate or detached expansion campus facility of the primary training site within a two-mile radius;

FF. "manicurist-esthetician" means a person, other than a student, who for compensation performs work on the nails of a person, applies nail extensions or products to the nails for the purpose of strengthening or preserving the health and beauty of the hands or feet and who uses cosmetic preparations, including makeup applications, antiseptics, powders, oils, clays or creams or massaging, cleansing, stimulating or manipulating the skin for the purpose of preserving the health and beauty of the skin and body or performing similar work on any part of the body of a person;

GG. "manicurist-pedicurist" means a person, other than a student, who for compensation performs work on the nails of a person, applies nail extensions or products to the nails for the purpose of strengthening or preserving the health and beauty of the hands or feet;

HH. "multi-use" means non-porous instruments, items, equipment, implements or tools that must be cleaned and disinfected. The items must be disinfected by a complete immersion in an EPA registered, bactericidal, virucidal and fungicidal (formulated for hospitals) disinfectant that is mixed and used according to the manufacturer's directions. Non-porous items are the only items that can be disinfected;

II. "non-porous" means multi-use items such as metal, glass and plastic;

JJ. "outreach enterprise" means an independent mobile unit, or system of units, equipped with or carrying both professional and special equipment used by a professional licensee of this act to a site or premises for the purpose of providing professional services to the handicapped, restricted, homebound, impaired, incapacitated, delicate, or otherwise constrained client;

KK. "provider" means the person, firm, corporation, institution or agency approved to conduct or sponsor a continuing education program and ensure its integrity;

LL. "reciprocity" means a mutual exchange of privileges between states;

MM. "revoke a license" means to prohibit the conduct authorized by the license;

NN. "sanitation" means the maintenance of sanitary conditions to promote hygiene and the prevention of disease through the use of chemical agents or products;

OO. "school" means a public or private instructional facility approved by the board that teaches cosmetology or barbering;

PP. "single use items" means tools or supplies that come in contact with the public and are porous (made of anything other than plastic, metal or glass) cannot be disinfected (including, but not limited to: disposable razors, pedi-pads, emery boards, sponges, cotton pads, buffing blocks, toe separators, chamois, sandpaper drill bits, waxing strip, wood sticks, cotton balls, nail wipes, disposable towels, pumice stones, flip flops, and porous files, etc.) shall be disposed of immediately after use;

QQ. "statement of compliance" means a certified statement from HSD stating that an applicant or licensee is in compliance with a judgment and order for support;

RR. "statement of non-compliance" means a certified statement from HSD stating that an applicant or licensee is not in compliance with a judgment and order for support;

SS. "sterilize or sterilization" means to eliminate all forms of bacteria or other microorganisms;

TT. "student" means a person enrolled in a school to learn or be trained in cosmetology, barbering or electrolysis;

UU. "supervising licensee" means licensee designated by the establishment owner or manager to act on behalf of the enterprise or establishment in the absence of the owner or manager. The supervising licensee must be licensed in all aspects of the activity being practiced in the enterprise or establishment;

VV. "suspend a license" means to prohibit, for a stated period of time, the conduct authorized by the license; "suspend a license" also means to allow for a stated period of time the conduct authorized by the license subject to conditions that are reasonably related to the grounds for suspension;

WW. "verified work experience" means work experience in the applicable discipline in a licensed establishment, enterprise or electrology clinic as verified by:

(1) certified and notarized statement by employer(s);
(2) certified and notarized statement by licensed co-worker(s);
(3) certified and notarized statement by client(s);
(4) certified and notarized copies of tax returns;
(5) certified and notarized copies of W-2's; or
(6) other related form(s) of documentation.

[16.34.1.7 NMAC - Rp 16 NMAC 34.1.7, 06-16-01; A, 07-16-04; A, 10-04-07; A, 12-17-15]

HISTORY OF 16.34.1 NMAC:
Pre-NMAC History: [Reserved]

History of Repealed Material:
16 NMAC 34.1, General Provisions - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 2 LICENSING

16.34.2.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.2.1 NMAC - Rp 16 NMAC 34.2.1, 06-16-01]

16.34.2.2 SCOPE: All barbers, cosmetologists, estheticians, manicurist/pedicurists, manicurist/ estheticians, instructors, electrologists, schools, enterprises, and establishments.
[16.34.2.2 NMAC - Rp 16 NMAC 34.2.2, 06-16-01]

16.34.2.3 STATUTORY AUTHORITY: Section 61-17A-5 - License required to provide services for compensation directly or indirectly.
[16.34.2.3 NMAC - Rp 16 NMAC 34.2.3, 06-16-01]

16.34.2.4 DURATION: Permanent
[16.34.2.4 NMAC - Rp 16 NMAC 34.2.4, 06-16-01]

16.34.2.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.2.5 NMAC - Rp 16 NMAC 34.2.5, 06-16-01]

16.34.2.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part establishes licensure requirements for barbers, cosmetologists, manicurist/pedicurists, estheticians and electrologists. It further provides for licensure requirements of establishments, enterprises, electrology clinics, schools and instructors.
[16.34.2.6 NMAC - Rp 16 NMAC 34.2.6, 06-16-01]

16.34.2.7 DEFINITIONS:

A. Military service member: means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard.

B. Recent veteran: means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.
[16.34.2.7 NMAC - Rp 16 NMAC 34.2.7, 06-16-01; A, 12-17-15]

16.34.2.8 GENERAL LICENSING PROCEDURES

A. Application forms:

(1) Application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose. Applications must include the required fee in the form of a money order, cashier's check, business check, or credit card for on-line renewal only, (no personal checks will be accepted). Incomplete applications will be returned. Applications are valid for one year from date of receipt. Designated deadlines will apply to resubmitted applications.

(2) Applications for licensure must include:

(a) proof of age indicating applicant is at least seventeen years of age; please provide one of the following: a copy of birth certificate, driver's license, state issued identification card, or baptismal certificate.

(b) proof of applicable secondary education: please provide a copy of one of the following: a high school diploma, G.E.D. certificate or transcript of G.E.D. test scores, letter from the high school attended containing the school seal, copy of the high school transcript showing 10th grade equivalency or higher, a post-secondary transcript, successful completion of a 10th grade equivalency test, letter from the G.E.D. testing facility showing that the G.E.D has been passed; documents submitted in a language other than English must be accompanied by a certified translation completed by a government certified translator;

(c) a transcript of hours showing that the training hours were completed within the preceding twenty-four months; if the training hours were obtained more than twenty-four months before the application is submitted to the board, then the applicant will need to register at a licensed school, submit to a

scholastic evaluation to determine his training needs, and complete a minimum of 150 hours of remedial education; upon completion and proof of the remediation, the applicant may apply for and submit to the complete theory examination, the applicable practical examination and a state law examination.

B. Photographs: applicants for original licensure shall attach a recent passport size, color photograph, front-view of face. The photo must be at least 1.5" X 1.5" and no larger than 2" X 3".

C. Electronic signatures will be acceptable for applications submitted pursuant to16.34.1 NMAC through 16.34.16 NMAC.

D. Incomplete applications will be returned. Designated deadlines will apply to resubmitted applications.

E. Renewal is the responsibility of the licensee:

(1) Timely renewal of license(s) is the full and complete responsibility of the LICENSEE. Failure to renew the license by the expiration date will result in late fees or reexamination as set forth in the act.

(2) A licensee, with a valid instructor license for the preceding twelve months, may use the instructor license to renew or reinstate his original practitioner license.

(3) The board will issue renewal licenses within fifteen working days of receipt of the renewal request and applicable fee.

(4) Timely renewal of an establishment, enterprise, electrology clinic and school license is the full and complete responsibility of the LICENSEE. Failure to renew the license within thirty days after its expiration, will result in payments of renewal and late fees.

[16.34.2.8 NMAC - Rp 16 NMAC 34.2.8, 06-16-01; A, 07-16-04; A, 10-04-07; A, 12-17-15]

16.34.2.9 CUSTODY AND ALTERATION OF LICENSES

A. All board issued licenses and permits are property of the board and shall remain in the custody of the licensee at the discretion of the board.

B. Licenses and permits shall not be altered in any way.

C. Inspectors or board designees may retrieve any license or permit which is altered, suspended, revoked, expired, or left by a licensee who is no longer employed at an establishment, an enterprise, an electrology clinic, or school.

[16.34.2.9 NMAC - Rp 16 NMAC 34.2.9, 06-16-01; A, 10-04-07; A, 12-17-15]

16.34.2.10 LICENSES POSTED

A. All licenses, except identification licenses, issued by the board shall be posted where clearly visible to the public upon entry to the establishment at all times.

B. Licensees must attach a recent passport size colored photograph to the board issued license and sign the license where indicated.

C. All licensees, who have been placed on probation, will be issued a license, which states the licensee is on disciplinary probation. The license shall be posted where clearly visible to the public upon entry to the establishment at all times.

D. Licensees must present a driver's license or other identification when requested by the public, the board or its authorized representative.

E. Hours of operation shall be posted where clearly visible to the public at all times.

F. Most recent inspection report shall be printed and posted in each establishment within 72 hours of the inspection and posted where clearly visible to the public. It is the responsibility of the licensee that signed the inspection report and the operator to ensure this requirement is met.

[16.34.2.10 NMAC - Rp 16 NMAC 34.2.10, 06-16-01; A, 10-04-07; A, 12-17-15]

16.34.2.11 PROVISIONS FOR EMERGENCY LICENSURE

A. Barbers, cosmetologists, manicurists/pedicurists, estheticians, electrologists, and instructors currently licensed and in good standing, or otherwise meeting the requirements for New Mexico licensure in a state in which a federal disaster has been declared, may be licensed in New Mexico during the four months following the declared disaster upon satisfying the following requirements:

(1) receipt by the board of a completed application which has been signed and notarized and which is accompanied by proof of identity, which may include a copy of a driver's license, passport or other photo identification issued by a governmental entity;

(2) refer to 16.34.2.8 NMAC, general licensing procedures; 16.34.5.8 NMAC, general licensure requirements; and 16.34.6.8 NMAC, reciprocity;

(3) other required verification will be that the board office will contact the applicant's prior licensing board by email, mail, or telephone for confirmation of what is provided by the applicant.

B. The board may waive the following requirements for licensure:

(1) application fees;

(2) specific forms or documentation required, on an individual case by case basis, under 16.34.2.8, 16.34.5.8, and 16.34.6.8 NMAC if the applicant is unable to obtain documentation from the federal declared disaster areas.

C. Nothing in this section shall constitute a waiver of the requirements for licensure contained in 16.34.2.8, 16.34.5.8, and 16.34.6.8 NMAC.

D. Licenses issued under (the emergency provision) shall be issued for a period of one year of less following the date of issuance, unless the board or an agent of the board approves a renewal application. Application for renewal shall be made on or before one year following the date of issue to avoid late renewal fees. The board reserves the right to request additional documentation, including but not limited to, recommendation forms and work experience verification forms prior to approving license renewal.

[16.34.2.11 NMAC - N/E, 11-10-05]

16.34.2.12 EMERGENCY LICENSE TERMINATION

A. The emergency license shall terminate upon the following circumstances:

(1) the issuance of a permanent license under section 16.34.2.8, 16.37.5.8, and 16.34.6.8 NMAC; or

(2) proof that the emergency license holder has engaged in fraud deceit, misrepresentation in procuring or attempting to procure a license under this section.

B. Termination of an emergency license shall not preclude application for permanent licensure.

[16.34.2.12 NMAC - N/E, 11-10-05]

16.34.2.13 EXPEDITED LICENSURE – MILITARY SERVICE MEMBERS, SPOUSES & VETERANS

A. Applications shall be completed on a form provided by the board.

B. The information shall include:

(1) Completed application and fee pursuant to 16.34.2 NMAC.

(2) Satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of armed forces of the United States, that has met the minimal licensing requirements that are substantially equivalent to the licensing requirements for the occupational or professional license the applicant applies for pursuant to Chapter 61, Articles 2 through 34 NMSA 1978.

(3) Proof of honorable discharge (DD214) or military ID card or accepted proof of military spouse status.

C. Electronic signatures will be acceptable for applications submitted pursuant to16.34.1 NMAC through 16.34.16 NMAC.

D. Renewal for a license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance set forth in 16.34.2 NMAC pursuant to Chapter 61, Articles 2 through 34 NMSA 1978.

[16.34.2.13 NMAC - N, 12-17-15]

16.34.2.14 RENEWALS EXPEDITED LICENSURE FOR MIITARY SERVICE MEMBERS, SPOUSES & VETERANS

A. Timely renewal of license(s) is the full and complete responsibility of the LICENSEE. Failure to renew the license by the expiration date will result in late fees or reexamination as set forth in the act.

B. Practitioner licenses expire every year, at the end of the practitioner's birth month.

C. A licensee, with a valid instructor license for the preceding twelve months, may use the instructor license to renew or reinstate his original practitioner license.

D. The board will issue renewal licenses within fifteen working days of receipt of the renewal request and applicable fee.

E. Electronic signatures will be acceptable for applications submitted pursuant to16.34.1 NMAC through 16.34.16 NMAC.

[16.34.2.14 NMAC - N, 12-17-15]

HISTORY OF 16.34.2 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:
Article I, Licensing, 12-21-81
Rule 1, Licensing, 3-8-90
Rule 1, Licensing, 3-9-92
Rule 1, Licensing, 10-19-93
Rule 1, Licensing, 5-23-95
BBE Rule 86-1, Board of Barber Examiners, Rules and Regulations - 1986, 6-27-86
BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations - 1987, 11-4-87
BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations - 1988, 10-4-88

History of Repealed Material:
16 NMAC 34.2, Licensing - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 3 EXAMINATIONS

16.34.3.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.3.1 NMAC - Rp 16 NMAC 34.3.1, 06-16-01]

16.34.3.2 SCOPE: All barbers, cosmetologists, estheticians, manicurist/pedicurists, manicurist/ estheticians, instructors, electrologists, schools, enterprises and establishments.
[16.34.3.2 NMAC - Rp 16 NMAC 34.3.2, 06-16-01]

16.34.3.3 STATUTORY AUTHORITY: Section 61-17A-7 - Board Powers and Duties - This directs the barbers and cosmetologists board to establish outlines for examinations for licensure.
[16.34.3.3 NMAC - Rp 16 NMAC 34.3.3, 06-16-01]

16.34.3.4 DURATION: Permanent
[16.34.3.4 NMAC - Rp 16 NMAC 34.3.4, 06-16-01]

16.34.3.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.3.5 NMAC - Rp 16 NMAC 34.3.5, 06-16-01]

16.34.3.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this outlines examinations for licensure and scoring requirements.
[16.34.3.6 NMAC - Rp 16 NMAC 34.3.6, 06-16-01]

16.34.3.7 DEFINITIONS: Refer to Part 1
[16.34.3.7 NMAC - Rp 16 NMAC 34.3.7, 06-16-01]

16.34.3.8 NOTICE OF EXAMINATION

A. The application for examination and applicable fee required by the act or these rules must be received by the board or its designee according to the published schedule. It is the applicant's duty to meet all deadlines. Any arrangement to have a third party (such as a school) transmit the fee and application is made at the applicant's risk. Failure of the third party to transmit the fee in a timely manner will render the applicant being ineligible to take the examination in question.

B. The doors to the examination room will close promptly at the scheduled examination start time. Applicants who do not appear on time or who do not have the required documents will not be permitted to the examination or will not be admitted to the examination. In extreme situations where mitigating circumstances are present, the board or its designee will decide whether to allow the applicant to take the examination.
[16.34.3.8 NMAC - Rp 16 NMAC 34.3.8, 06-16-01; A, 10-04-07]

16.34.3.9 EXAMINATION SCORES

A. The minimum passing scaled score for all written and practical licensing examinations is seventy five.

B. Examinations for all licenses except instructor licenses are scored in three individual segments, each requiring a minimum segment scaled score of seventy five. The segments are:

(1) national practical;
(2) national theory written; and
(3) state law written.

C. If an applicant fails to attain a scaled score of seventy five on any segment of the examination, he/she will be required to retake the failed segment in its entirety.

D. Examinations for instructor licenses for all disciplines are scored in two individual segments, each requiring a minimum scaled score of seventy five. The segments are:

(1) theory written; and
(2) state law written.

[16.34.3.9 NMAC - Rp 16 NMAC 34.3.9, 06-16-01; A, 07-16-04; A, 10-04-07]

16.34.3.10 EXAMINATION CONTRACT

A. To ensure test validity, reliability and standardization, the board may contract with an outside testing agency which has developed examinations to test the qualifications for licensure as a cosmetologist, manicurist, esthetician, electrologist, barber and instructor.

B. All examiners are trained and certified by the testing agency to ensure the fairness and integrity of the examination.

C. Examination answer sheets are scored by the testing agency.

D. The testing agency releases the board, its officers and employees, and the state of New Mexico from all liabilities, claims and obligations whatsoever arising from or under the contract for examination services.

[16.34.3.10 NMAC - Rp 16 NMAC 34.3.10, 06-16-01; A, 10-04-07]

16.34.3.11 EXAMINATIONS FOR EXPIRED LICENSES

A. An applicant whose license has expired for more than five years shall re-enter a licensed school, submit to a scholastic evaluation to determine his training needs, and complete a minimum of 150 hours of remedial education. Upon completion of the remediation, he may apply for and submit to the complete written theory examination, the applicable practical examination and a written state law examination.

B. An applicant whose license has expired for one year but less than five years shall be required to retake the applicable examinations.

[16.34.3.11 NMAC - Rp 16 NMAC 34.3.11, 06-16-01; A, 07-16-04; A, 10-04-07]

16.34.3.12 EXAMINATION REQUIREMENTS FOR EXPIRED LICENSES: All applicants for examination to reinstate an expired license shall submit a completed application for examination as required for original licensure and submit proof that he:

A. meets the age requirements set forth for original licensure;

B. meets the secondary education requirements set forth for original licensure; and

C. has been previously licensed by the New Mexico board of barbers and cosmetologists.

[16.34.3.12 NMAC - Rp 16 NMAC 34.3.12, 06-16-01; A, 10-04-07]

16.34.3.13 EXAMINATION REQUIREMENTS FOR FOREIGN TRAINED APPLICANTS: Any foreign indicated person who meets the requirements set forth in 16.34.2.8 NMAC may apply for a New Mexico license by examination. The examination application must be submitted to the board or its designee along with the following supporting documentation:

A. notarized translation of his valid license or certificate from another nation;

B. notarized translation of certified transcript of training from school or nation;

C. notarized translation of any other documents that may be required by the board or its designee;

D. notarized letters of employment from past employers or employment records to prove work experience if applicable as stated in Subsection B of 16.34.6.8 NMAC;

E. the requirements for translation apply only to documents written in a language other than English;

F. the board shall require examination applicants with foreign training who fail any part of the examination to register at a licensed school, submit to a scholastic evaluation to determine their training needs, and complete a minimum of 150 hours of remedial education. Upon completion and proof of the remediation, the applicant will be allowed to re-examine in the failed areas.

[16.34.3.13 NMAC - N, 10-04-07]

16.34.3.14 EXAMINATION REQUIREMENTS FOR APPLICANTS WITH FULL HOURS, NO OUT-OF-STATE LICENSE: An applicant, who has completed an equivalent course of study in the United States, but has not obtained a license in another state, will be admitted to the New Mexico board examinations subject to all requirements, which apply to New Mexico applicants to take examination.

