

New Mexico Board of Barbers and Cosmetologists – Statutes

61-17A-1. Short title. (Repealed effective July 1, 2020.)

Chapter 61, Article 17A NMSA 1978 may be cited as the "Barbers and Cosmetologists Act".

History: Laws 1993, ch. 171, § 1; 2013, ch. 166, § 3.

61-17A-2. Definitions. (Repealed effective July 1, 2020.)

As used in the Barbers and Cosmetologists Act [61-17A-1 NMSA 1978]:

- A. "barber" means a person, other than a student, who for compensation engages in barbering;
- B. "board" means the board of barbers and cosmetologists;
- C. "cosmetologist" means a person, other than a student, who for compensation engages in cosmetology;
- D. "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;
- E. "enterprise" means a business venture, firm or organization;
- F. "establishment" means an immobile beauty shop, barber shop, electrology clinic, salon or similar place of business in which cosmetology, barbering or electrolysis is performed;
- G. "esthetician" means a person, other than a student, who for compensation:
 - (1) uses cosmetic preparations, including makeup applications, antiseptics, powders, oils, clays or creams for the purpose of preserving the health and beauty of the skin and body;
 - (2) massages, cleans, stimulates or manipulates the skin for the purpose of preserving the health and beauty of the skin and body; or
 - (3) performs activities similar to the activities described in Paragraph (1) or (2) of this subsection on any part of the body of a person;
- H. "manicurist-pedicurist" means a person, other than a student, who for compensation performs work on the nails of a person and applies nail extensions or products to the nails for the purpose of strengthening or preserving the health and beauty of the hands or feet;
- I. "sanitation" means the maintenance of sanitary conditions to promote hygiene and the prevention of disease through the use of chemical agents or products;

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

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

History: Laws 1993, ch. 171, § 2; 1997, ch. 218, § 1.

61-17A-3. Barbering defined. (Repealed effective July 1, 2020.)

Barbering includes any one or any combination of the following practices when done upon the upper part of the human body for cosmetic purposes for the public generally, upon male or female:

- A. shaving or trimming the beard or cutting the hair;
- B. curling and waving, including permanent waving, the hair;
- C. giving facial and scalp massage or treatments with oils, creams, lotions or other preparations, either by hand or mechanical appliances;
- D. shampooing, bleaching or dyeing the hair or applying tonics; or
- E. applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to the scalp, face, neck or upper part of the body.

History: Laws 1993, ch. 171, § 3.

61-17A-4. Cosmetology defined. (Repealed effective July 1, 2020.)

Cosmetology means the practice of those services that include:

- A. 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;
- B. using cosmetic preparations, antiseptics, tonics, lotions or creams or massaging, cleansing, stimulating, manipulating, beautifying or performing similar work on the body of a person;
- C. manicuring and pedicuring the nails of a person;
- D. caring for and servicing wigs and hair pieces; or
- E. removing of unwanted hair except by means of electrolysis.

History: Laws 1993, ch. 171, § 4.

61-17A-5. License required. (Repealed effective July 1, 2020.)

- A. Unless licensed pursuant to the Barbers and Cosmetologists Act [61-17A-1 NMSA 1978] or exempted from the provisions of that act, no person shall practice barbering or cosmetology for compensation either directly or indirectly.
- B. Unless licensed pursuant to the Barbers and Cosmetologists Act, no person shall operate a school or establishment for compensation.
- C. Unless licensed pursuant to the Barbers and Cosmetologists Act or exempted from the provisions of that act, no person shall teach barbering, cosmetology or electrology for compensation.
- D. Unless licensed by the board pursuant to the Barbers and Cosmetologists Act, no person shall practice as a manicurist-pedicurist, esthetician or electrologist for compensation.

History: Laws 1993, ch. 171, § 5; 1997, ch. 218, § 2.

61-17A-6. Board created; membership. (Repealed effective July 1, 2020.)

