

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, 6/16/2001]

16.34.1.2 SCOPE: All barbers, cosmetologists, hairstylists, estheticians, manicurist/pedicurists, manicurist/estheticians, instructors, electrologists, schools, enterprises and establishments.

[16.34.1.2 NMAC - Rp 16 NMAC 34.1.2, 6/16/2001; A, 7/14/2018]

16.34.1.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Barbers and Cosmetology Act, Sections 61-17A-1 to -25 NMSA 1978.

[16.34.1.3 NMAC - Rp 16 NMAC 34.1.3, 6/16/2001, A, 12/27/2022]

16.34.1.4 DURATION: Permanent.

[16.34.1.4 NMAC - Rp 16 NMAC 34.1.4, 6/16/2001]

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, 6/16/2001]

16.34.1.6 OBJECTIVE: The objective of Part 1 is to promote, preserve and protect the public health, safety and welfare by establishing regulations generally applicable to all licensees and professions subject to the Barbers and Cosmetology Act.

[16.34.1.6 NMAC - Rp 16 NMAC 34.1.6, 6/16/2001, A, 12/27/2022]

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. “**appointment only**” means establishment and enterprise who provide services by appointment only. Hours of operation when appointments may be scheduled must be posted where clearly visible to the public. Owner/Operator must be available for inspections during the Board’s business hours.

~~**B.C.**~~ “**apprentice**” means a person enrolled in a barber apprenticeship program approved by and registered with the state apprenticeship agency;

~~**C.D.**~~ “**approval number**” means the number assigned by the board to designate an approved provider;

~~**D.E.**~~ “**approved**” means accepted as a provider by the board;

F. “**attempted inspection**” means an inspection was attempted and the establishment or enterprise was not open during the posted hours of operation. If the owner/operator does not contact the board office, the owner/operator is subject to inspection fees.

~~**E.G.**~~ “**barber**” means a person, other than a student, who for compensation engages in barbering;

~~**F.H.**~~ “**barber apprenticeship**” means an apprenticeship program registered with the state apprenticeship agency;

G.I. “**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 electrolysis;

H.J. “**board**” means the board of barbers and cosmetologists;

~~**I.**~~ “**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;

K.J. “**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;

L.K. “**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;

M. L. “**contact hour**” means one contact hour equals a minimum of 50 minutes of instruction;

N. M. “**cosmetologist**” means a person, other than a student, who for compensation engages in cosmetology;

O. N. “**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 electrolysis. 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.

P. O. “**current work experience**” means verified work that has occurred within the previous five years;

Q. P. “**department**” means the regulation and licensing department.

R. Q. “**disinfect or disinfection**” means the use of chemical agents (after cleaning) to destroy potentially dangerous pathogens on non-porous items;

S. R. “**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;

T. S. “**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;

U. T. “**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;

V. U. “**enterprise**” means a business venture, firm, or organization;

W. V. “**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. W. “**establishment**” means an immobile beauty shop, barbershop, electrology clinic, salon or similar place of business in which cosmetology, barbering, eyebrow threading, hairstyling or electrolysis is performed;

Y. X. “**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;

Z. Y. “**eyebrow threading**” means a method of hair removal in which a thin thread is doubled, twisted and then rolled over areas of unwanted hair, removing the hair at the follicle level;

AA. “**eyelash extensions**” means strands of silk, mink, or another synthetic or natural material that are applied one at a time or clusters and fixed to an individual’s natural eyelashes.

BB. Z. “**executive director**” means the director for the board;

CC. AA. “**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;

DD. BB. “**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;

EE. “**hair braiding**” means twisting, wrapping, weaving, extending, locking or braiding hair and incidental use of topical agents and mechanical devices and includes use of hair extensions, hair fibers, decorative beads and other accessories incidental to hair braiding.

FF. CC. “**hairstylist**” means a person, other than a student, who for compensation engages in hairstyling;

GG. “**hour of operation**” means the hours an establishment and enterprise are open to provide services to the public. Hours must be posted and visible to the public.

HH. DD. “**HSD**” means the New Mexico human services department

II. EE. “**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;

JJ. “inspections” means all establishments and enterprises shall be inspected on a regular basis to ensure all infection control and safety standards are met. Failure to be inspected may lead to additional fees and possible discipline.