[16.34.3.14 NMAC - N, 10-04-07]

HISTORY OF 16.34.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Article II, Licensing Examinations, 12-21-81

Rule 2, Examination Fee, 3-8-90

Rule 2, Examination Fee, 3-9-92

Rule 2, Examinations, 10-19-93

Rule 2, Examinations, 5-13-94

Rule 2, Examinations, 5-13-95

BBE Rule 86-1, Board of Barber Examiners, Rules and Regulations - 1986, 6-27-86

BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations - 1987, 11-4-87
BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations - 1988, 10-4-88

History of Repealed Material:
16 NMAC 34.3, Examinations - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 4 SPECIAL LICENSES

16.34.4.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.4.1 NMAC - Rp 16 NMAC 34.4.1, 06-16-01]

16.34.4.2 SCOPE: All barbers, cosmetologists, estheticians, manicurist/pedicurists, manicurist/ estheticians, instructors, electrologists, schools, enterprises, and establishments; applicants for examination and students.
[16.34.4.2 NMAC - Rp 16 NMAC 34.4.2, 06-16-01; A, 12-17-15]

16.34.4.3 STATUTORY AUTHORITY: Section 61-17A-7 - Board Powers and Duties - The board may create and establish standards for special licenses. Section 61-17A-11 - Requirements for licensure of instructors.
[16.34.4.3 NMAC - Rp 16 NMAC 34.4.3, 06-16-01]

16.34.4.4 DURATION: Permanent
[16.34.3.4 NMAC - Rp 16 NMAC 34.3.4, 06-16-01]

16.34.4.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.4.5 NMAC - Rp 16 NMAC 34.4.5, 06-16-01]

16.34.4.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this establishes licensure requirements for all courses of study pursuant to the Barbers and Cosmetologists Act.
[16.34.4.6 NMAC - Rp 16 NMAC 34.4.6, 06-16-01]

16.34.4.7 DEFINITIONS: Refer to Part 1
[16.34.4.7 NMAC - Rp 16 NMAC 34.4.7, 06-16-01]

16.34.4.8 [RESERVED]
[16.34.4.8 NMAC - Rp 16 NMAC 34.4.8, 06-16-01; A, 10-04-07; Repealed, 12-17-15]

16.34.4.9 [RESERVED]
[16.34.4.9 NMAC - Rp 16 NMAC 34.4.9, 06-16-01; Repealed, 10-04-07]

16.34.4.10 [RESERVED]
[16.34.4.10 NMAC - Rp 16 NMAC 34.4.10, 06-16-01; Repealed, 07-16-04]

16.34.4.11 [RESERVED]
[16.34.4.11 NMAC - Rp 16 NMAC 34.4.11, 06-16-01; Repealed, 04/12/10]

16.34.4.12 [RESERVED]
[16.34.4.12 NMAC - Rp 16 NMAC 34.4.12, 06-16-01; Repealed, 07-16-04]

16.34.4.13 QUALIFIED INSTRUCTORS

A. An eligible applicant may be issued an instructor license provided he or she submits a transcript for a 1000-hour instructor training course or proof of two years of current and consecutive work experience and passes the instructor licensing examination which can be taken only once for multiple licenses.

B. A provisional instructor license will be issued to an eligible applicant who meets the board requirements and has completed three full years of current verified full time work experience as a practitioner in the field in which he/she seeks licensure as an instructor under the following terms and conditions:

(1) The work experience must be current to ensure up-to-date knowledge in the field in which the applicant seeks provisional licensure.

(2) The provisional license will be effective until the next renewal period of March thirty-one.

(3) The provisional license will only be renewed twice upon completion of the required continuing education in professional development and the required fee as set forth by board rules.

(4) To obtain an instructor license, the holder of a provisional instructor license must complete an examination application and pass the instructor licensing examination. Failing any portion of the instructor examination automatically voids the provisional instructor license. The provisional license must then be returned to the board office.

(5) The holder of a provisional instructor license must sit for the licensing examination prior to the expiration of the provisional license.

(6) No more than fifty percent of the total instructional staff at any licensed school in the state of New Mexico may be licensed under this category. When determining ratios, more than one part-time provisional instructor may be combined to count as one instructor.

[16.34.4.13 NMAC - Rp 16 NMAC 34.4.13, 06-16-01; A, 10-04-07; A, 04-12-10; A, 12-17-15]

16.34.4.14 STUDENT PERMIT:

A. Upon receipt of a complete student registration form and applicable fee, which shall be received in the board office within fifteen days of date of registration, the board will issue a student permit and permit number. The student permit authorizes the holder to practice course related skills in an approved school and perform services on the public only after fifteen percent of the required hours for graduation from the course of study are accrued.

B. Student permit are valid for 90 days following completion of graduation requirements. The student permit will be issued to the student upon graduation of course of study by a school official and can be used to enter a licensed establishment and provide all services in the applicable course of study under the constant supervision of a licensee of the board, in the applicable course of study. The student permit holder may not assume supervisory or managerial responsibilities of a licensed establishment at any time. The student permit is valid for 90 days while waiting to test. Once the 90 days has expired the student permit must be turned into the state board office and the student must terminate working at the licensed establishment. It is the responsibility of the licensed establishment to monitor the expiration of the student permit. The student permit must be turned into the board with initial licensure application as part of the application process. No extensions will be given after the 90 days has terminated. The student must reapply if the course of study goes beyond one year.

C. Student permits are the property of the board and must be returned to the board office with the notice of termination or official transcript of credit by the school. Additional requirements applicable to student permits are found in Subsection A, Paragraph 7 of 16.34.8.13 NMAC of these rules.

D. Student permits cannot be used outside a school environment without board approval.

E. Student permits are not to be used as a student externship permit as defined in 16.34.8.17 NMAC.

16.34.4.14 NMAC - Rp 16 NMAC 34.4.14, 06-16-01; A, 07-16-04; A, 10-04-07; A, 04-12-10; A, 11-14-10; A, 12-17-15]

16.34.4.15 DUPLICATE LICENSES: A duplicate license will be issued to any board licensee who submits a written request along with the required fee.

[16.34.4.15 NMAC - Rp 16 NMAC 34.4.15, 06-16-01; A, 10-04-07; A, 12-17-15]

HISTORY OF 16.34.4 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Article III, Special Cosmetology Practitioners Licenses, 12-21-81
Rule 3, Special Licenses, 3-8-90
Rule 3, Special Licenses, 3-9-92
Rule 3, Special Licenses, 10-19-93
Rule 3, Special Licenses, 8-12-94
BBE Rule 86-1, Board of Barber Examiners, Rules and Regulations - 1986, 6-27-86
BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations - 1987, 11-4-87
BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations - 1988, 10-4-88

History of Repealed Material:

16 NMAC 34.4, Special Licenses - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 5 REGULAR LICENSES

16.34.5.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists.
[16.34.5.1 NMAC - Rp 16 NMAC 34.5.1, 06-16-01]

16.34.5.2 SCOPE: All barbers, cosmetologists, estheticians, manicurist/pedicurists, manicurist/estheticians, instructors, electrologists, schools, enterprises and establishments.
[16.34.5.2 NMAC - Rp 16 NMAC 34.5.2, 06-16-01]

16.34.5.3 STATUTORY AUTHORITY: Sections 61-17A-5, 61-17A-7, 61-17A-8, 61-17A-9, 61-17A-10, 61-17A- 11. 61-17A-12 and 61-17A-15 of the Barbers and Cosmetologists Act. The board may provide the standards for the licensure of barbers, cosmetologists, manicurist/pedicurists, estheticians, and electrologists and the licensure of instructors, schools, enterprises and establishments.
[16.34.5.3 NMAC - Rp 16 NMAC 34.5.3, 06-16-01]

16.34.5.4 DURATION: Permanent
[16.34.5.4 NMAC - Rp 16 NMAC 34.5.4, 06-16-01]

16.34.5.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.5.5 NMAC - Rp 16 NMAC 34.5.5, 06-16-01]

16.34.5.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part establishes licensure requirements for all courses of study.
[16.34.5.6 NMAC - Rp 16 NMAC 34.5.6, 06-16-01]

16.34.5.7 DEFINITIONS: Refer to Part 1
[16.34.5.7 NMAC - Rp 16 NMAC 34.5.7, 06-16-01]

16.34.5.8 GENERAL LICENSURE REQUIREMENTS

A. Any person is eligible to be registered as a practitioner and is qualified to receive a license as a registered barber, cosmetologist, manicurist, esthetician, manicurist/esthetician, or electrologist who submits proof that the applicant:

(1) is at least seventeen years of age;

(2) has an education equivalent to the completion of the second year of high school;

(3) has completed the course of study for the license in a licensed school within the preceding twenty-four months;

(4) has paid the required fees as set forth in these rules; and

(5) has passed the practical and written examination conducted by the board.

B. Any person is eligible for initial registration or re-registration as an instructor and is qualified to receive a license as an instructor who submits proof that the applicant has met all the above requirements and in addition:

(1) has an education equivalent to the completion of four years of high school; and

(2) holds a current license in New Mexico as a practitioner in the field in which the applicant is seeking licensure as an instructor.

C. Applicants who have not completed a course of study equivalent to the license for which he/she is applying may submit notarized letters of employment or employment records to prove licensed, current, verified work experience. Six full months of work experience will equal one-hundred-fifty hours of training. Work experience less than six full months will not be considered toward training hours.

D. Applications are valid for one year from date of receipt.

E. All application fees are non-refundable.

[16.34.5.8 NMAC - Rp 16 NMAC 34.5.8, 06-16-01; A, 07-16-04; A, 12-17-15]

16.34.5.9 BARBER LICENSE (1200 HOURS OR EQUIVALENT CREDIT): A barber license permits the practitioner to perform the following services upon the upper part of the human body for cosmetic purposes:

A. shave or trim beards;

B. cut and style hair whether by hand or mechanical or electrical apparatus;

C. curl, wave, permanent wave or chemically relax the hair;

D. give facial and scalp massage or treatments with oils, creams, lotions or other preparations, either by hand or mechanical appliances;

E. shampoo, bleach, dye, or apply tonics to the hair;

F. apply cosmetic preparations, antiseptics, powders, oils, clays or lotions to the scalp, face, neck or upper parts of the body;

G. care for and service wigs and hairpieces; and

H. remove superfluous or unwanted hair from the body of a person by any means except electrolysis.

I. A barber shall not perform any type of nail services without obtaining appropriate licensure.

[16.34.5.9 NMAC - Rp 16 NMAC 34.5.9, 06-16-01; A, 12-17-15]

16.34.5.10 COSMETOLOGIST LICENSE (1600 HOURS OR EQUIVALENT CREDIT):

A. A cosmetologist license permits the practitioner to:

(1) cut and style hair whether by hand or mechanical or electrical apparatus;

(2) braid, natural hair braid, curl, wave, permanent wave or chemically relax the hair;

(3) give facial and scalp massage or treatments with oils, creams, lotions or other preparations, either by hand or mechanical appliances, including removal of superfluous or unwanted hair except by means of shaving and electrolysis;

(4) shampoo, bleach, dye, or apply tonics to the hair;

(5) apply cosmetic preparations, antiseptics, powders, oils, clays or lotions to any part of the body of a person;

(6) manicure and pedicure the nails of a person and add nail extensions;

(7) care for and service wigs and hairpieces;

(8) cut or trim beards with clippers or scissors only;

B. A cosmetologist shall not perform any type of shaving using a straight edge (or razor blade in any form) with or without a safety guard without obtaining appropriate licensure.

[16.34.5.10 NMAC - Rp 16 NMAC 34.5.10, 06-16-01; A, 10-04-07; A, 12-17-15]

16.34.5.11 MANICURIST/PEDICURIST LICENSE (400 HOURS OR EQUIVALENT CREDIT)

A. A manicurist/pedicurist license permits the practitioner to:

(1) trim the nails of a person, including the trimming of otherwise healthy ingrown toenails;

(2) reduce corns or callouses by using softening preparations or abrasion in order to beautify the foot;

(3) use chemical substances on the nails for the purpose of strengthening, repairing, or lengthening the nails using nail tips, wraps, or acrylic nail products. Nail extensions may be applied only after the nails, cuticles and nail plate have been properly prepared for the service and applicable product;

(4) apply massage and manipulations to the hands, arms and feet for the purpose of stimulating and smoothing;

(5) apply polish, oils or other cosmetic preparations for the purpose of beautifying the hands and feet.

B. A manicurist/pedicurist shall not treat an obviously infected ingrown to a nail or use any technique involving mechanical penetration of the skin beneath a callous or corn.

C. A manicurist/pedicurist shall not perform any type of temporary or permanent hair removal techniques without first obtaining appropriate licensure.

[16.34.5.11 NMAC - Rp 16 NMAC 34.5.11, 06-16-01; A, 12-17-15]

16.34.5.12 ESTHETICIAN LICENSE (600 HOURS OR EQUIVALENT CREDIT)

A. An esthetician license permits the practitioner to:

(1) use cosmetic preparations on the skin for cleansing and stimulating;

(2) apply massage and manipulation techniques using the hands or mechanical apparatus;

(3) apply light therapy, high frequency and other types of facial treatments;

(4) use specialized skin care and facial machines in applying facial treatments;

(5) apply cosmetic makeup preparations, antiseptics, powders, oils, clays or lotions to any part of the body of a person;

(6) perform lash and brow tinting procedures;

(7) remove superfluous or unwanted hair from the body of a person by any means except electrolysis or other invasive techniques and shaving.

B. An esthetician shall not perform any services other than those listed above. To do so may lead to revocation of the license or other disciplinary action by the board.

C. Using the term or title of "medical esthetician" is not allowable under the act. This term is misleading and could be deemed deceptive or fraudulent.

[16.34.5.12 NMAC - Rp 16 NMAC 34.5.12, 06-16-01; A, 10-04-07]

16.34.5.13 ELECTROLOGIST LICENSE (600 HOURS OR EQUIVALENT CREDIT): An electrologist license permits the licensee to remove from or destroy hair on the human body through the use of electrolysis or any other means of temporary or permanent hair removal. Electrolysis is defined as the decomposition of a chemical compound or body tissues, particularly hair root protein through the use of an electric current applied to the body with an invasive, needle-shaped electrode or probe.

[16.34.5.13 NMAC - Rp 16 NMAC 34.5.13, 06-16-01]

16.34.5.14 INSTRUCTOR LICENSE (1000 HOURS OR EQUIVALENT CREDIT)

A. An instructor license permits the instructor to teach only those courses or subjects in which he/she has had practical training and received licensure as a practitioner as follows;

(1) a cosmetologist who obtains a cosmetologist instructor license can teach all phases of cosmetology, esthetics, manicuring/pedicuring and salon business, but cannot teach or supervise shaving.

(2) a barber who obtains a barber instructor license can teach barbering, esthetics and salon business, but cannot teach or supervise manicuring/pedicuring.

(3) a manicurist/pedicurist who obtains a license as a manicuring instructor can teach manicuring/pedicuring and salon business, but cannot teach or supervise other cosmetology or barbering services.

(4) an esthetician who obtains a license as an esthetician instructor can teach esthetics and salon business, but cannot teach or supervise other cosmetology, barbering, manicuring/pedicuring or electrology services.

(5) an electrologist who obtains a license as an electrology instructor can teach electrology and salon business, but cannot teach or supervise, cosmetology, barbering, manicuring or esthetic services.

(6) a manicurist/esthetician who obtains a license as a manicurist/esthetician instructor can teach manicuring/pedicuring, esthetics and salon business, but cannot teach or supervise other cosmetology, barbering, or electrology services.

B. Teaching or supervising unauthorized subjects or courses may lead to revocation of the instructor license or other disciplinary action by the board.

[16.34.5.14 NMAC - Rp 16 NMAC 34.5.14, 06-16-01]

16.34.5.15 MANICURIST/ESTHETICIAN LICENSE (900 HOURS OR EQUIVALENT CREDIT)

A. A combined manicurist/esthetician license permits the practitioner to:

(1) trim the nails of a person, including the trimming of otherwise healthy ingrown toenails;

(2) reduce corns or callouses by using softening preparations or abrasion in order to beautify the foot;

(3) use chemical substances on the nails for the purpose of strengthening, repairing or lengthening the nails using nail tips, wraps or acrylic nail products. Nail extensions may be applied only after the nails, cuticles and nail plate have been properly prepared for the service and applicable product;

(4) apply massage and manipulations to the hands, arms and feet for the purpose of stimulating and smoothing;

(5) apply polish, oils or other cosmetic preparations for the purpose of beautifying the hands and feet;

(6) use cosmetic preparations, antiseptics, powders, oils, clays or lotion to any part of the body of a person;

(7) apply massage and manipulation techniques using the hands or mechanical apparatus;

(8) apply light therapy, high frequency and other types of facial treatments; and use specialized skin care and facial machines in applying facial treatments;

(9) apply cosmetic makeup preparations to contour and beautify the skin;
(10) perform lash and brow tinting procedures; and
(11) remove superfluous or unwanted hair from the body of a person by any means except electrolysis or other invasive techniques and shaving.

B. A manicurist/esthetician shall not treat an obviously infected ingrown toenail or use any technique involving mechanical penetration of the skin beneath a callous or corn.

C. A manicurist/esthetician shall not perform facial services on any person with a communicable skin disease.

D. A manicurist/esthetician shall not perform any services other than those listed above. To do so may lead to revocation of the license or other disciplinary action by the board.

[16.34.5.15 NMAC - Rp 16 NMAC 34.5.15, 06-16-01; A, 12-17-15]

16.34.5.16 BARBER/COSMETOLOGY LICENSE (CROSSOVER) A barber/cosmetology license may be issued to any licensee who has completed a crossover course in either barbering or cosmetology and has taken and passed the appropriate exams. Upon completion of the crossover, the licensee must contact the board office and request that their licenses be combined.

[16.34.5.16 NMAC - N, 12-17-15]

HISTORY OF 16.34.5 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Rule 4, Regular Licenses, 10-19-93
Rule 4, Regular Licenses, 5-13-94
Rule 4, Regular Licenses, 8-12-94
Rule 4, Regular Licenses, 5-23-95
BBE Rule 86-1, Board of Barber Examiners, Rules and Regulations - 1986, 6-27-86
BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations - 1987, 11-4-87
BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations - 1988, 10-4-88

History of Repealed Material:

16 NMAC 34.5, Regular Licenses - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 6 LICENSING BY RECIPROCITY: CREDIT FOR OUT-OF-STATE TRAINING

16.34.6.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.6.1 NMAC - Rp 16 NMAC 34.6.1, 06-16-01]

16.34.6.2 SCOPE: All barbers, cosmetologists, estheticians, manicurist/pedicurists, manicurist/ estheticians, instructors and electrologists licensed out-of-state.
[16.34.6.2 NMAC - Rp 16 NMAC 34.6.2, 06-16-01]

16.34.6.3 STATUTORY AUTHORITY: Section 61-17A-17 - Licensure Under Prior Law - Endorsement. This authorizes the board to grant a license to a current licensee from another state, territory or possession of the United States or the District of Columbia.
[16.34.6.3 NMAC - Rp 16 NMAC 34.6.3, 06-16-01]

16.34.6.4 DURATION: Permanent
[16.34.6.4 NMAC - Rp 16 NMAC 34.6.4, 06-16-01]

16.34.6.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.6.5 NMAC - Rp 16 NMAC 34.6.5, 06-16-01]

16.34.6.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part establishes requirements of hours and qualifications for the out-of-state licensees requesting licensure in New Mexico.
[16.34.6.6 NMAC - Rp 16 NMAC 34.6.6, 06-16-01]

16.34.6.7 DEFINITIONS: Refer to Part 1
[16.34.6.7 NMAC - Rp 16 NMAC 34.6.7, 06-16-01]

16.34.6.8 RECIPROCITY

A. An applicant for licensure by reciprocity must meet all the requirements of the act and applicable rules.

B. CREDIT FOR WORK EXPERIENCE. Applicants who have not completed a course of study equivalent to the license for which he/she is applying may submit notarized letters of employment or employment records to prove licensed, current, verified work experience. Six full months of work experience will equal one-hundred-fifty hours of training. Work experience less than six full months will not be considered toward training hours. To obtain any license by reciprocity, no more than fifty percent of the hours required for licensure by in-state applicants may be obtained by work experience. Apprenticeship training hours shall be considered on an individual case basis and will not be credited for more than fifty percent of the hours required for licensure by in-state applicants.