- A. The "board of barbers and cosmetologists" is created. The board shall be administratively attached to the regulation and licensing department. The board shall consist of nine members appointed by the governor. Members shall serve three-year terms; provided that at the time of initial appointment, the governor shall appoint members to abbreviated terms to allow staggering of subsequent appointments. Vacancies shall be filled in the manner of the original appointment.
- B. Of the nine members of the board, five shall be licensed pursuant to the Barbers and Cosmetologists Act [61-17A-1 NMSA 1978] and shall have at least five years' practical experience in their respective occupations. Of those five, two members shall be licensed barbers, two members shall be licensed cosmetologists and one member shall represent school owners. Two members shall be licensed body artists pursuant to the Body Art Safe Practices Act [61-17B-1 NMSA 1978] and shall have at least five years in practice in their occupation. The remaining two members shall be public members. Neither the public members nor their spouses shall have ever been licensed pursuant to the provisions of the Barbers and Cosmetologists Act, the Body Art Safe Practices Act or similar prior legislation or have a financial interest in a school or establishment.
- C. Members of the board shall be reimbursed pursuant to the Per Diem and Mileage Act [10-8-1 NMSA 1978] and shall receive no other compensation, perquisite or allowance.
- D. The board shall elect from among its members a chair and such other officers as it deems necessary. The board shall meet at the call of the chair, not less than four times each year. A majority of members currently serving shall constitute a quorum for the conduct of business.

E. No board member shall serve more than two full consecutive terms and any member who fails to attend, after proper notice, three meetings shall automatically be recommended for removal unless excused for reasons set forth by board regulation.

History: Laws 1993, ch. 171, § 6; 1997, ch. 218, § 3; 2007, ch. 181, § 15.

61-17A-7. Board powers and duties. (Repealed effective July 1, 2020.)

A. The board shall:

- (1) adopt and file, in accordance with the State Rules Act [Chapter 14, Article 4 NMSA 1978], rules necessary to carry out the provisions of the Barbers and Cosmetologists Act and the Body Art Safe Practices Act [Chapter 61, Article 17B NMSA 1978];
- (2) establish fees;
- (3) provide for the examination, licensure and license renewal of applicants for licensure;
- (4) establish standards for and provide for the examination, licensure and license renewal of manicurists-pedicurists, estheticians, electrologists and body artists and operators pursuant to the Body Art Safe Practices Act;
- (5) adopt a seal;
- (6) furnish copies of rules and sanitary requirements adopted by the board to each owner or manager of an establishment, enterprise or school;
- (7) keep a record of its proceedings and a register of applicants for licensure;
- (8) provide for the licensure of barbers, cosmetologists, manicurists-pedicurists, estheticians, body artists and operators pursuant to the Body Art Safe Practices Act, electrologists, instructors, schools, enterprises and establishments;
- (9) establish administrative penalties and fines;
- (10) create and establish standards and fees for special licenses;
- (11) establish guidelines for schools to calculate tuition refunds for withdrawing students;
- (12) hire an administrator and other such staff as necessary to carry out the provisions of the Body Art Safe Practices Act; and
- (13) issue cease and desist orders to persons violating the provisions of the Barbers and Cosmetologists Act or the Body Art Safe Practices Act and rules promulgated in accordance with those acts.

B. The board may establish continuing education requirements as requirements for licensure.

C. A member of the board, its employees or agents may enter and inspect a school, enterprise or establishment at any time during regular business hours for the purpose of determining compliance with the Barbers and Cosmetologists Act and the Body Art Safe Practices Act.

History: Laws 1993, ch. 171, § 7; 1997, ch. 218, § 4; 2003, ch. 408, § 23; 2007, ch. 181, § 16; 2013, ch. 162, § 1.

61-17A-8. Licensure requirements; barbers. (Repealed effective July 1, 2020.)

A. A barber license shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who:

- (1) has an education equivalent to the completion of the second year of high school;
- (2) is at least seventeen years of age;
- (3) has completed a course in barbering of at least one thousand two hundred hours in a school approved by the board; and
- (4) has passed an examination approved by the board.

B. The holder of a barber license has the right and privilege to use the title "barber", the initials "R.B." following the holder's surname and to use a barber pole, the traditional striped, vertical emblem of the barbering trade.