KK. ~~FF.~~ “instructor” means a person licensed to teach in a school of cosmetology, barbering or in a school of electrology;

LL. ~~GG.~~ “journey worker” means a person who holds a current New Mexico barber license; is recognized by the sponsor as having attained and mastered a level of skill, abilities, and competencies in barbering and is authorized to provide related instruction and on-the-job training to licensed apprentices. The maximum allowable ratio of licensed apprentices to journey workers during on-the-job training is one to one;

MM. ~~HH.~~ “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;

NN. ~~I.~~ “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;

OO. ~~JJ.~~ “license in good standing” refers to a current, valid, board-issued license with no restrictions placed on the license by the board;

PP. ~~KK.~~ “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;

QQ. ~~LL.~~ “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;

RR. ~~MM.~~ “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;

SS. ~~NN.~~ “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;

TT. ~~OO.~~ “non-porous” means multi-use items such as metal, glass and plastic;

UU. ~~PP.~~ “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;

VV. ~~QQ.~~ “sponsor” means the sponsor in whose name the standards of apprenticeship will be registered with the state apprenticeship agency, and which will have the full responsibility for administration and operation of a barber apprenticeship program;

WW. ~~RR.~~ “provider” means the person, firm, corporation, institution or agency approved to conduct or sponsor a continuing education program and ensure its integrity;

XX. ~~SS.~~ “revoke a license” means to prohibit the conduct authorized by the license;

YY. ~~TT.~~ “sanitation” means the maintenance of sanitary conditions to promote hygiene and the prevention of disease through the use of chemical agents or products;

ZZ. ~~UU.~~ “school” means a public or private instructional facility approved by the board that teaches cosmetology or barbering;

AAA. ~~VV.~~ “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;

BBB. ~~WW.~~ “state apprenticeship agency” means the department of workforce solutions’ state apprenticeship agency;

CCC. ~~XX.~~ “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;

DDD. ~~YY.~~ “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;

~~EEE. ZZ.~~ **“sterilize or sterilization”** means to eliminate all forms of bacteria or other microorganisms;

~~FFF. AAA.~~ **“student”** means a person enrolled in a school to learn or be trained in cosmetology, barbering or electrolysis;

~~GGG. BBB.~~ **“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;

~~HHH. CCC.~~ **“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;

~~III. DDD.~~ **“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) copies of tax returns; or
- (5) copies of W-2's;

[16.34.1.7 NMAC - Rp 16 NMAC 34.1.7, 6/16/2001; A, 7/16/2004; A, 10/4/2007; A, 12/17/2015; A, 10/29/2016; A, 7/14/2018, A, 12/27/2022 A, xx/xx/xxxx]

16.36.1.8 MISSION OF THE BOARD: The mission of the board is to promote, preserve and protect the public health, safety and welfare by regulating the practices of barbering, cosmetology, electrology, esthetics, hairstyling, manicuring, and pedicuring in New Mexico. The board is not an advocacy organization but is instead a regulatory body responsible at all times and in all situations for acting in the interest of the public.

[16.36.1.8 NMAC – N, 12/27/2022]

16.36.1.9 AUTHORITY OF THE REGULATION AND LICENSING DEPARTMENT: Notwithstanding any other provisions under these rules, the department shall have the authority to:

- A. process and issue licenses to applicants who meet the requirements of the Barbers and Cosmetology Act and board rules;
- B. investigate persons engaging in practices that may violate the provisions of the Barbers and Cosmetology Act and report results of investigation to the board;
- C. approve the selection of and supervise primary staff assigned to the board;
- D. carry out the operations of the board to include budgetary expenditures;
- E. maintain records, including financial records; and
- F. keep a licensee record in which the names, addresses and license numbers of all licensees shall be recorded together with a record of all license renewals, suspensions and revocations.

[19.36.1.9 NMAC - N, 12/27/2022]

16.36.1.10 INFORMATIONAL OBLIGATIONS OF LICENSEES:

- A. Contact information:
 - (1) A licensee is obligated to maintain current and accurate contact information on file with the department.
 - (2) A licensee shall notify the department within 30 days of a change of the licensee's contact information.
 - (3) Failure to disclose a change of mailing or residential address may constitute grounds for disciplinary action.
 - (4) For the purpose of this rule, “contact information” means the licensee's mailing address, residential address, email address, and telephone number.
- B. Names and addresses of place of business:
 - (1) A licensee is obligated to maintain the current and accurate name and address of the licensee's place of business on file with the department.
 - (2) A licensee shall notify the department within 30 days of any changes in the name and address of the licensee's place of business.
 - (3) Failure to disclose a change of the name and mailing address of the licensee's employer may constitute grounds for disciplinary action.

[16.36.10 NMAC - N, 12/27/2022]

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

History of Repealed Material:
16 NMAC 34.1, General Provisions - Repealed, 6/16/2001.