C. FULL HOURS OR WORK EXPERIENCE, OUT-OF-STATE LICENSE. Any person who seeks licensure in the state of New Mexico through reciprocity from any other state shall:

(1) furnish an affidavit from the state regulatory agency verifying that the applicant holds a current license and is in good standing with the state;

(2) furnish a certified transcript for the course of study or affidavit of hours from the regulatory agency or school attended in the state from which the applicant is applying;

(3) complete the application for reciprocity on a form provided by the board and submit the required fee: and

(4) furnish notarized letters of employment from past employers or employment records to prove work experience as stated in B of this section, if needed.

D. FOREIGN TRAINING: All foreign trained applicants must submit to the applicable examination. Refer to 16.34.3 NMAC for requirements.

E. INCOMPLETE HOURS, OUT OF STATE LICENSE.

(1) An applicant who holds a valid license in another state and who needs additional training not in excess of 100 hours may obtain the training hours in any state. Upon submitting proof of having acquired the additional training hours, the applicant may then be licensed through reciprocity.

(2) An applicant licensed in a state where the course of study is not equivalent to New Mexico's may apply work experience or apprenticeship training hours, on a case by case basis, toward the training requirements as stated in Subsection B of 16.34.6.8 NMAC, provided these hours do not exceed fifty percent of the required hours in New Mexico. If the allowed hours credited from work experience or apprenticeship training meet or exceed the equivalent of the New Mexico course of study, the applicant may obtain licensure through reciprocity.

(3) An applicant who cannot obtain a license through reciprocity with the previous training and work experience, he will be required to obtain approval of the previous hours of training as stated in Subsection I of 16.34.6.8 NMAC , obtain the additional hours needed and submit to the New Mexico licensing examination applicable to the license he is seeking.

F. In order to expedite the process of approving training hours and work experience for reciprocity applicants and transfer students, the board executive director may forward required documents to a member of the board who is also a licensee for approval.

G. Prior to licensure the applicant shall take and pass a board approved jurisprudence examination. The applicant must pass the jurisprudence exam with a minimum score of 75% or greater.

[16.34.6.8 NMAC - Rp 16 NMAC 34.6.8, 06-16-01; A, 10-04-07; A, 04/12/10; A, 12-17-15]

HISTORY OF 16.34.6 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Article IV, Licensing by Reciprocity: Credit for Out-of-State Training, 12-21-81
Article IV, Licensing By Reciprocity: Credit for Out-of-State Training, 3-24-89
Rule 4, Licensing By Reciprocity: Credit for Out-of-State Training, 3-8-90
Rule 4, Licensing By Reciprocity: Credit for Out-of-State Training, 3-9-92
Rule 5, Licensing By Reciprocity: Credit for Out-of-State Training, 10-19-93
Rule 5, Licensing By Reciprocity: Credit for Out-of-State Training, 5-13-94
Rule 5, Licensing By Reciprocity: Credit for Out-of-State Training, 8-12-94
Rule 5, Licensing By Reciprocity: Credit for Out-of-State Training, 5-23-95
BBE Rule 86-1, Board of Barber Examiners, Rules and Regulations - 1986, 6-27-86
BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations - 1987, 11-4-87
BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations - 1988, 10-4-88

History of Repealed Material:

16 NMAC 34.6, Licensing By Reciprocity: Credit For Out-of-State Training - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 7 ESTABLISHMENTS AND ENTERPRISES

16.34.7.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.7.1 NMAC - Rp 16 NMAC 34.7.1, 06-16-01]

16.34.7.2 SCOPE: All barbers, cosmetologists, estheticians, manicurist/pedicurists, manicurist/ estheticians, instructors, electrologists, schools, enterprises and establishments.
[16.34.7.2 NMAC - Rp 16 NMAC 34.7.2, 06-16-01]

16.34.7.3 STATUTORY AUTHORITY: Sections 61-17A-15, 61-17A-18 and 61-17A-19 of the Barbers and Cosmetologists Act. This authorizes the board to develop establishment standards and issue a license to establishments, enterprises and clinics that are in compliance with all requirements established by the board.
[16.34.7.3 NMAC - Rp 16 NMAC 34.7.3, 06-16-01]

16.34.7.4 DURATION: Permanent
[16.34.7.4 NMAC - Rp 16 NMAC 34.7.4, 06-16-01]

16.34.7.5 EFFECTIVE DATE: June 16, 2001 unless a different date is cited in the history note at the end of a section.
[16.34.7.5 NMAC - Rp 16 NMAC 34.7.5, 06-16-01]

16.34.7.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part outlines establishment and outreach enterprise requirements.
[16.34.7.6 NMAC - Rp 16 NMAC 34.7.6, 06-16-01]

16.34.7.7 DEFINITIONS: The following definitions are recommended infection control standards used for cleaning (sanitizing), disinfecting, and sterilization:

A. "clean or cleansing" means washing with liquid soap and water, detergent, antiseptics, or other adequate methods to removal all visible debris or residue. Cleansing is not disinfection.

B. "disinfect or disinfection" means the use of chemical agents (after cleaning) to destroy potentially dangerous pathogens on non-porous items;

C. "disinfectant" means an EPA-registered bactericidal, fungicidal and virucidal chemical effective against pathogens of concern when used as directed on the manufacturer's label. For purposes of this rule alcohol and UV light boxes are not approved for disinfection.

D. "proper use of EPA-registered bactericidal, fungicidal and virucidal disinfectants" means disinfecting using the following:

(1) implements and surfaces shall first be thoroughly cleaned of all visible debris prior to disinfection. EPA-registered bactericidal, fungicidal and virucidal disinfectants become inactivated and ineffective when visibly contaminated with debris, hair, dirt and particulates;

(2) some disinfectants may be sprayed on instruments, tools, or equipment to be disinfected;

(3) disinfectants in which implements are to be immersed shall be prepared fresh daily or more often if solution becomes diluted or soiled; and

(4) these chemicals are harsh and may affect the long term use of scissors and other sharp objects. Leaving items in solution in accordance with manufacturers' recommendation for effective disinfection is recommended.

E. "multi-use" means non-porous instruments, items, equipment, implements or tools that must be cleaned and disinfected. The items must be disinfected by a complete immersion in an EPA-registered, bactericidal, fungicidal and virucidal (formulated for hospitals) disinfectant that is mixed and used according to the manufacturer's directions. Non-porous items are the only items that can be disinfected;

E. "laundering" means to wash in washing machine with detergent, dried and hot to the touch, kept in enclosed container or cabinet;

F. "sanitation" means the maintenance of sanitary conditions to promote hygiene and the prevention of disease through the use of chemical agents or products;

G. "single use items" means tools or supplies that come in contact with the public and are porous (made of anything other than plastic, metal or glass) cannot be disinfected (including, but not limited to: disposable razors, pedi-pads, emery boards, sponges, cotton pads, buffing blocks, toe separators, chamois, sandpaper drill bits, waxing strip, wood sticks, cotton balls, nail wipes, disposable towels, pumice stones, flip flops, and porous files, etc.) shall be disposed of immediately after use;

H. "sterilize or sterilization" means to eliminate all forms of bacteria or other microorganisms.

[16.34.7.1 NMAC - Rp 16 NMAC 34.7.1, 06-16-01; A, 12-17-15]

16.34.7.8 APPLICATION AND REQUIREMENTS FOR ENTERPRISE OR ESTABLISHMENT LICENSE

A. A completed official application for an enterprise or establishment license must be filed with the board at least fifteen days prior to the expected opening of the enterprise or establishment: Applications must include the required fee in the form of a money order, cashier's check, business check or credit card for on-line transactions, (no personal checks will be accepted). Applications must include:

(1) a copy of the owner's business license must accompany initial application;

(2) all fees are non-refundable;

(3) incomplete applications will be returned; and

(4) electronic signatures will be acceptable for applications submitted pursuant to 16.34.1 NMAC through 16.34.16 NMAC.

B. The application, if complete, may be administratively approved. A formal inspection of the enterprise, outreach enterprise unit or establishment shall take place after the issuance of the license.

C. When an enterprise or establishment relocates within the state of New Mexico, the owner must complete a new application and obtain approval, including inspection from the board to operate the business at the new location, and pay the administrative fee.

D. If any portion of the establishment is completely segregated from the primary area, a duplicate establishment license must be acquired and posted in the separate area. A duplicate license fee will be assessed.

E. All enterprise and establishment licenses must be renewed each year on the last day of the month of original issue date.

F. Official enterprise or establishment license must be displayed where visible to the public upon entry to the establishment;

G. The most recent inspection report shall be printed and posted in each establishment where visible to the public within 72 hours of the inspection. It is the responsibility of the licensee that signed the inspection report and the owner to ensure this requirement is met.

H. The following information shall be kept on file on the premises of an enterprise or establishment and available for inspection by the board:

(1) the full names of all employees in the enterprise or establishment and their exact duties;

(2) the name and address of enterprise or establishment owner;

(3) a complete description of all services performed;

(4) implementation of proper program of identification of products during use and in storage to avoid confusion as to products or their ingredients; such program shall include efforts to ensure that ingredient information provided by manufacturers or distributors remains available with the product for use by licensed professionals and clients.

(5) safety data sheet (SDS) must be current. A file containing pertinent information regarding products. Hard copies MUST be available. Computer based storage or access may only be used when all employees have access at all hours;

(6) a copy or access to the New Mexico board of barbers and cosmetologists statutes and rules;

(7) a site specific OSHA exposure control plan;

(8) if a pedicure tub is maintained on the premises, a log is maintained by the salon showing the legible signature, license number of the person disinfecting pedicure tub as defined in 16.34.7.9 NMAC. The time and date of the disinfection process and the name of the disinfectant used. Log entries must be maintained on the salon premises for 12 months; and

(9) as defined in 16.34.7.9 NMAC a log of each autoclave use must be maintained showing all testing samples and results, and a maintenance log of all maintenance performed according to the manufacturer's directions. The salon must retain the most recent twelve months of the log at the salon for review by the board;

I. Each establishment licensed by the board shall post a sign at the main entrance, which indicates the type of business being performed.

J. Proper signage must indicate the type of services offered.

K. If establishment is attached to a residence, it shall have a separate entrance. Permission from the county or city is required prior to submittal of application.

L. Each mobile outreach unit shall post a sign indicating the type of business being performed. The outreach enterprise license will be maintained at its business address. Each mobile outreach unit shall carry and have posted a duplicate enterprise license assigned to that unit.

M. Any establishment or mobile outreach enterprise unit licensed by the board may not be used for living or sleeping quarters or in any way for residential purposes. If an establishment is located in a private residence, a segregated area must be provided for the licensed activity and maintenance of proper water supply and toilet standards to ensure proper infection control and safety standards. Reasonable access to a restroom must be provided by the establishment or mobile outreach enterprise unit.

N. Except as provided in these rules, no services authorized under this act may be provided away from a licensed establishment. Services authorized under this act may be provided in mobile outreach units only as specified in these rules.

O. Any licensee performing services in a mobile outreach unit must carry a current duplicate license at all times. The licensee must show the client the license upon request.

P. Each outreach enterprise mobile unit will be equipped with or have available a cellular phone or other communication capability necessary for immediate access or prompt response.

Q. Each outreach enterprise mobile unit must have signage on at least two sides for identification information in letters no smaller than five inches.

R. Outreach enterprise mobile units shall be used for the sole purpose stated in 16.34.1 NMAC of these rules.

[16.34.7.8 NMAC - Rp 16 NMAC 34.7.8, 06-16-01; A, 12-17-15]

16.34.7.9 INFECTION CONTROL & SAFETY STANDARDS FOR ESTABLISHMENTS AND ENTERPRISES

A. All licensees who operate enterprise or establishments, including outreach mobile units must comply with the following minimum infection control and safety standards. Failure to comply with these requirements may result in an administrative fine as provided in 16.34.15 NMAC of these rules and other disciplinary action by the board.

(1) maintenance of adequate ventilation to ensure that occupants are not improperly exposed to hazardous products or chemicals;

(2) maintenance of smoking restriction to ensure that products or chemicals used are not inadvertently ignited;

(3) maintenance of spill standards to ensure that occupants are not improperly exposed to any product or chemical;

(4) maintenance of hot and cold running water available in an operable manner to perform professional services in a safe and sanitary manner while serving the public;

(5) all establishments shall be completely separated by solid partitions, or by walls where food is prepared should be enclosed and away from public areas;

(6) rest rooms of establishments must be in working order and have ceiling high partitions from the rest of the establishment or common area;

(7) hours of operation shall be posted where clearly visible to the public at all times;

(8) each establishment must have signs stating;

(a) only "disinfected tools or new disposable supplies" may be used on clients; and

(b) "single use" instruments, items and supplies must be discarded after each use.

(9) most recent inspection report shall be posted where clearly visible to the public upon entry to the establishment;

(10) each establishment owner/manager must print the inspection report within 48 hours of inspection and post the inspection in a conspicuous place;

(11) maintenance of all equipment in safe working condition;

(12) compliance with local licensing, fire, building, health, ventilation, heating and safety requirements;

(13) floors, walls, and other fixtures must be kept reasonably clean at all times;

(14) floors shall be thoroughly cleaned each day;

(15) hair cuttings must be swept up and deposited in a closed receptacle after each haircut;

(16) trash containers must be emptied daily and kept clean by washing or using plastic liners;

(17) it is the responsibility of all licensees, including the salon owner and the designated licensed salon manager to ensure that all infection control requirements are followed;

(18) implementation of proper component mixing practices to reduce the risk of undesired reactions;

(19) maintenance of safety data sheets containing pertinent facts regarding products;

(20) implementation of proper storage practices to ensure that products are maintained in the manner that prevents any risk of fire or of undesired reactions;

(21) implementation of proper disinfection practices of working tools and implements; all non-porous (multi-use) items must be cleaned and then disinfected per procedure listed in Subsection B. of 16.34.7.9 NMAC;

(22) sharps ready for disposal shall be disposed of in approved sharps containers. Contaminated waste which does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal, approved disposal methods. Storage of filled contaminated waste containers on-site shall not exceed 90 days; containers shall be stored as far away as possible from autoclave/clean instruments. Establishment shall maintain records of waste removal;

(23) use of an autoclave requires monthly spore tests. Autoclaves and autoclave packaging of tools are prohibited unless regular (at least once per month but not more than 30 days between tests) spore tests are performed by a contracted laboratory. If a positive spore test is received, the autoclave may not be used until a negative spore result is received;

(24) each establishment must maintain a log of each autoclave use, all testing samples and results, and a maintenance log of all maintenance performed according to the manufacturer's directions. The salon must retain the most recent twelve months of the log at the salon for review by the board;

(25) there shall be adequate disinfectants in your place of business to perform all scheduled services for two business days;

(26) adherence to the product manufacturer's directions for safe use that appear on the product labeling; including proper mixing, replacement of solution, contact time and disposal;

(27) disinfectant solutions must be made daily, and disposed of at the end of the day or immediately if visible debris is present;

(28) if concentrated disinfectants must be diluted with water, measuring devices must be readily available and used to ensure an effective solution is made;

(29) all products and chemicals not in the original container must be kept in closed and legibly labeled container with name of product, product description (disinfectant) and manufacturer's name;

(30) disinfected implements must be stored in a disinfected, dry, covered container and be isolated from contaminants. At no time can these items come into contact with used/dirty items;

(31) all multi-use implements must be kept in covered, marked, separate containers (dirty or disinfected);

(32) maintain disinfected combs, brushes and implements in enclosed containers marked as "ready for use";

(33) maintain dirty or used combs, brushes and implements in enclosed containers marked "not ready for use";

(34) towel warmers must be disinfected daily. Salons using hot steamed towels in services must meet the following requirements:

(a) all towels, linens, sheets, robes and other linens must be laundered after each use, dried and hot to the touch, and be kept in enclosed container or cabinet;

(b) towels must be washed with detergent, (properly diluted), and dried on "hot";

(c) practitioners preparing towels for the warmers must first wash their hands or wear gloves;

(d) wet towels used in services must be prepared fresh each day. At the end of the day, unused steamed towels must be removed and laundered;

(e) clean towels, sheets, robes and other linens must be used for each client;

(f) the use of paper or disposable towels, linens, etc. shall be disposed of after each use; and

(g) a new, disposable neck strip must be used for each client or a freshly laundered unused towel be placed between chair cloth/shampoo cape and person's skin. The chair cloth and shampoo cape must not have direct contact with client's skin.

(35) filters and drains of pedicure basins must be cleaned and disinfected after each use with an EPA hospital grade disinfectant. Immediately after each service, the practitioner must follow steps listed below:

(a) dirty water is drained, and any visible debris is removed;

(b) all removable filter screens, inlet jets, footplates, impeller assemblies, and other parts are removed and debris eliminated before scrubbing with a disinfected brush and detergent and water;

(c) the tub basin is scrubbed with detergent and water, and rinsed with water, and drained;

(d) removable parts are replaced;

(e) the basin or tub is filled with clean water and an EPA-registered hospital level disinfectant is added following the manufacturer's directions;

(f) if the pedicure tub is electrical, the fan or pump must be turned on and the unit operated for the entire contact time; and

(g) after the contact time is complete, the disinfectant must be drained, and the tub rinsed with clean water.

(36) pedicure tub liners are single use items and must be disposed of immediately after use;

(37) pedicure basins shall be disinfected between clients, at the end of the day, and deep disinfection once weekly; and

(38) a log is maintained by the salon showing the legible signature, license number of the person disinfecting the tub, the time and date of the disinfection process and the name of the disinfectant used. Log entries must be maintained on the salon premises for 12 months.