History: Laws 1993, ch. 171, § 8; 1997, ch. 218, § 5.

61-17A-9. Licensure requirements; cosmetologists. (Repealed effective July 1, 2020.)

A. A cosmetologist license shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who:

- (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 a course in cosmetology of at least one thousand six hundred hours at a school approved by the board; and
- (4) has passed an examination approved by the board.

B. The name of a licensed cosmetologist may be immediately followed by the initials "R.C.", as a right and privilege of licensure.

History: Laws 1993, ch. 171, § 9; 1997, ch. 218, § 6.

61-17A-10. Licensure requirements of manicurists-pedicurists, estheticians and electrologists. (Repealed effective July 1, 2020.)

A. The board shall provide for the licensure of manicurists-pedicurists. The board shall issue a manicurist-pedicurist license to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence of compliance with all requirements established by the board. The name of a licensed manicurist-pedicurist may be immediately followed by the initials "R.M.", as a right and privilege of licensure.

B. The board shall provide for the licensure of estheticians. The board shall issue an esthetician license to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence of compliance with all requirements established by the board. The name of a licensed esthetician may be immediately followed by the initials "R.F.", as a right and privilege of licensure.

C. The board shall provide for the licensure of electrologists. The board shall issue an electrologist license to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence of compliance with all requirements established by the board. The name of a licensed electrologist may be immediately followed by the initials "R.E.", as a right and privilege of licensure.

History: Laws 1993, ch. 171, § 10; 1997, ch. 218, § 7.

61-17A-11. Licensure of instructors. (Repealed effective July 1, 2020.)

A. A cosmetologist instructor license shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who:

- (1) is a licensed cosmetologist;
- (2) has completed at least a four-year high school course of study or its equivalent as approved by the board;
- (3) has met all requirements established by the board; and
- (4) has passed an examination approved by the board.

B. A barber instructor license shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who:

- (1) is a licensed barber;
- (2) has completed at least a four-year high school course of study or its equivalent as approved by the board;
- (3) has met all requirements established by the board; and

(4) has passed an examination approved by the board.

C. An electrologist instructor license shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence of compliance with all requirements established by the board.

D. The name of a licensed instructor may be immediately followed by the initials "R.I.", as a right and privilege of licensure.

History: Laws 1993, ch. 171, § 11; 1997, ch. 218, § 8.

61-17A-12. Licensure of schools. (Repealed effective July 1, 2020.)

A. The board shall provide for the licensure of barber schools. The board shall issue a barber school license to any barber school that submits a completed application, accompanied by the required fees and documentation, and that submits satisfactory evidence that it complies with all enrollment, curriculum, instructional and graduation requirements and record-keeping procedures established by the board.

B. The board shall provide for the licensure of cosmetology schools. The board shall issue a cosmetology school license to any cosmetology school that submits a completed application, accompanied by the required fees and documentation, and that submits satisfactory evidence that it complies with all enrollment, curriculum, instructional and graduation requirements and record-keeping procedures established by the board.

C. The board shall provide for the licensure of electrology schools. The board shall issue an electrology school license to any electrology school that submits a completed application, accompanied by the required fees and documentation, and that submits satisfactory evidence that it complies with all enrollment, curriculum, instructional and graduation requirements and record-keeping procedures established by the board.

D. The board shall provide for the licensure of specialty schools. The board shall issue a specialty school license to any specialty school that submits a completed application, accompanied by the required fees and documentation, and that submits satisfactory evidence that it complies with all enrollment, curriculum, instructional and graduation requirements and record-keeping procedures established by the board.

E. The board shall establish crossover credit standards for training available at either barber schools or cosmetology schools that may be used in meeting licensure requirements in either profession.

F. The board shall establish a corporate surety bond requirement for schools 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.

History: Laws 1993, ch. 171, § 12; 1997, ch. 218, § 9.

61-17A-13. Repealed.

61-17A-14. Barbers and cosmetologists fund created. (Repealed effective July 1, 2020.)