B. Cleaning and disinfection

(1) all single-use instruments, items, tools or supplies that come in contact with the public and are porous (made of anything other than plastic, metal or glass) cannot be disinfected (including, but not limited to: disposable razors, pedi-pads, emery boards, sponges, cotton pads, buffing blocks, toe separators, chamois, sandpaper drill bits, waxing strip, wood sticks, cotton balls, nail wipes, disposable towels, pumice stones, flip flops, toe separators, porous files and porous buffers, etc.) shall be disposed of immediately after use;

(2) prior to use on any client, all multi-use (non-porous) instruments, items, equipment, implements or tools must be cleaned and disinfected. Items must be cleaned with soap and warm water or a chemical cleaner. The items must then be disinfected by a complete immersion in an EPA-registered, bactericidal, fungicidal and virucidal (formulated for hospitals) disinfectant that is mixed and used according to the manufacturer's directions. Non-porous items are the only items that can be disinfected;

(3) before disinfecting any surface or item, any visible debris and disposable parts must be removed. After cleaning, all surfaces of non-porous, multi-use tool or implement, including handles, must be disinfected by fully submerging the item in disinfectant in a covered container for the full amount of contact time listed on the manufacturer's label;

(4) implements and surfaces shall first be thoroughly cleaned of all visible debris prior to disinfection. EPA-registered bactericidal, fungicidal and virucidal disinfectants become inactivated and ineffective when visibly contaminated with debris, hair, dirt and particulates;

(5) EPA-registered bactericidal, fungicidal and virucidal disinfectants shall be used as follows:

(a) some disinfectants may be sprayed on the instruments, tools, or equipment to be disinfected;

(b) disinfectants in which implements are to be immersed shall be prepared fresh daily or more often if solution becomes diluted or soiled; and

(c) these chemicals are harsh and may affect the long term use of scissors and other sharp objects. Leaving items in solution in accordance with manufacturers' recommendation for effective disinfection is recommended.

(6) head rests, hand rests, pedicure basins, foot rests, manicure tables and other fixtures that come in contact with licensees and the public shall be cleaned and disinfected prior to use for each client;

(7) cups, bowls, basins, and jars must be cleaned and disinfected prior to use on each client;

(8) after each client, the implements shall be wiped with a clean paper or fabric towel and sprayed with either an EPA-registered bactericidal, fungicidal and virucidal disinfectant. Equipment, implements,

tools, and materials to be cleaned and disinfected include, but are not limited to: combs and picks, haircutting shears, thinning shears/texturizers, edgers, guards, perm rods;

(9) items MUST stay immersed or visibly moist with disinfectant for the entire contact time listed on the manufacturer's label to be effective;

(10) whether or not disposable, the following must be replaced with clean or new (including, but not limited to) towels, hair caps, headbands, brushes, gowns, makeup brushes, spatulas);

(11) items that may not be immersed can be sprayed or wiped with disinfectant sprays and wipes that are bactericidal, fungicidal and virucidal (EPA-registered disinfectants) and must remain visibly moist for contact time indicate on the product label:

(a) metal guards, clipper blades, drill bits, high frequency watts, and other removable parts must be removed. All product residue, hair skin debris, nail dust, other visible debris must be brushed or wiped off, and the removable part must be disinfected with an EPA-registered, hospital level disinfectant spray or wiped after each use. The surfaces must remain wet with the spray or wipe disinfectant for the contact time listed on the disinfectant label; and

(b) electric clippers, nail drills, flat irons, blow dryers, glass or metal electrodes, esthetic machines, steamers, or other electric or electronic tools must be cleaned and disinfected after each use, including the body and handle.

(12) clipper wash designed as cleaner, not as disinfectant, unless specified as disinfectant on label;

(13) all disinfectant solution must be changed per the manufacturer's label or sooner if contaminated;

(14) all products must be wiped cleaned and the exterior disinfected with a disinfectant wipe at the end of the day;

(15) all fluids, semi-fluids, creams, waxes, and powders must be kept in clean covered containers with a solid cover, and must be dispensed in a manner which prevents contamination of the unused supply;

(16) products in tubs must be removed with disposable or disinfected spatulas, and fingers may never be used;

(17) products removed from container must not be returned to the container and must be used or discarded;

(18) containers must be wiped cleaned and the exterior disinfected with a disinfectant wipe at the end of the day;

(19) wax pots must be kept covered and the exterior cleaned daily;

(a) if debris is found in the wax pot, or if the wax has been contaminated by contact with skin;

(b) unclean applicators, or double dipping, the wax pot must be emptied, the wax discarded, and the pot must be disinfected;

(c) disposable spatulas and wooden sticks may be dipped into the wax only once and then discarded without using the other end;

(d) applicators may be dipped only once into the wax unless the wax is a single-service item and unused wax is discarded after each service; and

(e) any surface touched by a used wax stick must be disinfected immediately after the service.

(20) paraffin warmers must be kept covered, the exterior cleaned daily, and the wax must be debris free. Cannot go back into paraffin tub;

(21) a new waxing stick must be used for each wax application; no double-dipping;

(22) all licensees must provide a suitable place equipped to give adequate service, as advertised to clients, subject to inspection by the board;

(23) practitioners shall wash their hands with liquid soap, or use a liquid hand sanitizer, prior to performing any services on a client. Thoroughly wash hands and the exposed portion of arms with soap and water before providing services to each client after smoking, drinking, eating and using the restroom; and

(24) proper use of protective devices when so indicated by the product manufacturer's direction for safe use or when the nature of the product indicates such protection is necessary.

C. Blood exposure procedure

(1) If a blood exposure should occur, the following steps must be followed:

(a) when possible injured party should go to a sink and rinse injury with running water and "milk" the injury if possible to remove any bacteria that may have entered the wound;

(b) supply injured party with antiseptic or single use packet of antibacterial ointment and the appropriate dressing to cover the injury; and

(c) bag all blood-soiled (contaminated) porous articles and dispose of in trash. Immediately wash and disinfect all non-porous items (do not continue service with these items). This is the responsibility of the licensee.

(2) If the client is injured, the following steps must be followed:

(a) stop service;

(b) protection - put on gloves;

(c) clean injured area;

(d) apply antiseptic;

(e) cover the injury with the appropriate dressing to prevent further blood exposure;

(f) bag and dispose of all contaminated single use items;

(g) clean and disinfect any implements or surfaces contaminated;

(h) clean hands; and

(i) return to service.

(3) disinfect all non-porous items (do not continue service with these items).

(4) do not allow containers, brushes, nozzles or liquid styptic container to touch the skin or contact the wound. Use a disposable applicator (never use styptic pencil unless specified for single use).

D Prohibitions

(1) licensees shall not use any product in providing a service authorized under the Act that is banned or deemed to be poisonous or unsafe by the United States food and drug administration (FDA) or other local, state, or federal governmental agencies responsible for making such determination;

(2) possession or storage on licensed premises of any item banned or deemed to be poisonous or unsafe by the FDA or governmental agency shall be considered *prima facie* evidence of its use;

(3) for the purpose of performing services under the Act, no licensee shall buy, sell, or use, or apply to any person liquid monomeric methyl methacrylate (MMA);

(4) the use, storage or dispensing of such beauty service products containing methyl methacrylate (MMA) or other chemicals determined to be hazardous to the health of licensees or consumers by the board of any federal, state or local health agency, shall be prohibited:

(a) fumigants, formalin (formaldehyde) tablets or formalin liquids;

(b) roll on wax is prohibited;

(c) UV light boxes;

(d) autoclaves and autoclave packaging of tools are prohibited unless regular (at least once per month but not more than 30 days between tests) spore tests are performed by a contracted laboratory. If a positive spore test is received, the autoclave may not be used until a negative spore result is received;

(e) practitioners must not use tools or implements provided by customers unless the practitioner first cleans and disinfects the tool or implement;

(f) prohibited tools must not be used even if supplied by the customer;

(g) salons must not store tools or implements in boxes for customers;

(h) licensees may not perform services on the public while under the influence of alcohol or drugs;

(i) alcohol cannot be served at any establishment without proper license;

(j) procedures performed by any means, by hand, chemical, mechanical, or electrical apparatus or appliance which comes into contact with or penetrates into the dermal layer of the skin is considered invasive;

(k) the use of any product or preparation that comes into contact with or penetrates the dermis layer of the skin;

(l) no establishment or school shall use of any razor-edged device or tool; to include but not limited to credo blades, callus shavers, rasps, graters or other tools for the purpose of removing skin or calluses that could cause an open flesh wound;

(m) no animals in establishments or mobile units unless it is a qualified service animal in accordance with the Service Animal Act, Sections 28-11-1.1 to .6 NMSA 1978; and

(n) live fish, leeches, snails, and other living creatures may not be used in any cosmetic service.

[16.34.7.9 NMAC - Rp 16 NMAC 34.7.9, 06-16-01; A, 07-16-04; A, 10-04-07; A, 12-17-15]

16.34.7.10 CHANGES OF OWNERSHIP

A. An establishment or enterprise license is nontransferable.

B. A change of ownership or control is any action by which a person or corporation obtains authority to control the actions of an enterprise or establishment. These actions may include, but are not limited to:

(1) the transfer of the controlling interest of stock of an enterprise or establishment to its parent corporation;

(2) the merger of two or more enterprises or establishments;

(3) the division of enterprise or establishment into two or more enterprises or establishments;

(4) the transfer of the assets or liabilities of an enterprise or establishment to its parent corporation;

(5) the acquisition by an individual of the controlling interest of an enterprise or establishment, whether a proprietorship, partnership or corporation;

(6) the sale of an enterprise or establishment;

(7) the lease of or right to do business as an enterprise or establishment.

C. If ownership or legal control of a licensed enterprise or establishment changes, the new owner, lessee or other legally responsible party must submit a new application as defined in Subsection A. of 16.34.7.8 NMAC and secure a new license from the board.

D. If legal control of an enterprise or establishment does not change, but the organization of the ownership does change (e.g. a sole proprietor becomes the sole stock holder of a corporation which owns the enterprise or establishment), the board must receive notarized proof of such change within thirty days of such change.

[16.34.7.10 NMAC - Rp 16 NMAC 34.7.10, 06-16-01; A, 12-17-15]

16.34.7.11 SUPERVISION OF LICENSED PRACTICE

A. Any enterprise or establishment licensed by the board must be under the immediate supervision of a board licensee while licensed activity is being practiced therein.

B. The supervising licensee must be licensed in ALL aspects of the licensed activity being practiced in the enterprise or establishment during the time he/she is in charge, (e.g. a licensed manicurist cannot supervise a barber shop or beauty salon unless he/she also holds a barber or cosmetology license respectively).

C. The enterprise or establishment owner or manager must appoint a licensee to act on their behalf in their absence. The holder of a temporary license may not act as a supervisor of any enterprise or establishment.

[16.34.7.11 NMAC - Rp 16 NMAC 34.7.11, 06-16-01]

16.34.7.12 PRACTICE IN UNLICENSED ENTERPRISES OR ESTABLISHMENTS

A. The practices, rendering, or offering of licensed activities for compensation in an unlicensed enterprise or establishment is prohibited. It shall constitute malpractice within the meaning of section 61-17A-21 NMSA 1978 of the Barbers and Cosmetologists Act for an individual licensed under the act to provide or offer to provide for compensation any service in an unlicensed enterprise or establishment unless otherwise authorized by the act or these rules.

B. Before a licensee begins to work in an enterprise or establishment required to be licensed under the act, the licensee shall ask to see the enterprise or establishment license. The licensee shall not provide or offer to provide any licensed activity in any enterprise or establishment until the licensee actually has seen a valid, current enterprise or establishment license.

C. The licensee shall notify the board if he or she is not shown a valid, current enterprise or establishment license for the enterprise or establishment promptly upon request.

[16.34.7.12 NMAC - Rp 16 NMAC 34.7.12, 06-16-01]

16.34.7.13 BOOTH ESTABLISHMENT LICENSE

A. The lessee of the space must obtain a booth establishment license fifteen days prior to providing licensed activity. The booth establishment license must be posted where clearly visible to the public. The booth lessee also must have a valid, current practitioner license appropriate for the licensed activity offered.

B. If the licensee is paying the establishment owner rent, a percentage of income earned, operates as an independent business within a licensed establishment, has obtained a tax identification number or a required municipal business license, the licensee must obtain a booth establishment license.

C. The establishment licensee renting space to a booth lessee shall not allow an individual to render any licensed activity until the establishment licensee actually has seen a valid, current booth establishment license and a valid, current practitioner license appropriate for the licensed activity offered by the lessee.

D. A booth establishment license is nontransferable and must be renewed annually.

E. If a booth establishment licensee relocates anywhere within the state, the licensee must notify the board in writing, complete a relocation application, and pay the administrative fee. The establishment licensee must identify booth lessee(s) at the time of original licensure and at each annual renewal.

F. Each licensee is responsible for compliance with minimum sanitation and safety standards. The establishment licensee remains primarily responsible for compliance with the sanitary and safety rules for establishments set forth in 16.34.7 NMAC. The booth establishment licensee will be subject to fines or other disciplinary action for any violation of the sanitary and safety rules within the reasonable control of the booth establishment licensee, including without limitation Subsection A, Paragraphs 5, 6, 7, 9, 10, 11, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25 and 26 of 16.34.7.9 NMAC.

G. The board shall notify the establishment licensee of any warnings issued to a booth establishment licensee for violations of the sanitary and safety rules. The board shall notify the establishment licensee if the booth establishment licensee's practitioner license has not been renewed or if the license has been restricted, suspended, or revoked. The board shall notify the booth establishment licensee(s) if the establishment license has not been renewed or if the license has been restricted, suspended, or revoked.

[16.34.7.13 NMAC - Rp 16 NMAC 34.7.13, 06-16-01]

16.34.7.14 SPECIAL EVENTS PERMIT: Any licensee desiring to sponsor a special event such as a fund-raiser, garage sale, telethon, etc. that will not be conducted at the licensed establishment, must first obtain approval from the board office. The purpose of prior approval is to ensure professional integrity and that sanitation and safety requirements are met. An application on the form provided by the board office must be submitted at least ten days prior to the event. Approval for the special events may be made administratively.

[16.34.7.14 NMAC - Rp 16 NMAC 34.7.14, 06-16-01]

HISTORY OF 16.34.7 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Article V, Cosmetology Establishments, 12-21-81
Article V, Cosmetology Establishments, 11-4-83
Rule 5, Cosmetology Establishments, 3-8-90
Rule 5, Cosmetology Establishments, 3-9-92
Rule 6, Establishments, 10-19-93
Rule 6, Establishments, 5-13-94
BBE Rule 86-1, Board of Barber Examiners, Rules and Regulations - 1986, 6-27-86
BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations - 1987, 11-4-87
BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations - 1988, 10-4-88

History of Repealed Material:

16 NMAC 34.7, Establishments and Enterprises - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 8 SCHOOLS

16.34.8.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.8.1 NMAC - Rp 16 NMAC 34.8.1, 06-16-01]

16.34.8.2 SCOPE: All barber, cosmetology, esthetician, manicurist/pedicurist, manicurist/esthetician, instructor, electrology schools and all students of barbering, cosmetology, esthetician, manicurist/pedicurist, manicurist/esthetician, instructor and electrology.
[16.34.8.2 NMAC - Rp 16 NMAC 34.8.2, 06-16-01]

16.34.8.3 STATUTORY AUTHORITY: Sections 61-17A-12, 61-17A-18 and 61-17A-19 of the Barbers and Cosmetologists Act. This authorizes the board to establish requirements for opening, relocating, school name change for barber, cosmetology, electrology and specialty schools.
[16.34.8.3 NMAC - Rp 16 NMAC 34.8.3, 06-16-01]

16.34.8.4 DURATION: Permanent
[16.34.8.4 NMAC - Rp 16 NMAC 34.8.4, 06-16-01]

16.34.8.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.8.5 NMAC - Rp 16 NMAC 34.8.5, 06-16-01]

16.34.8.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part establishes the standards for opening, relocating and name change for schools governed by the act.
[16.34.8.6 NMAC - Rp 16 NMAC 34.8.6, 06-16-01]

16.34.8.7 DEFINITIONS: Refer to Part 1
[16.34.8.7 NMAC - Rp 16 NMAC 34.8.7, 06-16-01]

16.34.8.8 APPLICATION FOR OPENING, RELOCATING, CHANGING NAME OF A SCHOOL

A. A school license is nontransferable.

B. A change of ownership or control is any action by which a person or corporation obtains authority to control the actions of an institution. These actions may include, but are not limited to:

(1) the transfer of the controlling interest of stock of an institution to its parent corporation.

(2) the merger of two or more institutions;

(3) the division of an institution into two or more enterprises or establishments;

(4) the transfer of the assets or liabilities of an institution to its parent corporation;

(5) the acquisition by an individual of the controlling interest of an institution, whether a proprietorship, partnership or corporation;

(6) the sale of an institution; or

(7) the lease of or right to do business as an institution.

C. If ownership or legal control of a licensed school changes, the new owner, lessee or other legally responsible party must submit a new application and secure a new license from the board.

D. If legal control of a school does not change, but the organization of ownership does change (e.g. a sole proprietor becomes the sole stockholder of a corporation which owns the school), the board must receive notarized proof of such change within thirty days of such change.

E. A completed application to open, change ownership or relocate a school authorized under this Act must be filed with the board. An application to open a school, change ownership or relocate or change the name of a school filed by a currently licensed school owner must be filed at least fifteen days in advance of the expected date of change.

(1) Applications must be on official forms approved by the board and must include the appropriate fee.

(2) Applicants to open, change ownership or relocate a school must demonstrate that the school is financially responsible and the school has sufficient resources to ensure against precipitous closure. Applicants shall provide at least the following information: evidence of ownership; corporate or business status; identity and address of owners, partners, shareholders, and directors; copies of articles of incorporation and by-laws, if applicable; evidence of financial responsibility, including compiled financial statement and balance sheet indicating assets and liabilities; a corporate surety bond or bank letter of credit in the amount of five thousand dollars to indemnify students for fees and tuition paid to a school if the school ceases operation or terminates a program prior to the completion of a student's contract with the school; disclosure of the filing within the last seven years of bankruptcy of owner(s), partner(s), or director(s); and the identity of two business or financial references.

(3) An owner(s), partner(s), or director(s) of a school applicant must sign a release directed to financial institutions authorizing the disclosure of financial information and shall disclose loan history.

(4) An owner(s), partner(s), or director(s) of a school applicant will be required to disclose civil actions brought within ten years of the date of the application against an owner(s), partner(s), or director(s) for or involving nonpayment of debt, fraud, or misrepresentation and the disposition of such action(s).

(5) An owner(s), partner(s), or director(s) of a school applicant will be required to disclose any arrest or conviction within the ten years of the date of the application for fraud, larceny, embezzlement, or any crime involving stealing, taking, theft, robbery, or unlawful appropriation of money or anything of value that belongs to another and the disposition of such action(s).

(6) A school is not financially responsible if an owner(s), partner(s), or director(s) is not making payments in accordance with an agreement, judgment, or debt obligation, or if an owner(s), partner(s), or director(s) has been convicted of felony involving a crime described in paragraph 5 subsection E of 16.34.8.8 NMAC and that owner(s), partner(s), or director(s) is not sufficiently rehabilitated as provided in the Criminal Offender Employment Act, Section 28-2-1 through 28-2-6 NMSA 1978.

(7) In the case of a change of ownership of a school, the school establishment license of the prior owner does not expire for thirty days after the date of sale providing it is a current and valid license. In order to ensure continued training for students, the new owner may operate under the prior license until the earlier of the thirty day expiration date of the prior license or obtaining the new school establishment license.

(8) In case of a change of ownership of a school, the new school shall submit a student roster of all students enrolled at the time of the change which lists for each student the name, the date of birth, the social security number, course enrolled, the course beginning date and the student permit. The school shall submit the student roster to the Board within thirty days of the change of ownership.

F. The application, if complete, may be administratively approved. A formal inspection of the establishment shall occur within ninety days of opening. Incomplete applications without proper and complete supporting documents will be returned.

G. When a school relocates within the state of New Mexico, the owner must complete a new application and obtain approval, including inspection from the board to operate the business at the new location, and pay the school relocation fee.

H. If any portion of the school is completely segregated from the primary area, a duplicate school license must be acquired and posted in the separate area. A duplicate license fee will be assessed. The school must also comply with 16.34.8.12 NMAC, expansion campus facility requirements.

I. All school licenses must be renewed on March thirty first of each year.

J. Each school licensed by the board shall post a current copy of the statutes and rules and regulations and the most recent inspection report in an area where clearly visible to the public.

K. Each school licensed by the board shall post an exterior sign which indicates the facility houses a school.

[16.34.8.8 NMAC - Rp 16 NMAC 34.8.8, 06-16-01; A, 12-17-15]

16.34.8.9 GENERAL REQUIREMENTS

A. Schools may not permit its students to perform any laboratory services on the public under any circumstances until the student has accrued fifteen percent of the total hours required within the course.

B. Schools shall display in a conspicuous place within the reception or clinic area of the school a sign which indicates that all services are performed by supervised students.

C. Schools shall not pay compensation to any of its students, either directly or indirectly.

D. Instructors or student instructors shall not be permitted to perform services on the public other than that part of the practical work which pertains directly to the teaching or demonstration of subjects included in the curriculum.

E. Schools shall provide both theory instruction and practical skills training in all subjects applicable to the course of study according to the curriculum prescribed by the board.

F. Schools shall provide a minimum of 24 hours of infection control and safety standards theory prior to any practical procedures.

G. Instructor approved hands-on procedures in schools shall be completed by students on clients, students or models; training on mannequins is considered hands on training as defined in 16.34.1.7 NMAC.

H. Schools shall maintain the equivalent of at least one full time instructor for every twenty students in attendance or part thereof.

I. Schools must at all times be under the immediate supervision of a licensed instructor.

J. Schools, which advertise services to the public in order to attract clients for its students, must include in each advertisement the statement that all services are performed by supervised students.

[16.34.8.9 NMAC - Rp 16 NMAC 34.8.9, 06-16-01; A, 12-17-15]

16.34.8.10 PHYSICAL REQUIREMENTS: All schools must comply with the sanitary and safety rules for establishments outlined in 16.34.7.9 NMAC of these rules and provide for:

A. a clean, well-maintained facility;

B. a reception area for clients and guests;

C. an area designated for theory instruction equipped with enough tables or desks and chairs to meet the instructional needs of assigned or scheduled students;

D. a designated clinic or laboratory area for supervised practical skills training;

E. sanitary, lavatories with hot and cold wash facilities;

F. sufficient grounded electrical outlets to provide for the safe operation of all laboratory and classroom equipment;

G. safe and secure maintenance of student records;

H. separate entrances and visitor reception areas if a professional service facility or salon is in the same building;

I. a designated work area for instructors for the purpose of planning, record keeping, counseling, consultation and administrative tasks;

J. properly marked exits to facilitate safe evacuation in case of emergency;

K. a dispensary or supply room adequately supplied to meet the reasonable anticipated needs of students and staff.

[16.34.8.10 NMAC - Rp 16 NMAC 34.8.10, 06-16-01; A, 10-04-07]

16.34.8.11 EQUIPMENT, TEACHING AIDS: Schools shall have in good working order apparatus, equipment and implements necessary for the full and ready teaching of all subjects included in the curriculum including, but not limited to the following:

A. one applicable workstation for each student assigned a clinic patron at any one time;

B. one suitable bulletin board conspicuously located for posting rules and regulations, licenses, notices, etc.

C. one board of adequate size to be seen by all students in the class;

D. teaching aids and applicable projection equipment for all subjects taught within the curriculum;

E. textbooks and lesson plans for the appropriate and authorized courses of study;

F. suitable reference materials including books, current periodicals, supplementary information to meet the requirements and objectives of the courses of study and which are available for independent study.

[16.34.8.11 NMAC - Rp 16 NMAC 34.8.11, 06-16-01; A, 10-04-07]

16.34.8.12 EXPANSION CAMPUS FACILITY

A. A completed official application to operate an expansion campus facility must be filed with the board at least fifteen days prior to the expected opening of the classroom or clinic. The application must include a statement of the distance between the approved primary facility and the new expansion campus facility, must be within a two mile radius of the main campus.

B. The application, if complete, may be administratively approved. A formal inspection of the establishment shall occur within ninety days of opening. Incomplete applications without proper and complete supporting documents will be returned.

C. Duplicate licenses for the school and all instructors teaching in any expansion campus facility shall be conspicuously displayed therein.

D. If the ownership or address of the original, primary facility changes from that of the expanded campus facility, licensure of the expanded campus facility does not automatically continue for the expansion campus facility.

E. An expansion campus facility must bear the same name as the original, primary facility and its advertising sign must indicate the same name as the primary facility.

[16.34.8.12 NMAC - Rp 16 NMAC 34.8.12, 06-16-01; A, 10-04-07]

16.34.8.13 REGULATIONS CONCERNING STUDENTS

A. Student registration

(1) When a school receives an application from a prospective student, it shall promptly notify the student of the registration requirements of the board.

(2) It shall constitute a violation of the rules, within the meaning of the act, for a school to engage in failure to transmit student registration documents and fees in a timely fashion to the board pursuant to Subsection G of 16.34.15.8 NMAC, wherein fines will be imposed.

(3) It shall be the responsibility of the prospective student to comply with the registration requirements by the first day he/she attends class for credit. Failure to do so may result in loss of hours earned prior to proper registration.

(4) No school shall allow a student to attend class for credit until the student has complied with the registration requirements:

(a) Applicants for the barber, cosmetology, manicure/pedicure, esthetician, electrologist, and manicure/esthetician courses must be at least sixteen years of age and have successfully completed two years of high school or the equivalent.

(b) Applicants for the instructor course must be at least seventeen years of age and have successfully completed four years of high school or the equivalent.

(5) Acceptable proof of age and education requirements as follows:

(a) Proof of age includes a copy of a birth certificate, a driver's license or a state issued identification card, or a baptismal certificate.

(b) Proof of two years of secondary education includes a high school diploma, a G.E.D. certificate or transcript of G.E.D. test scores, a sealed letter from the high school attended, a copy of the high school transcript showing all required grades have been passed, a letter from the G.E.D. testing facility stating that the G.E.D. test has been passed, or any other test approved by the United States department of education for the purpose of determining an applicant's ability to benefit, providing that documentation of GRADE EQUIVALENCY is established by the test publisher and the required grade level for the course of study has been achieved.

(c) The board, or its executive director, may accept as proof of secondary education the applicant's notarized statement that he/she has completed the required secondary education, but has been unable to obtain documentary proof of that from a FOREIGN NATION. A notarized statement will not be accepted for students who have completed the secondary education in the United States.

(6) Evidence of compliance with the foregoing requirements shall accompany the application for registration form provided by the board.

(7) Upon receipt of a complete student registration form and applicable fee, which shall be received in the board office within fifteen days of the date of registration, the board office will then issue a STUDENT PERMIT and a permit number. The student permit authorizes the holder to practice course related skills in an approved school on the public only after successful completion of fifteen percent of the program. In addition, the student permit also authorizes the student to participate in the student externship program pursuant to 16.34.8.17 NMAC of these rules. A photograph of the student (front view, head only, at least 1.5" by 1.5") shall be attached to the permit. The permit shall be displayed in a binder in the school in which the student is enrolled and open to review by the state inspector or other board designee. Student permits are the property of the board and must be returned to the board by the school upon termination of the student's enrollment.

(8) If inspection of the student permits and school records determines that students are attending class without being properly registered with the board, the student may be denied the hours previously accrued and the school will be reported to the board for disciplinary action.

B. Student transfers/re-entries

(1) Any previously registered student desiring to transfer to another school, or re-enter the previous school shall submit a new registration form and required fees to the board. Students transferring schools as a result of a school closure shall submit a new registration form but are not required to pay a re-registration fee. Students attending a school, which undergoes a change of ownership, are not required to re-register with the board.

(2) Any student desiring to re-enter school must submit proof of the successfully completed previous training in order to receive credit for it.

(3) A student enrolled in any course may withdraw and transfer hours or equivalent credit acquired to another course not to exceed the amount of hours or equivalent credit of each subject within the new course curriculum requirements. Appropriate termination notices and course registration documents must be submitted to the board office when a student transfers to another course.

(4) Students enrolled in the cosmetology curriculum may take the examination for one of the specialty courses at which time the school certifies that the student has completed the requirements for the course in which the student seeks licensure. All other requirements for examination must also be met. The student may continue to attend classes in the cosmetology course. However, if licensure is obtained in any specialty course and the student continues attending classes in the cosmetology course, he/she cannot perform any services on the public in the school for which the individual is now licensed.

C. Records of student academic progress

(1) Schools shall keep records of academic progress for each student and these records shall be open for inspection by members of the board or its designees.

(2) Schools will designate in the enrollment contract and other consumer information, all requirements for withdrawal or graduation. When all requirements have been met, the school must return the student's permit to the board, and submit a sealed official transcript of training to the board and to the student showing that course requirements for graduation have been met. The board recognizes for transfer, hours or equivalent credits reported on the official transcript of training. Circumstances regarding transfer of or approval of student hours may be brought to the board on an individual basis for special consideration by the board. The board may, in its discretion, recognize hours or equivalent credit or partial hours or partial credit for transfer when an official transcript of training has not been submitted by the school.

(3) If a student terminates his/her enrollment status without meeting all withdrawal or graduation requirements, the school in which he/she was enrolled shall notify the board of termination in writing within thirty days of the student's formal termination date using the format prescribed by the board, and return the student's permit.

(4) Schools offering clock hour training shall define its attendance requirements to include one hundred percent attendance for the course length for licensure or may allow excused absences for no more than ten percent of the course length for satisfactory course completion.

(a) student attendance policies are applied uniformly and fairly;

(b) attendance policies give appropriate credit for all hours attended;

(c) schools shall not adjust attendance hours of students whether hours are added, as a reward, or deducted, as a penalty;

(d) the school shall report actual hours attended by the student OR shall round the hours to the nearest half hour (i.e. if a student attended forty-four minutes past the hour, the school would report the previous half hour; if a student attended forty-five minutes past the hour, the school would report the next hour);

(e) the school must maintain attendance records for each student to verify that the minimum attendance standard set forth by the board is being met; and

(f) in cases where schools are authorized to offer training via distance learning methods, the school establish standards for converting competencies achieved to clock or credit hours.

(5) To be considered a graduate, a student must have completed the course scheduled for completion and met the minimum attendance standard (or ninety percent) of the established course of study and all other academic and evaluation factors established by the school. Therefore, in addition to completion of the required hours, the student must have satisfactorily completed the practical and theoretical curriculum requirements set forth by the school. Those requirements must include documentation that the student has satisfactorily completed each unit of study prescribed by the board in the applicable course of study. The excused absences DO NOT allow a student to accelerate in their course of study. Even though they may limit excused absences, they WILL NOT be allowed to sit for the state licensing examination until the number of hours prescribed by the board for the applicable course of study have elapsed.

(6) If a student is required OR allowed by the school to train more than the scheduled hours in a class day, he/she must be given credit for the additional time in the appropriate subject. Schools have full discretion in setting forth class schedules for each course offered as long as minimum requirements for graduation meet the board standards.

(7) Students may not be called from a scheduled theory class to perform services on the public.

(8) Schools expressing academic measurement in terms of credit hours shall set forth requirements for each unit of study within a course or program which ensures that required levels of competency or skills ability have been met. Such schools must award appropriate credit for each unit of study completed satisfactorily. Records of the students' academic progress within the course of study must be maintained for all students.

(9) The school shall provide a catalog to prospective students containing enough information to permit an informed choice among training opportunities and institutions. Catalogs which comply with the school's accrediting agency will be deemed to comply with this rule.

(10) Schools must comply with the Family Education Right to Privacy Act and must guarantee the rights of students to have access to their cumulative records and provide for proper supervision and interpretation of student records when reviewed.

(11) Schools and students shall enter into a signed written agreement which fully and accurately reflects the contractual rights and obligations of the parties, particularly with regard to suspension, expulsion, refunds, tuition and fees, withdrawal and graduation requirements. Contracts which comply with the school's accrediting agency will be deemed in compliance with this rule.

D. Records regarding state board examinations: Each school shall disclose to prospective students its annual statistics regarding the school's state examination pass rate. The board or its designee will send a letter to each school after each examination containing the result information on each student, which will serve as the source documentation for calculating the disclosed statistics.

[16.34.8.13 NMAC - Rp 16 NMAC 34.8.13, 06-16-01; A, 07-16-04; A, 10-04-07; A, 12-17-15]

16.34.8.14 STUDENT SCHOOL GRIEVANCES: Each school licensed by the board must have an internal grievance process for students to seek solutions to any student complaint or concern that is not frivolous or without merit. Evidence of final resolution of such complaints will be retained in the school's file in order to determine the frequency, nature, and patterns of complaints for the institution. Verification that the procedure is in place and being followed will occur during routine inspections of schools. Formal complaints can be filed with the board pursuant to 16.34.13 NMAC of these rules. Schools may not retaliate against students who file complaints with the board.

[16.34.8.14 NMAC - Rp 16 NMAC 34.8.14, 06-16-01]

16.34.8.15 CURRICULUM

A. The following minimum curriculum requirements are established for all schools licensed under the act. Schools offering training in clock hours must meet the following minimum hours in each unit of study. Schools offering training in credit hours must offer an equivalent training program as prescribed by the schools accrediting agency clock hour/credit hour conversion formula. In absence of such a formula the state board will prescribe the credit hour/clock hour conversion formula. Schools may offer all or part of the courses set forth herein provided appropriate facility requirements are met and Instructors have appropriate practitioner training to teach the subjects offered. This does not preclude schools from offering non-related courses or advanced courses, which are not prescribed in these rules. Courses are automatically approved if the course units are between one hundred percent and one hundred twenty percent of the minimum. Schools desiring to offer instruction that exceeds one hundred twenty percent of the minimum requirements (i.e. a course that is over twenty five percent of the board's published minimum requirements) must submit to the board the following:

(1) a course outline indicating all course hours or credits offered;

(2) a class schedule for the entire course indicating how and when each unit of instruction is offered;

(3) justification of why the course should be approved at the extended length.

B. Barber course curriculum - **1200** course hours or equivalent credit:

(1) THEORY: **75 hours or equivalent credit**

(a) limited to orientation;
(b) state laws and regulations;
(c) professional image;
(d) first aid;
(e) chemistry;
(f) electricity;
(g) job seeking; and
(h) ethics

(2) STERILIZATION, SANITATION, BACTERIOLOGY: **75 hours or equivalent credit**

(a) related theory and safety;
(b) preparation, procedures and practice;
(c) products, materials and implements;
(d) public sanitation;
(e) methods of sanitation and sterilization;
(f) chemical agents;
(g) types and classifications of bacteria;
(h) bacterial growth;
(i) infections; and
(j) infection control and safety standards

(3) SHAMPOO, RINSES, SCALP TREATMENTS: **75 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation;
(e) procedures and practice;
(f) products, materials and implements;
(g) hair snalysis;
(h) disorders of the hair and scalp;
(i) hair and scalp treatments;
(j) related chemistry; and
(k) client record keeping and safety

(4) CHEMICAL REARRANGING - PERMS AND RELAXERS: **200 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation, procedures and practice;
(e) products, materials and implements;
(f) hair analysis and client consultation;
(g) related chemistry; and
(h) client record keeping and safety

(5) HAIRSTYLING: **150 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation, procedures and practice;
(e) products, materials and implements;
(f) hair analysis and client consultation;
(g) related chemistry;
(h) wet styling;
(i) blow drying;
(j) finger waving;
(k) air waving;
(l) hair pressing;
(m) hair extensions;
(n) hair weaving;
(o) braiding;
(p) corn rowing;
(q) client consultation and recommendations;
(r) client record keeping and safety; and
(s) care of wigs and hair pieces

(6) HAIR COLORING - BLEACHING: **125 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;

(d) preparation, procedures and practice;
(e) products, materials and implements;
(f) hair analysis and client consultation;
(g) related chemistry;
(h) temporary, semi-permanent, and permanent applications;
(i) bleaching, tinting, toning, frosting, special effects and problems;
(j) client consultation and recommendations; and
(k) client record keeping and safety

(7) HAIR CUTTING AND BEARD TRIMMING: **250 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;
(d) shaving, honing and stropping;
(e) preparation, procedures, and practice;
(f) use of scissors, shears, razor and clippers;
(g) products, materials and implements;
(h) client consultation and recommendations; and
(i) client record keeping and safety

(8) FACIALS: **175 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation, procedures and practice;
(e) products, materials and implements;
(f) theory of massage and facial treatments;
(g) makeup application;
(h) use of electrical appliances, currents and specialized machines for treatments;
(i) artificial eyelashes;
(j) removal of unwanted hair;
(k) eyelash and brow tinting;
(l) light therapy;
(m) client consultation and recommendations; and
(n) client record keeping and safety

(9) REQUIRED HANDS-ON-TRAINING – instructor approved procedures
(a) 40 facial shave;
(b) 30 shaving around ears and neck;
(c) 25 ladies haircuts;
(d) 75 mens haircuts;
(e) 25 hairstyling;
(f) chemical texturing:
(i) 7 permanent waving and
(ii) 7 permanent relaxing

(10) SALON BUSINESS, RETAIL SALES: **50 hours or equivalent credit**
(a) related theory;
(b) opening a salon and business plan;
(c) written agreements;
(d) regulations and laws;
(e) salon operation, policies, practices, personnel, compensation, payroll deductions;
(f) use of telephone, advertising, retail and salesmanship, client communications, public relations, insurance; and
(g) salon safety

(11) MISCELLANEOUS: **25 hours or equivalent credit**
(a) to be applied by the Instructor to strengthen student performance in curriculum related areas, or
(b) for supervised field trips and other course related training;

C. Cosmetology course curriculum - **1600** course hours or equivalent credit

(1) THEORY: **75 hours or equivalent credit**

(a) limited to orientation;
(b) state laws and regulations;
(c) professional image;
(d) first aid;
(e) chemistry;
(f) electricity;
(g) job seeking; and
(h) ethics

(2) STERILIZATION, SANITATION, BACTERIOLOGY: **75 hours or equivalent credit**

(a) related theory and safety;
(b) preparation, procedures and practice;
(c) products, materials and implements;
(d) public sanitation;
(e) methods of sanitation and sterilization;
(f) chemical agents;
(g) types and classifications of bacteria;
(h) bacterial growth;
(i) infections; and
(j) infection control and safety standards

(3) SHAMPOO, RINSES, SCALP TREATMENTS: **75 hours or equivalent credit**

(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation;
(e) procedures and practice;
(f) products, materials and implements;
(g) hair analysis;
(h) disorders of the hair and scalp;
(i) hair and scalp treatments;
(j) related chemistry; and
(k) client record keeping and safety

(4) CHEMICAL REARRANGING - PERMS AND RELAXERS: **200 hours or equivalent credit**