The "barbers and cosmetologists fund" is created in the state treasury. All license fees, charges and fines imposed by the board shall be deposited in the fund. Money in the fund is appropriated to the board for the purpose of carrying out the provisions of the Barbers and Cosmetologists Act [61-17A-1 NMSA 1978]. Any balance remaining in the fund at the end of each fiscal year shall not revert to the general fund.

History: Laws 1993, ch. 171, § 14.

61-17A-15. Licensure of all establishments and enterprises. (Repealed effective July 1, 2020.)

The board shall provide for the licensure of all establishments and enterprises. The board shall issue a license to establishments, enterprises and clinics that submit a completed application, accompanied by the required fees and documentation, and that submit satisfactory evidence of compliance with all requirements established by the board.

History: Laws 1993, ch. 171, § 15; 1997, ch. 218, § 10.

61-17A-16. Fees. (Repealed effective July 1, 2020.)

The board may, by regulation, establish initial license and renewal fees not to exceed the following:

- establishment license - \$200
- school license - \$600
- relocation of a school - \$300
- cosmetologist license - \$ 50.00
- barber license - \$ 50.00
- specialty license - \$ 50.00
- instructor license - \$ 50.00
- duplicate license - \$ 50.00
- temporary license - \$ 25.00
- administrative fee - \$100
- limited license fee - \$100
- licensure through reciprocity - \$200
- transcript - \$ 50.00
- examinations - \$100.

History: Laws 1993, ch. 171, § 16; 1997, ch. 218, § 11.

61-17A-17. Licensure under prior law; endorsement. (Repealed effective July 1, 2020.)

A. Any person licensed as a barber, a cosmetologist, an esthetician, an electrologist, an instructor of cosmetology or barbering or an instructor of electrology, a manicurist-pedicurist or any person holding an establishment license, clinic license or school owner's license under any prior laws of this state, which license is valid on the effective date of the Barbers and Cosmetologists Act [61-17A-1 NMSA 1978], shall be held to be licensed under the provisions of that act and shall be entitled to the renewal of his license as provided in that act.

B. The board may grant a license pursuant to the provisions of the Barbers and Cosmetologists Act without an examination, upon payment of the required fee, provided that the applicant:

(1) holds a current license from another state, territory or possession of the United States, or the District of Columbia, that has training hours and qualifications similar to or exceeding those required for licensure in New Mexico; and

(2) meets all other requirements for reciprocity as determined by regulation of the board.

History: Laws 1993, ch. 171, § 17; 1997, ch. 218, § 12.

61-17A-18. License to be displayed; notice of change of place of business. (Repealed effective July 1, 2020.)

Every holder of a license shall notify the executive director of any change in place of business. Upon receipt of the notification, the executive director shall make the necessary change in the books. A license shall be displayed conspicuously at the holder's place of business.

History: Laws 1993, ch. 171, § 18; 1997, ch. 218, § 13.

61-17A-19. License nontransferable. (Repealed effective July 1, 2020.)

Each license shall be issued under the authority of the Barbers and Cosmetologists Act [61-17A-1 NMSA 1978] by the board in the name of the licensee. The license may not be the subject of a sale, transfer, assignment, conveyance, lease, bequest, gift or other means of transfer.

History: Laws 1993, ch. 171, § 19.

61-17A-20. Duration, restoration and renewal of licenses. (Repealed effective July 1, 2020.)

A. The original issuance and renewal of licenses to practice as a barber, cosmetologist, instructor, esthetician, manicurist-pedicurist or electrologist shall be for a period of one year or less from the date of issuance. If the licensee fails to renew the license for the next year, the license is void; provided the license may be restored at any time during the year following expiration upon the payment of the appropriate fee and a late charge not to exceed one hundred dollars (\$100) as set forth by board rules.

If the licensee fails to restore the license within one year following its expiration, the licensee may request restoration of the license pursuant to rules promulgated by the board.

B. The original issuance and annual renewal of licenses to operate an establishment or school shall be for a period of twelve months or less following the issuance of the license. If the licensee fails to renew the license within thirty days after its expiration, the license is void, and, to again obtain a license, an application, required documentation, payment of the renewal fee and a late fee not to exceed one hundred dollars (\$100) as established by board rules is required.