(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation, procedures and practice;
(e) products, materials and implements;
(f) hair analysis and client consultation;
(g) related chemistry; and
(h) client record keeping and safety

(5) HAIRSTYLING: **150 hours or equivalent credit**

(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation, procedures and practice;
(e) products, materials and implements;
(f) hair analysis and client consultation;
(g) related chemistry;
(h) wet styling;
(i) blow drying;
(j) finger waving;
(k) air waving;
(l) hair pressing;

(m) hair extensions;
(n) hair weaving;
(o) braiding;
(p) corn rowing;
(q) client consultation and recommendations;
(r) client record keeping and safety; and
(s) care of wigs and hair pieces

(6) HAIR COLORING - BLEACHING: **125 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation, procedures and practice;
(e) products, materials and implements;
(f) hair analysis and client consultation;
(g) related chemistry;
(h) temporary, semi-permanent, and permanent applications;
(i) bleaching, tinting, toning, frosting, special effects and problems;
(j) client consultation and recommendations; and
(k) client record keeping and safety

(7) HAIR CUTTING: **200 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation, procedures, and practice;
(e) use of scissors, shears, razor and clippers;
(f) products, materials and implements;
(g) client consultation and recommendations; and
(h) client recordkeeping and safety

(8) FACIALS: **175 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation, procedures and practice;
(e) products, materials and implements;
(f) theory of massage and facial treatments;
(g) makeup application;
(h) use of electrical appliances, currents and specialized machines for treatments;
(i) artificial eyelashes;
(j) removal of unwanted hair;
(k) eyelash and brow tinting;
(l) light therapy;
(m) client consultation and recommendations; and
(n) client record keeping and safety

(9) MANICURING/PEDICURING: **175 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation, procedures and practice;
(e) products, materials and implements;
(f) theory of massage;
(g) advanced nail techniques;
(h) client consultation and recommendations; and
(i) client record keeping and safety

(10) REQUIRED HANDS-ON TRAINING: instructor approved procedures:
(a) 75 ladies haircuts;
(b) 25 mens haircuts;

(c) 25 hairstylings;
(d) 30 coloring;
(e) chemical texturing:
(i) 7 permanent waving; and
(ii) 7 permanent relaxing

(11) SALON BUSINESS, RETAIL SALES: **50 hours or equivalent credit**
(a) related theory;
(b) opening a salon and business plan;
(c) written agreements;
(d) regulations and laws;
(e) salon operation, policies, practices, personnel, compensation, payroll deductions;
(f) use of telephone, advertising, retail and salesmanship, client communications, public relations, insurance; and
(g) salon safety

(12) MISCELLANEOUS: **300 hours or equivalent credit**
(a) to be applied by the Instructor to strengthen student performance in curriculum related areas; or
(b) for supervised field trips and other course related training

D. Manicurist/pedicurist course curriculum - **400 course hours or equivalent credit**

(1) THEORY: **75 hours or equivalent credit**
(a) limited to orientation;
(b) state laws and regulations;
(c) professional image;
(d) first aid;
(e) chemistry;
(f) electricity;
(g) job seeking; and
(h) ethics

(2) STERILIZATION, SANITATION, BACTERIOLOGY: **75 hours or equivalent credit**
(a) related theory and safety;
(b) preparation, procedures and practice;
(c) products, materials and implements;
(d) public sanitation;
(e) methods of sanitation and sterilization;
(f) chemical agents;
(g) types and classifications of bacteria;
(h) bacterial growth;
(i) infections; and
(j) infection control and safety standards

(3) MANICURING/PEDICURING: **175 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation, procedures and practice;
(e) products, materials and implements;
(f) theory of massage;
(g) advanced nail techniques;
(h) client consultation and recommendations; and
(i) client record keeping and safety

(4) REQUIRED HANDS-ON TRAINING: **instructor approved procedures**
(a) 45 manicures;
(b) 45 pedicures; and
(c) 20 acrylic nail sets

(5) SALON BUSINESS, RETAIL SALES: **50 hours or equivalent credit**
(a) related theory;

(b) opening a salon and business plan;
(c) written agreements;
(d) regulations and laws;
(e) salon operation, policies, practices, personnel, compensation, payroll deductions;
(f) use of telephone, advertising, retail and salesmanship, client communications, public relations, insurance; and
(g) salon safety

(6) MISCELLANEOUS: **25 hours or equivalent credit**
(a) to be applied by the Instructor to strengthen student performance in curriculum related areas; or
(b) for supervised field trips and other course related training

E. Esthetician course curriculum - 600 course hours or equivalent credit

(1) THEORY: **75 hours or equivalent credit**
(a) limited to orientation;
(b) state laws and regulations;
(c) professional image;
(d) first aid;
(e) chemistry;
(f) electricity;
(g) job seeking; and
(h) ethics

(2) STERILIZATION, SANITATION, BACTERIOLOGY: **75 hours or equivalent credit**
(a) related theory and safety;
(b) preparation, procedures and practice;
(c) products, materials and implements;
(d) public sanitation;
(e) methods of sanitation and sterilization;
(f) chemical agents;
(g) types and classifications of bacteria;
(h) bacterial growth;
(i) infections;
(j) infection control and safety standards

(3) FACIALS: **350 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation, procedures and practice;
(e) products, materials and implements;
(f) theory of massage;
(g) facial treatments and makeup application;
(h) use of electrical appliances, currents and specialized machines for treatments;
(i) artificial eyelashes;
(j) removal of unwanted hair;
(k) eyelash and brow tinting;
(l) light therapy;
(m) client consultation and recommendations; and
(n) client record keeping and safety

(4) SALON BUSINESS, RETAIL SALES: **50 hours or equivalent credit**
(a) related theory;
(b) opening a salon and business plan;
(c) written agreements;
(d) regulations and laws;
(e) salon operation, policies, practices, personnel, compensation, payroll deductions;

(f) use of telephone, advertising, retail and salesmanship, client communications, public relations, insurance; and

(g) salon safety

(5) REQUIRED HANDS-ON TRAINING: **instructor approved procedures:**

(a) 50 basic facial procedures;

(b) 25 machine facial procedures;

(c) 25 waxing procedures; and

(d) 10 makeup procedures

(6) MISCELLANEOUS: **50 hours or equivalent credit**

(a) to be applied by the Instructor to strengthen student performance in curriculum related areas; or

(b) for supervised field trips and other course related training

F. Manicurist/esthetician course curriculum - **900 course hours or equivalent** credit

(1) THEORY: **100 hours or equivalent credit**

(a) limited to orientation;

(b) state laws and regulations;

(c) professional image;

(d) first aid;

(e) chemistry;

(f) electricity;

(g) job seeking; and

(h) ethics

(2) STERILIZATION, SANITATION, BACTERIOLOGY: **150 hours or equivalent credit**

(a) related theory and safety;

(b) preparation, procedures and practice;

(c) products, materials and implements;

(d) public sanitation;

(e) methods of sanitation and sterilization;

(f) chemical agents;

(g) types and classifications of bacteria;

(h) bacterial growth;

(i) infections; and

(j) infection control and safety standards

(3) FACIALS: **350 hours or equivalent credit**

(a) related theory;

(b) anatomy;

(c) physiology;

(d) preparation, procedures and practice;

(e) products, materials and implements;

(f) theory of massage;

(g) facial treatments and makeup application;

(h) use of electrical appliances, currents and specialized machines for treatments;

(i) artificial eyelashes;

(j) removal of unwanted hair;

(k) eyelash and brow tinting;

(l) light therapy;

(m) client consultation and recommendations; and

(n) client record keeping and safety

(4) MANICURING/PEDICURING: **175 hours or equivalent credit**

(a) related theory;

(b) anatomy;

(c) physiology;

(d) preparation, procedures and practice;

(e) products, materials and implements;

(f) theory of massage;

(g) advanced nail techniques;

(h) client consultation and recommendations; and
(i) client record keeping and safety

(5) REQUIRED HANDS-ON TRAINING: **instructor approved procedures**
(a) 50 basic facial procedures;
(b) 25 machine facial procedures;
(c) 25 waxing procedures;
(d) 10 makeup;
(e) 45 manicure;
(f) 45 pedicure; and
(g) 20 acrylic nail sets

(6) SALON BUSINESS, RETAIL SALES: **75 hours or equivalent credit**
(a) related theory;
(b) opening a salon and business plan;
(c) written agreements;
(d) regulations and laws;
(e) salon operation, policies, practices, personnel, compensation, payroll deductions;
(f) use of telephone, advertising, retail and salesmanship, client communications, public relations, insurance; and
(g) salon safety

(7) MISCELLANEOUS: **50 hours or equivalent credit**
(a) to be applied by the Instructor to strengthen student performance in curriculum related areas; or
(b) for supervised field trips and other course related training

G. Electrology course curriculum - 600 course hours or equivalent credit

(1) THEORY: **75 hours or equivalent credit**
(a) limited to orientation;
(b) state laws and regulations;
(c) professional image;
(d) first aid;
(e) chemistry;
(f) electricity;
(g) job seeking; and
(h) ethics

(2) STERILIZATION, SANITATION, BACTERIOLOGY: **75 hours or equivalent credit**
(a) related theory and safety;
(b) preparation, procedures and practice;
(c) products, materials and implements;
(d) public sanitation;
(e) methods of sanitation and sterilization;
(f) chemical agents;
(g) types and classifications of bacteria;
(h) bacterial growth;
(i) infections; and
(j) infection control and safety standards

(3) ELECTROLYSIS AND THERMOLOGY: **350 hours or equivalent credit**
(a) related theory;
(b) anatomy;
(c) physiology;
(d) preparation, procedures and practice;
(e) products, materials and implements;
(f) use of electrical currents;
(g) insertion of needles;
(h) before and after treatment and care;
(i) destruction of the papilla;
(j) consultation and recommendations; and

(k) client record keeping and safety

(4) SALON BUSINESS, RETAIL SALES: **50 hours or equivalent credit**

(a) related theory;

(b) opening a salon and business plan;

(c) written agreements;

(d) regulations and laws;

(e) salon operation, policies, practices, personnel, compensation, payroll deductions;

(f) use of telephone, advertising, retail and salesmanship, client communications, public relations, insurance; and

(g) salon safety

(5) MISCELLANEOUS: **50 hours or equivalent credit**

(a) to be applied by the Instructor to strengthen student performance in curriculum related areas; or

(b) for supervised field trips and other course related training

H. Instructor course curriculum - 1000 course hours or equivalent credit

(1) THEORY: **75 hours or equivalent credit**

(a) limited to orientation;

(b) state laws and regulations;

(c) employment and compensation information;

(d) professional ethics and image;

(e) effective communications;

(f) first aid;

(g) chemistry;

(h) electricity;

(i) job seeking;

(j) ethics;

(k) principles of teaching;

(l) teacher maturity;

(m) student learning principles; and

(n) academic advising

(2) COURSE DEVELOPMENT AND LESSON PLANNING: **100 hours or equivalent credit**

(a) planning;

(b) analysis;

(c) implementation

(d) benefits;

(e) outline;

(f) examples of lesson plans;

(g) components of effective lesson plans;

(h) principles of preparing lesson plans; and

(i) practical course review

(3) TEACHING METHODS: **100 hours or equivalent credit**

(a) preparation;

(b) presentation;

(c) application;

(d) testing;

(e) lecture and workbooks;

(f) demonstrations and return demonstrations;

(g) discussion;

(h) question and answer;

(i) projects; and

(j) field trips

(4) TEACHING AIDS: **50 hours or equivalent credit**

(a) films or videos;

(b) charts;

(c) mannequins;
(d) reference materials;
(e) chalkboards; and
(f) overhead projectors and transparencies

(5) THEORY TEACHING AND CLASSROOM MANAGEMENT: **200 hours or equivalent credit**

(a) independent classroom instructing;
(b) records and reports;
(c) safety measures;
(d) classroom conditions and maintenance;
(e) class supervision and control;
(f) classroom problems and solutions; and
(g) academic advising

(6) TESTING AND STUDENT EVALUATION: **50 hours or equivalent credit**

(a) measurement of student ability/achievement;
(b) diagnosis of student weaknesses;
(c) motivation for study;
(d) oral and written testing; and
(e) development and use of testing/measurement Instruments

(7) LABORATORY SUPERVISION: **300 hours or equivalent credit**

(a) independent clinic supervision;
(b) client communications/reception desk;
(c) inventory control;
(d) effective dispensary procedures;
(e) supervision of clinic sanitation/client safety; and
(f) technical skills ability

(8) MISCELLANEOUS: **125 hours or equivalent credit**

(a) fundamentals of business management;
(b) to be applied by Instructor to strengthen student performance in curriculum areas; or
(c) for supervised field trips and other course related training

I. Field trips: Students enrolled in an approved course of study are allowed to supplement their training through supervised field trips. Such trips and hours or equivalent credit accrued must be supervised and verified by a school official. Field trips, which include curriculum activities such as providing services to residents of nursing homes, must be supervised by a licensed instructor. Hours or equivalent credit accrued through field trips are recorded in the miscellaneous category. If a student is actually participating in a technical skills competition, the hours may be recorded in the applicable curriculum category.

[16.34.8.15 NMAC - Rp 16 NMAC 34.8.15, 06-16-01; A, 12-17-15]

16.34.8.16 CROSSOVER CREDITS

A. Individuals who are licensed as barbers and who wish to become licensed as cosmetologists must have at least one year of full time, verified work experience in a licensed establishment and complete 175 course hours or applicable credit hours in a licensed school, unless otherwise approved by the board, as follows:

B. MANICURING/PEDICURING: **175 hours or equivalent credit**

(1) related theory;
(2) anatomy;
(3) physiology;
(4) preparation, procedures and practice;
(5) products, materials and implements;
(6) theory of massage;
(7) advanced nail techniques;
(8) client consultation and recommendations; and
(9) client record keeping and safety

C. Individuals who are licensed as cosmetologists and who wish to become licensed as barbers must complete [50] 150 course hours or applicable credit hours in a school, unless otherwise approved by the board, as follows:

D. BEARD TRIMMING AND SHAVING: **150 hours or equivalent credit**

(1) related theory;
(2) anatomy;
(3) physiology;
(4) preparation, procedures and practice;
(5) products, materials and implements; and
(6) beard trimming, shaving, honing and stropping

E. To obtain a license with the crossover credits listed above, the applicant must submit to and pass a practical examination in the applicable subject(s) only.

F. The board will consider, on a case-by-case basis, approval of crossover credits for training in other disciplines that may directly or indirectly relate to courses approved in these rules. The applicant shall furnish copies of all applicable transcripts by subject and clock or credit hours previously earned. The board may approve such hours or equivalent credits not to exceed fifty percent of the requirements for regular applicants for licensure under these rules. Credit for work experience completed in other disciplines will not be credited toward course requirements under these rules.

[16.34.8.16 NMAC - Rp 16 NMAC 34.8.16, 06-16-01; A, 12-17-15]

16.34.8.16 CROSSOVER CREDITS

A. Individuals who are licensed as barbers and who wish to become licensed as cosmetologists must have at least one year of full time, verified work experience in a licensed establishment and complete 175 course hours or applicable credit hours in a licensed school, unless otherwise approved by the board, as follows:

B. MANICURING/PEDICURING: **175 hours or equivalent credit**

(1) related theory;
(2) anatomy;
(3) physiology;
(4) preparation, procedures and practice;
(5) products, materials and implements;
(6) theory of massage;
(7) advanced nail techniques;
(8) client consultation and recommendations; and
(9) client record keeping and safety

C. Individuals who are licensed as cosmetologists and who wish to become licensed as barbers must complete 150 course hours or applicable credit hours in a school, unless otherwise approved by the board, as follows:

D. BEARD TRIMMING AND SHAVING: **150 hours or equivalent credit**

(1) related theory;
(2) anatomy;
(3) physiology;
(4) preparation, procedures and practice;
(5) products, materials and implements; and
(6) beard trimming, shaving, honing and stropping

E. To obtain a license with the crossover credits listed above, the applicant must submit to and pass a practical examination in the applicable subject(s) only.

F. The board will consider, on a case-by-case basis, approval of crossover credits for training in other disciplines that may directly or indirectly relate to courses approved in these rules. The applicant shall furnish copies of all applicable transcripts by subject and clock or credit hours previously earned. The board may approve such hours or equivalent credits not to exceed fifty percent of the requirements for regular applicants for licensure under these rules. Credit for work experience completed in other disciplines will not be credited toward course requirements under these rules.

[16.34.8.16 NMAC - Rp 16 NMAC 34.8.16, 06-16-01; A, 12-17-15]

16.34.8.17 STUDENT EXTERNSHIPS

A. Students enrolled in any course licensed by this act may, at the school's option, participate in an externship program upon completion of seventy-five percent of the contracted course of study. The externship program would allow students to train in a licensed establishment for one day or up to eight hours per week until graduation. The training would be supervised by a designated salon licensee and would include any activity that is

routine in a salon except offering complete services on the public. The student would be allowed, for example, to perform receptionist duties, ASSIST stylists with salon services; perform inventory or dispensary activities, sanitation duties, etc. Students will NOT be allowed to take appointments for complete services or apply chemicals (specifically hair color or bleach, perm solution, chemical relaxers, or acrylic nail products) to any client. This program will allow students who are nearing graduation to begin a professional relationship with a salon and increase the graduate's opportunities for successful employment after graduation. In addition, it will allow the salon to perform very valuable "on-the-job" training while the student is still in training. In order to qualify for the externship program, the following requirements must be met:

(1) the student must have successfully completed seventy-five percent of the contracted course of study;

(2) the student must have taken and passed an interim FINAL written and practical examination establishing the individual's qualifications to assist in the establishment;

(3) the establishment must agree to and complete a certification of attendance and training completed during the externship. The training must relate to curriculum requirements;

(4) the student must apply for and post a student externship permit in the establishment while training in the establishment;

(5) the student must meet any other eligibility requirement established by the school;

(6) the establishment must notify and obtain permission from each individual client to allow the student to assist in any manner in providing services to the client.

(7) the school must accept the training certified by the establishment and include it on the official transcript of training for state board;

(8) a school official must make periodic visits to establishments to observe and verify the program is being followed according to requirements.

B. Establishments are not required to participate in this program. However, if they elect to participate, they must agree to comply with the requirements of the program.

[16.34.8.17 NMAC - Rp 16 NMAC 34.8.17, 06-16-01; A, 12-17-15]

16.34.8.18 REFRESHER COURSES

A. Schools may offer a customized refresher course for individuals who have been out of school for 12 months or longer and not yet obtained licensure and to licensees who wish to re-enter school and update their professional skills. The following requirements must be met for those students enrolled in a refresher course who are not already licensed.

(1) The student must be re-registered with the board and all other matriculation requirements met as required for regular students;

(2) The earned hours or equivalent credit will be added to the student's existing transcript even though the requirements for licensure may have already been met.

(a) Successfully completed training must be reported on the official transcript of training accompanied by the student permit must be sent to the board office upon completion.

(b) A notice of termination and student permit must be sent to the board office upon termination from enrollment for unsuccessful completion of training.

B. Individuals who are already licensed who enroll in a refresher course must meet the following requirements.

C. The student file must contain a copy of the individual's current license, which may be reviewed by the inspector.

[16.34.8.18 NMAC - Rp 16 NMAC 34.8.18, 06-16-01; A, 10-04-07; A, 12-17-15]

16.34.8.19 SCHOOL TUITION REFUND AND SETTLEMENT POLICY

A. In cases where students are regulated by federal or special program refund policies that policy prevails. The school must publish in its enrollment agreement or registration contract a refund policy that contains the following minimum guidelines:

(1) If a student cancels the enrollment more than three business days after signing the contract but prior to starting classes, a refund of all monies paid to the school less the applicable registration (administration fee not to exceed two hundred dollars or fifteen percent of the tuition and fees, whichever is less) will be made.

(2) For students who enroll and begin classes but withdraw prior to course completion (after three business days of signing the contract), the school must apply a refund calculation schedule at least as liberal as

the following: The percent of scheduled time enrolled to total course and total tuition school shall receive or retain is as follows:

(a)	0.01% to 04.9%	20%
(b)	5% to 09.9%	30%
(c)	10% to 14.9%	40%
(d)	15% to 24.9%	45%
(e)	25% to 49.9%	70%
(f)	50% and over	100%

B. If permanently closed or no longer offering instruction after a student has enrolled, the school will provide a pro rata refund of tuition to the student.

C. If the course is canceled subsequent to a student's enrollment, the school will either provide a full refund of all monies paid or completion of the course at a later time.

D. Students who withdraw or terminate prior to course completion may be charged a separate cancellation fee not to exceed one hundred fifty dollars.

E. All extra costs, such as books, equipment, graduation fees, etc., which are not included in the tuition price must be stated in the contract and any non-refundable items will be identified. Such costs may be deducted from the contracted program cost prior to applying the tuition adjustment calculation.

F. If promissory notes or contracts for tuition are sold or discounted to third parties, the institution and/or third party must comply with this cancellation and settlement policy.

[16.34.8.19 NMAC - Rp 16 NMAC 34.8.21, 06-16-01]

16.34.8.20 SPECIAL EVENTS PERMIT: A school desiring to sponsor a special event such as a fund-raiser, garage sale, telethon, etc. that will not be conducted at the licensed establishments, must first obtain approval from the board office. The purpose of prior approval is to ensure professional integrity and that sanitation and safety requirements are met. An application on the form provided by the board office must be submitted at least ten days prior to the event. Applications for special events may be approved administratively. Special events for charities shall submit an application, no fees are required, as long as the money collected is donated to the charity specified on the application.

[16.34.8.20 NMAC - Rp 16 NMAC 34.8.22, 06-16-01; A, 12-17-15]

16.34.8.21 STUDENT TRAINING - HIGH SCHOOL PROGRAMS

A. Students enrolled in the career enrichment courses (CEC) or any other associate high school program must meet the following requirements before enrolling for any course as follows:

(1) proof of completion of the second year of high school or its equivalent (i.e. only juniors and seniors can participate);

(2) proof that student is at least sixteen years of age;

(3) submission of a complete student registration form and required fees through the associate school licensed under this act.

B. In order for students to receive credit for attendance in high school related programs, such as CEC or EXCEL or others, the high school must certify the training provided and send that documentation to the licensed school that has registered the student. The licensed school will report the hours or equivalent credit to the state board and identify the type of student on a separate form designated by the board upon completion of the high school training program. The following restrictions apply:

(1) Students participating in high school programs cannot earn more than fifteen percent of the program in the high school facility.

(2) The licensed school must provide the student with an OFFICIAL TRANSCRIPT OF TRAINING for all hours or equivalent credit earned under the high school program because the board office retains those records for only one year.

[16.34.8.21 NMAC -Rp 16 NMAC 34.8.23, 06-16-01; A, 10-04-07]

16.34.8.22 DISTANCE EDUCATION: It is recognized that delivery of relevant course content can be achieved in a variety of methods including online learning and distance education. Programs such as Instructor training may be completely accomplished via distance learning. Practitioner programs are limited to no more than twenty-five percent of the program content online. The following standards should apply when schools choose to use distance learning methods.

A. The school must notify the board and obtain approval before offering any distance learning courses.

B. The school must determine if the student has the requisite skills and competencies to succeed in a distance learning environment prior to enrollment.

C. The school must make available to students the necessary textbooks, supplementary educational materials and equipment needed to fulfill the program requirements.

D. The school must establish measurable and achievable performance outcomes that shall be compared to similar subject matter and objectives whether offered through traditional or distance methods.

E. The school must specify the expected knowledge, skills, and competency levels that students will achieve in a distance learning course.

F. The school shall effectively oversee the distance learning course and ensure it meets the objectives and mission of the school.

G. The school is responsible for the quality of courses of study offered through distance learning and the achievement of expected acceptable outcomes for each student irrespective of any contractual arrangements, partnerships, or consortia entered into with third parties for provision of components of a distance learning course.
[16.34.8.22 NMAC - N, 07-16-04]

HISTORY OF 16.34.8 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:
Article VI, Schools of Cosmetology, 3-29-89
Rule 6, Schools of Cosmetology, 3-8-90
Rule6, Schools of Cosmetology, 3-9-92
Article VII, Schools of Electrology, 12-22-81
Rule 7, Schools of Electrology, 3-8-90
Rule 7, Schools of Electrology, 3-9-92
Rule 7, Schools, 10-19-93
Rule 7, Schools, 5-13-94
Rule 7, Schools, 8-12-94
Rule 7, Schools, 5-23-95
BBE Rule 86-1, Board of Barber Examiners, Rules and Regulations - 1986, 6-27-86
BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations - 1987, 11-4-87
BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations - 1988, 10-4-88

History of Repealed Material:
16 NMAC 34.8, Schools - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 9 CONTINUING EDUCATION

16.34.9.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.9.1 NMAC - Rp 16 NMAC 34.9.1, 06-16-01]

16.34.9.2 SCOPE: All barbers, cosmetologists, estheticians, manicurist/pedicurists, manicurist/ estheticians, instructors, electrologists, and providers.
[16.34.9.2 NMAC - Rp 16 NMAC 34.9.2, 06-16-01]

16.34.9.3 STATUTORY AUTHORITY: Section 61-17A-7 - Board Powers and Duties - This authorizes the board to establish continuing education requirements for licensure renewal.
[16.34.9.3 NMAC - Rp 16 NMAC 34.9.3, 06-16-01]

16.34.9.4 DURATION: Permanent
[16.34.9.4 NMAC - Rp 16 NMAC 34.9.4, 06-16-01]

16.34.9.5 EFFECTIVE DATE: June 16, 2001 unless a different date is cited in the history note at the end of a section.
[16.34.9.5 NMAC - Rp 16 NMAC 34.9.5, 06-16-01]

16.34.9.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part establishes continuing education requirements for licensees licensed to engage or teach any course authorized under this act and to set guidelines for continuing education providers.
[16.34.9.6 NMAC - Rp 16 NMAC 34.9.6, 06-16-01]

16.34.9.7 DEFINITIONS: Refer to Part 1
[16.34.9.7 NMAC - Rp 16 NMAC 34.9.7, 06-16-01]

16.34.9.8 CONTINUING EDUCATION REQUIREMENTS

A. Instructors licensed to teach any course authorized under this act shall provide proof of attendance at a seminar of twelve contact hours or more per year for professional development or improvement of professional proficiency. Instructor licenses are renewed every March thirty first. Therefore, each instructor must obtain twelve contact hours of continuing education between April first and March thirty first of the following year in order to renew the license. Continuing education hours do not carry over and must be completed each year. For initial instructor licenses, the continuing education requirement will not apply until after the first full year of licensure.

B. Entities that are automatically recognized as providers of continuing education are listed below. These entities do not have to obtain formal provider approval in order to offer recognized continuing education for instructors. These entities do not have to meet the approval, recordkeeping, and certificate of attendance requirements. However, the licensee must provide proof of attendance with license renewal. Educational programs provided for the purpose of continuing or advanced education must be specific to the field of licensure.

(1) cosmetology educators of America (CEA) seminars and workshops conducted in any state;

(2) adult continuing education association programs in professional development, education, counseling, instructing or related programs;

(3) continuing education units (CEU's) recognized by four year institutions in any state in professional development, education, counseling, teaching or related programs;

(4) all schools licensed by the New Mexico state board of barbers and cosmetologists;

(5) credits recognized for teacher certification in any state according to the following conversion table:

(a) theory (cognitive/lecture): 1 credit hour = 30 clock hours;

(b) practice/demonstration: 1 credit hour = 45 clock hours.

(6) attendance at accreditation and team training workshops and instructor continuing education programs offered by nationally recognized accrediting agencies;

(7) certification of completion of Dale Carnegie professional development and business courses;

(8) the pivot point instructor symposium classes;

(9) educational classes or conferences sponsored by the Aveda institute;

(10) conferences sponsored by the American aesthetics education association;

(11) classes sponsored by Milady/Thomson learning's career institute;

(12) classes sponsored by Vidal Sassoon; or

(13) local, state, regional, or national industry trade shows with credit not to exceed fifty percent of the annual requirement for continuing education, or six hours; in addition, no more than fifty percent of the hours scheduled at such a trade show can contribute to the six hour maximum; the licensee must provide verifiable proof of attendance including an agenda of the event, a receipt for payment of attendance, or other such reasonable evidence of attendance;

(14) online faculty and professional development programs.

C. Licensee may also submit, subsequent to their attendance, copies of other programs and seminars that are not automatically approved. The board will consider such programs at the next regularly scheduled meeting and determine if credit is approved or denied. Detailed documentation of the program length and content must be submitted for the board to make a determination. Notification of approval or denial will be sent to the licensee within thirty days after the board meeting.

[16.34.9.8 NMAC - Rp 16 NMAC 34.9.8, 06-16-01; A, 10-04-07; A, 12-17-15]

16.34.9.9 CONTINUING EDUCATION PROVIDERS

A. Continuing education provider standards

(1) In order for a continuing education provider to be considered for approval by the board, the provider must demonstrate his/her/its qualifications to conduct such programs on an application provided by the board. Educational programs provided for the purpose of continuing or advanced education must be specific to the field of licensure

(2) Continuing education programs may be conducted in segments of not less than two contact hours.

B. Provider approval for conducting continuing education programs

(1) All continuing education programs shall be directed and supervised by approved providers. If the provider is an institution or corporation, the entity must designate an individual to supervise all sponsored events and must notify the board of that designee. To obtain approval, the applicant must complete an application furnished by the board and pay the required provider fee. The application must provide evidence of expertise, competency, and qualifications of the provider to present continuing education programs. Qualifications can be demonstrated by means of a resume, education and work history or other appropriate documentation. The applicant must also provide a SAMPLE DETAILED OUTLINE OF ONE TWELVE-HOUR PROGRAM for the board's consideration and provide evidence that the organization has access to appropriate facilities and resources to implement the required programs.

(2) The board, at a regular scheduled meeting, shall verify that the application complies with these rules and determine whether approval is granted.

(3) Provider approval shall be granted for a period of two years and must be renewed in order to continue providing continuing education programs. Provider approval is subject to periodic review and may be withdrawn if the board determines that adherence to the standards of the board is not maintained, or if information submitted to the board by the provider is found to be material misrepresentation of fact. Disapproval does not prohibit resubmission of the application with evidence the deficiencies have been corrected. Approval is granted for a period of two years.

(4) A list of approved providers is available from the board office upon request and receipt of an administrative fee.

(5) Applicants receiving approval will be assigned a provider number by the board. The number will be used on all the programs and correspondence to the board.

(6) The provider will be notified within fifteen days after the next regularly scheduled meeting as to the status of application. Approval, if granted, is for a period of two years.

(7) All provider licenses will be renewed on March thirty first every two years. Requests for renewal must be submitted every two years and may be renewed administratively.

(8) Timely renewal of license(s) is the full and complete responsibility of the LICENSEE. Failure to renew the license by the expiration date will result in late fees as set forth in the act.

(9) If the provider application is not approved after the evaluation by the board, the application will be returned with an itemized list of deficiencies within fifteen days of the board's evaluation.

(10) An incomplete application will be returned to the applicant by the board office within thirty days, with an explanation for the return.

C. Record keeping

(1) Records of approved provider shall be maintained by the board office.

(2) Records shall include provider qualifications and hours and rosters of participants receiving certificates of attendance.

(3) Records will be maintained by the board office for a period of two years.

(4) The provider shall send a roster of all participants to the board within thirty days of completion of the program to be entered as an official part of the participant's files for the purpose of license renewal.

D. The program provider shall develop a certificate of attendance that includes the following data:

(1) provider name, number and program name;

(2) name of participant;

(3) date program began and ended and number of hours offered; and

(4) number of contact hours to be credited to the participant.

E. The program provider shall develop a participant roster that includes the following data:

(1) provider name and number;

(2) program name and brief outline of contents;

(3) location of offering;

(4) name and license number of each participant receiving a certificate of attendance and how many hours were earned; and

(5) date program began and ended and number contact hours offered.

[16.34.9.9 NMAC - Rp 16 NMAC 34.9.9, 06-16-01; A, 12-17-15]

16.34.9.10 ADVANCED TRAINING: Educational programs provided for the purpose of continuing or advanced education in a specific field of licensure that are more than one hundred fifty hours in length must be conducted in a licensed school and supervised by a licensed instructor whether or not the program leads to licensure. Programs for advanced or continuing education of one hundred fifty hours or less will be considered seminars or workshops. They may or may not be conducted in a licensed establishment but must be supervised by a New Mexico licensee or approved provider for continuing education. Advanced training must be specific to the field of licensure.

[16.34.9.10 NMAC - Rp 16 NMAC 34.9.10, 06-16-01; A, 07-16-04; A, 12-17-15]

HISTORY OF 16.34.9 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Article VIII, Continuing Education, 12-22-81
Article VIII, Continuing Education, 3-24-89
Rule 8, Continuing Education, 3-8-90
Rule 8, Continuing Education, 3-9-92
Rule 8, Continuing Education, 10-19-93
Rule 8, Continuing Education, 5-13-94
Rule 8, continuing Education, 5-23-95
BBE Rule 86-1, Board of Barber Examiners, Rules and Regulations - 1986, 6-27-86
BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations - 1987, 11-4-87
BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations - 1988, 10-4-88

History of Repealed Material:

16 NMAC 34.9, Continuing Education - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 10 INVESTIGATIONS AND CONFIDENTIALITY

16.34.10.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists.
[16.34.10.1 NMAC – Rp 16 NMAC 34.10.1, 06-16-01]

16.34.10.2 SCOPE: All Barbers, Cosmetologists, Estheticians, Manicurist/Pedicurists, Manicurist/Estheticians, Instructors, Electrologists, Schools, Enterprises and Establishments.
[16.34.10.2 NMAC – Rp 16 NMAC 34.10.2, 06-16-01]

16.34.10.3 STATUTORY AUTHORITY: Section 61-17A-7 – This authorizes any member of the Board, its employees or agents to enter and inspect any establishment or enterprise for the purpose of determining compliance with the Barbers and Cosmetologists Act.
[16.34.10.3 NMAC – Rp 16 NMAC 34.10.3, 06-16-01]

16.34.10.4 DURATION: Permanent
[16.34.10.4 NMAC – Rp 16 NMAC 34.10.4, 06-16-01]

16.34.10.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.10.5 NMAC – Rp 16 NMAC 34.10.5, 06-16-01]

16.34.10.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part establishes the investigative methods.
[16.34.10.6 NMAC – Rp 16 NMAC 34.10.6, 06-16-01]

16.34.10.7 DEFINITIONS: Refer to Part 1
[16.34.10.7 NMAC – Rp 16 NMAC 34.10.7, 06-16-01]

16.34.10.8 INVESTIGATIVE METHODS: The Board may use any lawful method of investigation it deems necessary and appropriate, including undercover investigation using Board personnel, law enforcement personnel, and other investigative personnel and techniques.
[16.34.10.8 NMAC – Rp 16 NMAC 34.10.8, 06-16-01]

16.34.10.9 CONFIDENTIALITY OF INVESTIGATIONS: The Board shall take all lawful confidentiality measures, which it deems necessary and appropriate to protect the effectiveness of its investigations, subject to the requirements of the New Mexico Inspection of the Public Records Act.
[16.34.10.9 NMAC – Rp 16 NMAC 34.10.9, 06-16-01]

16.34.10.10 COMPLIANCE WITH BOARD REQUESTS

A. Pursuant to powers vested in it, the Board may from time to time request that a licensee provide it with information or documents concerning the licensee's activities.

B. Within fifteen days of receipt of such request the licensee shall respond by complying with the request.

C. Failure to respond timely is a violation of the rules and provides sufficient evidence to issue a Notice of Contemplated Action against the licensee.

[16.34.10.10 NMAC – Rp 16 NMAC 34.10.10, 06-16-01]

HISTORY OF 16.34.10 NMAC:
Pre-NMAC History:
The material in this Part was derived from that previously filed with State Records Center and Archives under:
Article X, Investigations And Confidentiality, 12-22-81
Rule 9, Investigations And Confidentiality, 3-8-90
Rule 9, Investigations And Confidentiality, 10-19-93
Rule 9, Investigations And Confidentiality, 5-23-95
BBE Rule 86-1, Board of Barber Examiners, Rules and Regulations – 1986, 6-27-86
BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations – 1987, 11-4-87
BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations – 1988, 10-4-88

History of Repealed Material:
16 NMAC 34.10, Investigations And Confidentiality – Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 11 VIOLATIONS

16.34.11.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.11.1 NMAC - Rp 16 NMAC 34.11.1, 06-16-01]

16.34.11.2 SCOPE: All barbers, cosmetologists, estheticians, manicurist/pedicurists, manicurist/ estheticians, instructors, electrologists, schools, enterprises and establishments.
[16.34.11.2 NMAC - Rp 16 NMAC 34.11.2, 06-16-01]

16.34.11.3 STATUTORY AUTHORITY: Sections 61-17A-7 and 61-17A-21 of the Barbers and Cosmetologists Act. This authorizes the board to refuse to issue, renew, suspend or revoke a license for anyone in non-compliance with the Barbers and Cosmetologists Act.
[16.34.11.3 NMAC - Rp 16 NMAC 34.11.3, 06-16-01]

16.34.11.4 DURATION: Permanent
[16.34.11.4 NMAC - Rp 16 NMAC 34.11.4, 06-16-01]

16.34.11.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.11.5 NMAC - Rp 16 NMAC 34.11.5, 06-16-01]

16.34.11.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part establishes the board to take action against a licensee in non-compliance of the act.
[16.34.11.6 NMAC - Rp 16 NMAC 34.11.6, 06-16-01]

16.34.11.7 DEFINITIONS: Refer to Part 1
[16.34.11.7 NMAC - Rp 16 NMAC 34.11.7, 06-16-01]

16.34.11.8 VIOLATIONS BY LICENSEES

A. When the board becomes aware of information or evidence tending to indicate that a violation of the act or these rules has been or is being committed by a licensee or student, it will review the matter and take appropriate action, or it may refer the matter to an informal subcommittee for review and recommendation, or it may make such investigation as it deems appropriate.