C. The board may establish a staggered system of license expiration.

History: Laws 1993, ch. 171, § 20; 1997, ch. 218, § 14; 2007, ch. 181, § 17.

61-17A-21. Grounds for refusal to issue, renew, suspend or revoke a license. (Repealed effective July 1, 2020.)

A. The board shall, in accordance with the provisions of the Uniform Licensing Act [61-1-1 NMSA 1978], issue a fine or penalty, restrict, refuse to issue or renew or shall suspend or revoke a license for any one or more of the following causes:

(1) the commission of any offense described in the Barbers and Cosmetologists Act [61-17A-1 to 61-17A-24 NMSA 1978];

(2) the violation of any sanitary regulation promulgated by the board;

(3) malpractice or incompetency;

(4) advertising by means of knowingly false or deceptive statements;

(5) habitual drunkenness or habitual addiction to the use of habit-forming drugs;

(6) continuing to practice in or be employed by an establishment, an enterprise, a school or an electrology clinic in which the sanitary regulations of the board, of the department of health or of any other lawfully constituted board, promulgated for the regulation of establishments, enterprises, schools or electrology clinics, are known by the licensee to be violated;

(7) default of a licensee on a student loan;

(8) gross continued negligence in observing the rules and regulations;

(9) renting, loaning or allowing the use of the license to any person not licensed under the provisions of the Barbers and Cosmetologists Act;

(10) dishonesty or unfair or deceptive practices;

(11) sexual, racial or religious harassment;

(12) conduct of illegal activities in an establishment, enterprise, school or electrology clinic or by a licensee;

(13) conviction of a crime involving moral turpitude; or

(14) aiding, abetting or conspiring to evade or violate the provisions of the Barbers and Cosmetologists Act.

B. Any license suspended or revoked shall be delivered to the board or any agent of the board upon demand.

History: Laws 1993, ch. 171, § 21; 1997, ch. 218, § 15.

61-17A-22. Exemptions. (Repealed effective July 1, 2020.)

The following persons are exempt from the provisions of the Barbers and Cosmetologists Act [61-17A-1 NMSA 1978] while in the discharge of their professional duties:

- A. persons licensed by the law of this state to practice medicine and surgery or chiropractic;
- B. commissioned medical or surgical officers of the United States army, navy or marine hospital service;
- C. registered nurses; and
- D. funeral service practitioners.

History: Laws 1993, ch. 171, § 22.

61-17A-23. Penalties. (Repealed effective July 1, 2020.)

Each of the following constitutes a misdemeanor punishable upon conviction by a fine of less than one thousand dollars (\$1,000) or by imprisonment in the county jail for less than one year, or both, in the discretion of the court:

- A. the violation of any of the provisions of the Barbers and Cosmetologists Act [61-17A-1 NMSA 1978] or a violation of any regulation promulgated pursuant to that act;
- B. obtaining or attempting to obtain a license for money other than the required fee or for any other thing of value or by fraudulent misrepresentations; or
- C. practicing or attempting to practice by fraudulent misrepresentations.

History: Laws 1993, ch. 171, § 23.

61-17A-24. Criminal offender's character evaluation. (Repealed effective July 1, 2020.)

The provisions of the Criminal Offender Employment Act [28-2-1 NMSA 1978] shall govern any consideration of criminal records required or permitted by the Barbers and Cosmetologists Act [61-17A-1 NMSA 1978].

History: Laws 1993, ch. 171, § 24.

61-17A-25. Termination of agency life; delayed repeal.

The board of barbers and cosmetologists is terminated on July 1, 2019 pursuant to the Sunset Act [12-9-11 to 12-9-21 NMSA 1978]. The board shall continue to operate according to the provisions of the Barbers and Cosmetologists Act until July 1, 2020. Effective July 1, 2020, the Barbers and Cosmetologists Act is repealed.

History: Laws 1993, ch. 171, § 27; 1997, ch. 218, § 16; 2001, ch. 100, § 1; 2005, ch. 208, § 15; 2013, ch. 166, § 4.