B. If an investigation is made, upon conclusion that a violation has occurred, the board shall:

(1) take no further action;

(2) issue a notice of contemplated action (NCA) under the Uniform Licensing Act;

(3) invite the parties to an informal conference with the board or the board's designee to aid in the board's resolution of the matter;

(4) issue a cease and desist order if the board determines that conditions within the establishment present a substantial danger of illness, serious physical harm or death to customers who might patronize the establishment;

(5) file a formal complaint with a court of appropriate jurisdiction; or

(6) issue or direct the board's executive director to issue a letter of warning, a statement of what the board believes must be done to come into compliance with the act or these rules or a similar communication.

[16.34.11.8 NMAC - Rp 16 NMAC 34.11.8, 06-16-01; A, 07-16-04; A, 12-30-15]

16.34.11.9 [RESERVED]
[16.34.11.9 NMAC - Rp 16 NMAC 34.11.9, 06-16-01; Repealed, 10-04-07]

HISTORY OF 16.34.11 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Article XI, Procedures For Handling Violations, 12-22-81
Rule 10, Violations, 3-8-90
Rule 10, Violations, 3-9-92
Rule 10, Violations, 10-19-93
BBE Rule 86-1, Board of Barber Examiners, Rules and Regulations - 1986, 6-27-86
BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations - 1987, 11-4-87
BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations - 1988, 10-4-88

History of Repealed Material:
16 NMAC 34.11, Violations - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 13 ADMINISTRATIVE PROCEDURES

16.34.13.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.13.1 NMAC - Rp 16 NMAC 34.13.1, 06-16-01]

16.34.13.2 SCOPE: All barbers, cosmetologists, estheticians, manicurist/pedicurists, manicurist/estheticians, instructors, electrologists, schools, enterprises, establishments, applicants and consumers.
[16.34.13.2 NMAC - Rp 16 NMAC 34.13.2, 06-16-01]

16.34.13.3 STATUTORY AUTHORITY: Section 61-17A-7 - Board Powers and Duties - This authorizes the board to adopt and file rules and regulations necessary to carry out the provisions of the Barbers and Cosmetologists Act.
[16.34.13.3 NMAC - Rp 16 NMAC 34.13.3, 06-16-01]

16.34.13.4 DURATION: Permanent
[16.34.13.4 NMAC - Rp 16 NMAC 34.13.4, 06-16-01]

16.34.13.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.13.5 NMAC - Rp 16 NMAC 34.13.5, 06-16-01]

16.34.13.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part establishes the requirements and standards for complaints, inspections, examinations and tele-conference meetings.
[16.34.13.6 NMAC - Rp 16 NMAC 34.13.6, 06-16-01]

16.34.13.7 DEFINITIONS: Refer to Part 1
[16.34.13.7 NMAC - Rp 16 NMAC 34.13.7, 06-16-01]

16.34.13.8 COMPLAINTS

A. The board, or its designee, will consider a formal complaint filed against a licensee or an establishment provided the complaint is on the proper form, signed and notarized.

B. When a complaint is received on the proper form, the board, or its designee, will write to the licensee the complaint is against and request a response within fifteen days of receipt of such request.

C. The response will be reviewed by a committee designated by the board chairman.

D. If the committee's recommendation is that the complaint be taken before the board, the complaint will be reviewed at the next regularly scheduled board meeting. The executive director will notify all individuals involved of the action taken.

[16.34.13.8 NMAC - Rp 16 NMAC 34.13.8, 06-16-01; A, 10-04-07]

16.34.13.9 INSPECTIONS

A. Schools and establishments licensed by the board are subject to inspection by any member of the board, its employees or agents who may enter and inspect at any time during regular business hours for the purpose of determining compliance with the Barbers and Cosmetologists Act.

B. Outreach enterprise mobile units are subject to inspection by any member of the board, its employees or agent who may enter and inspect at any time during regular business hours for the purpose of determining compliance with the Barbers and Cosmetologists Act. Inspections may occur at the enterprise's base location, a mutually convenient public pullover location, at a unit's appointment destination. The outreach enterprise will maintain with each client's service record a permission statement, provided by the board, signed by the client allowing the board inspection to be conducted on the client's property while services are being performed.

C. It shall constitute a violation of the Barbers and Cosmetologists Act when a licensee:

(1) attempts by means of any threat, force, intimidation or violence to deter, interfere with or prevent any inspector or board designee from performing any official duty of the department or board;

(2) willfully resists, does not cooperate with the inspector, does not allow an inspection to occur, delays or obstructs an inspector or board designee in the performance of his/her official duty;

(3) fails to comply with the lawful command of an inspector or board designee in the discharge of his/her official duty.

[16.34.13.9 NMAC - Rp 16 NMAC 34.13.9, 06-16-01; A, 12-17-15]

16.34.13.10 EXAMINATION PROCEDURES

A. To be eligible for the examination, the applicant must meet all requirements and follow all procedures set forth by the board or its designee.

B. Special needs: If an applicant has a physical disability or a special need that prevents him/her from taking the examination under the regular conditions, he/she may request special accommodations. Written documentation of the disability must be submitted to the board office to determine what special accommodations are necessary. If special accommodations are needed to take the exam, the board office or its designee must be notified with the examination application.

C. Policy on cheating: The exchange of information related to exam performance between examinees during the exam is prohibited. Applicants are not allowed to have any written or taped material in the testing area other than the supplies listed and approved for the exam.

[16.34.13.10 NMAC - Rp 16 NMAC 34.13.10, 06-16-01; A, 07-16-04; A, 10-04-07]

16.34.13.11 TELE-CONFERENCE MEETINGS: Pursuant to Section 10-15-1 (C) NMSA 1978, a board member may participate in a meeting of the board by means of a conference telephone or other similar communications equipment under the following conditions:

A. this rule shall only apply when it is otherwise difficult or impossible for the member to attend the meeting in person;

B. each member participating by conference telephone must be identified when speaking;

C. all participants must be able to hear each other at the same time;

D. members of the public attending the meeting must be able to hear any member of the board who speaks during the meeting;

E. the member of the board participating by telephone can only vote on a matter if he/she has copies of the documents that are available to the members who are physically present; and

F. the member participating by telephone cannot vote on any matter where the credibility of a witness who physically appears at the meeting is an issue that the board members must consider when voting on a pending matter.

[16.34.13.11 NMAC - Rp 16 NMAC 34.13.11, 06-16-01]

16.34.13.12 RECORD KEEPING - FEES: Records of monies received in the board office for licenses and fees are maintained in the board office for a period of one year from date of receipt.

[16.34.13.12 NMAC - Rp 16 NMAC 34.13.12, 06-16-01]

16.34.13.13 PETITIONS

A. The board shall accept for consideration at its regular meetings where licensee actions are taken, petitions for variance of these rules. If a licensee wishes to petition the board for a variance of these rules, he/she/it shall do so by filing with the board, in writing, a petition for variance. Such petition shall cite the specific section of these rules from which a variance is sought. It shall include an explanation of all factors and considerations to support the variance sought. A petition needs to be submitted at least fifteen days prior to the board meeting where it is to be considered. The petitioner may also request to personally appear before the board to support the petition. The board will only accept petitions that are submitted in the following format:

(1) list the specific section of the rules to be varied, including part number and section;

(2) provide the petitioner's rationale for the variance;

(3) provide thorough documentation to support the request for variance; and

(4) provide nine copies of the petition and supporting documentation in soft-sided binders for review by the board.

B. Decisions made by the board on a petition for variance shall be made in the same procedural manner as other actions of the board.

C. The denial of a petition for variance cannot be appealed.

[16.34.13.13 NMAC - N, 06-16-01; A, 10-04-07]

HISTORY OF 16.34.13 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:
Rule 12, Administrative Procedures, 5-23-95

History of Repealed Material:
16 NMAC 34.13, Administrative Procedures - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 14 FEES

16.34.14.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.14.1 NMAC - Rp 16 NMAC 34.14.1, 06-16-01]

16.34.14.2 SCOPE: All barbers, cosmetologists, estheticians, manicurist/pedicurists, manicurist/estheticians, instructors, electrologists, schools, enterprises and establishments.
[16.34.14.2 NMAC - Rp 16 NMAC 34.14.2, 06-16-01]

16.34.14.3 STATUTORY AUTHORITY: Sections 61-17A-7 and 61-17A-16 of the Barbers and Cosmetologists Act. This authorizes the board to establish fees.
[16.34.14.3 NMAC - Rp 16 NMAC 34.14.3, 06-16-01]

16.34.14.4 DURATION: Permanent
[16.34.14.4 NMAC - Rp 16 NMAC 34.14.4, 06-16-01]

16.34.14.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.14.5 NMAC - Rp 16 NMAC 34.14.5, 06-16-01]

16.34.14.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part itemizes all fees.
[16.34.14.6 NMAC - Rp 16 NMAC 34.14.6, 06-16-01]

16.34.14.7 DEFINITIONS: Refer to Part 1
[16.34.14.7 NMAC - Rp 16 NMAC 34.14.7, 06-16-01]

16.34.14.8 FEES: The fees for examination, original licensure and annual renewal, licensure by reciprocity and special fees are as follows:

A. Enterprise or establishment license (original)..... $200.00
B. Enterprise or establishment license (renewal)..... $50.00
C. Booth establishment license (original)..... $200.00
D. Booth establishment license (renewal)..... $50.00
E. School license (original and renewal)..... $500.00
F. Relocation of a school..... $185.00
G. Barber license (original and renewal)..... $50.00
H. Cosmetologist license (original and renewal)..... $50.00
I. Manicurist/pedicurist license (original and renewal)..... $50.00
J. Manicurist/esthetician license (original and renewal)..... $50.00
K. Electrologist license (original and renewal)..... $50.00
L. Esthetician license (original and renewal)..... $50.00
M. Instructor license (original and renewal)..... $50.00
N. Reciprocity (original)..... $150.00
O. Administrative fee (other examination administrative costs).....a maximum of $100.00
P. Administrative fee (lists on disks)..... $95.00
Q. Administrative fee (relocation of establishments, etc.)..... $25.00
R. Examinations and re-examinations all licenses except instructor.....a maximum of $100.00
S. Instructor examination and re-examination..... a maximum of $100.00
T. Duplicate licenses..... $25.00
U. Student permit license..... $25.00
V. Late fee..... $40.00
W. Provider approval, initial and renewal..... $50.00

[16.34.14.8 NMAC - Rp 16 NMAC 34.14.8, 06-16-01; A, 07-16-04; A, 10-04-07; A, 04/12/10]

HISTORY OF 16.34.14 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Rule 13, Fees, 10-19-93
BBE Rule 86-1, Board of Barber Examiners, Rules and Regulations - 1986, 6-27-86
BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations - 1987, 11-4-87
BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations - 1988, 10-4-88

History of Repealed Material:
16 NMAC 34.14, Fees - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 15 ADMINISTRATIVE PENALTIES AND FINES

16.34.15.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.15.1 NMAC - Rp 16 NMAC 34.15.1, 06-16-01]

16.34.15.2 SCOPE: All barbers, cosmetologists, estheticians, manicurist/pedicurists, manicurist/estheticians, instructors, electrologists, schools, enterprises and establishments.
[16.34.15.2 NMAC - Rp 16 NMAC 34.15.2, 06-16-01]

16.34.15.3 STATUTORY AUTHORITY: Sections 61-17A-7 and 61-17A-23 of the Barbers and Cosmetologists Act. This authorizes the board to establish administrative penalties and fines.
[16.34.15.3 NMAC - Rp 16 NMAC 34.15.3, 06-16-01]

16.34.15.4 DURATION: Permanent
[16.34.15.4 NMAC - Rp 16 NMAC 34.15.4, 06-16-01]

16.34.15.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.15.5 NMAC - Rp 16 NMAC 34.15.5, 06-16-01]

16.34.15.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part defines the violations of any provision of the act and lists possible penalties and fines.
[16.34.15.6 NMAC - Rp 16 NMAC 34.15.6, 06-16-01]

16.34.15.7 DEFINITIONS: Refer to Part 1
[16.34.15.7 NMAC - Rp 16 NMAC 34.15.7, 06-16-01]

16.34.15.8 ADMINISTRATIVE PENALTIES AND FINES

A. Subject to legally required procedural safeguards, any person who violates any provisions of the act or any rule adopted by the board may incur, in addition to any other penalty provided by law, a civil penalty in an amount of less than one thousand dollars for each violation. The board will serve on the licensee official notice of any such fine that the board proposes to assess. Failure to pay a fine, once properly assessed, may result in an additional fine or revocation of license or other disciplinary action. The penalties to be assessed are as follows:

B. Failure to comply with establishment requirements:
(1) first offense: two hundred dollars
(2) second offense: four hundred dollars
(3) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

C. Failure to comply with sanitation and safety requirements for establishments:
(1) first offense: warning from inspector/"board"
(2) second offense: two hundred dollars
(3) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

D. Failure to post required licenses:
(1) first offense: one hundred fifty dollars
(2) second offense: four hundred dollars
(3) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

E. Working on an expired or invalid license:
(1) first offense: one hundred fifty dollars
(2) second offense: four hundred dollars

(3) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

F. Performing services for compensation in an unlicensed establishment:

(1) first offense: five hundred dollars

(2) second offense: six hundred dollars

(3) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

G. Failure by a school to properly and timely register all students:

(1) first offense: two hundred dollars

(2) second offense: four hundred dollars

(3) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

H. Committing any of the causes listed in 61-17A-21 not otherwise addressed in these rules:

(1) first offense: two hundred dollars

(2) second offense: four hundred dollars

(3) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

I. Student loan default is defined as "the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the lender or guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for one hundred eighty days."

J. Official notice of default: The board shall take steps to impose a fine up to nine hundred ninety nine dollars or take other disciplinary action as permitted by the act or the Uniform Licensing Act which may include suspension, revocation or failure to renew a license.

[16.34.15.8 NMAC - Rp 16 NMAC 34.15.8, 06-16-01; A, 04/12/10]

16.34.15.9 COST INCURRED FOR HEARINGS: Section 61-1-4G, NMSA1978 states as follows, licensees shall bear all costs of disciplinary proceedings unless they are excused by the board from paying all or part of the fees, or if they prevail at the hearing and an action specified in Section 16-1-3 NMSA 1978 is not taken by the board.

[16.34.15.9 NMAC - N, 06-16-01]

HISTORY OF 16.34.15 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Rule 14, Administrative Penalties and Fines, 10-19-93

Rule 14, Administrative Penalties and Fines, 5-13-94

BBE Rule 86-1, Board of Barber Examiners, Rules and Regulations - 1986, 6-27-86

BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations - 1987, 11-4-87

BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations - 1988, 10-4-88

History of Repealed Material:

16 NMAC 34.15, Administrative Penalties And Fines - Repealed, 6-16-01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 16 PARENTAL RESPONSIBILITY ACT COMPLIANCE

16.34.16.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists.
[16.34.16.1 NMAC – Rp 16 NMAC 34.16.1, 06-16-01]

16.34.16.2 SCOPE: All Barbers, Cosmetologists, Estheticians, Manicurist/Pedicurists, Manicurist/ Estheticians, Instructors, Electrologists, Schools, Enterprises and Establishments.
[16.34.16.2 NMAC – Rp 16 NMAC 34.16.2, 06-16-01]

16.34.16.3 STATUTORY AUTHORITY: The Board adopts this section pursuant to the Parental Responsibility Act, Chapter 25, Laws of 1995.
[16.34.16.3 NMAC – Rp 16NNAC 34.16.3, 06-16-01]

16.34.16.4 DURATION: Permanent
[16.34.16.4 NMAC – Rp 16 NMAC 34.16.4, 06-16-01]

16.34.16.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.16.5 NMAC – Rp 16 NMAC 34.16.5, 06-16-01]

16.34.16.6 OBJECTIVE: This part establishes the requirements and possible penalties for non-compliance of the Parental Responsibility Act.
[16.34.16.6 NMAC – Rp 16 NMAC 34.16.6, 06-16-01]

16.34.16.7 DEFINITIONS: Refer to Part 1
[16.34.16.7 NMAC – Rp 16 NMAC 34.16.7, 06-16-01]

16.34.16.8 DISCIPLINARY ACTION: If an applicant or licensee is not in compliance with a judgment and order for support, the Board:

A. shall deny an application for a license;
B. shall deny the renewal of a license; and
C. has grounds for suspension or revocation of the license.

[16.34.16.8 NMAC – Rp 16 NMAC 34.16.8, 06-16-01]

16.34.16.9 CERTIFIED LIST: Upon receipt of HSD's certified list of obligors not in compliance with a judgment and order for support, the Board shall match the certified list against the current list of Board licensees and applicants. Upon the later receipt of an application for license or renewal, the Board shall match the applicant against the current certified list. By the end of the month in which the certified list is received, the Board shall report to HSD the names of Board applicants and licensees who are on the certified list and the action Board has taken in connection with such applicants and licensees.
[16.34.16.9 NMAC – Rp 16 NMAC 34.16.9, 06-16-01]

16.34.16.10 INITIAL ACTION: Upon determination that an applicant or licensee appears on the certified list, the Board shall:

A. commence a formal proceeding under 16.34.16.11 NMAC to take the appropriate action under 16.34.16.8 NMAC; or
B. for current licensees only, informally notify the licensee that the licensee's name is on the certified list, and that the licensee must provide the Board with a subsequent Statement of Compliance from HSD by the earlier of the application for license renewal or a specified date not to exceed sixty days. If the licensee fails to provide this statement, the Board shall commence a formal proceeding under 16.34.16.11 NMAC.

[16.34.16.10 NMAC – Rp 16 NMAC 34.16.10, 06-16-01]

16.34.16.11 NOTICE OF CONTEMPLATED ACTION: Prior to taking any action specified in 16.34.16.8 NMAC, the Board shall serve upon the applicant or licensee a written notice stating that:

A. the Board has grounds to take such action, and that the Board shall take such action unless the licensee or applicant;

(1) mails a letter (certified mail return receipt requested) within twenty days after service of the notice requesting a hearing; or

(2) provides the Board, within thirty days of the date of the notice, with a Statement of Compliance from HSD; and

B. if the applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should contact the HSD Child Support Enforcement Division.

[16.34.16.11 NMAC – Rp 16 NMAC 34.16.11, 06-16-01]

16.34.16.12 EVIDENCE AND PROOF: In any hearing under this Part, relevant evidence is limited to the following:

A. A statement of Non-compliance is conclusive evidence that requires the Board to take the appropriate action under 16.34.16.8 NMAC, unless;

B. The applicant or licensee provides the Board with a subsequent Statement of Compliance, which shall preclude the Board from taking any action under this section.

[16.34.16.12 NMAC – Rp 16 NMAC 34.16.12, 06-16-01]

16.34.16.13 ORDER: When a disciplinary action is taken under this Part solely because the applicant or licensee in not in compliance with a judgment and order for support, the order shall state that the application or license shall be reinstated upon presentation of a subsequent Statement of Compliance. The Board may also include any other condition necessary to comply with Board requirements for reapplication or reinstatement of lapsed licenses.

[16.34.16.13 NMAC – Rp 16 NMAC 34.16.13, 06-16-01]

16.34.16.14 PROCEDURES: Proceedings under this Part shall be governed by the Uniform Licensing Act, Section 61-1-1, et seq.

[16.34.16.14 NMAC – Rp 16 NMAC 34.16.14, 06-16-01]

HISTORY OF 16.34.16 NMAC:
Pre-NMAC History: [Reserved]

History of Repealed Material:
16 NMAC 34.16, Parental Responsibility Act Compliance – Repealed, 6-16-01