

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, 6/16/2001]

16.34.7.2 SCOPE: All barbers, cosmetologists, hairstylists, estheticians, manicurist/pedicurists, manicurist/estheticians, instructors, electrologists, schools, enterprises and establishments.
[16.34.7.2 NMAC - Rp 16 NMAC 34.7.2, 06/16/2001; A, 07/14/2018]

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, 06/16/2001]

16.34.7.4 DURATION: Permanent.
[16.34.7.4 NMAC - Rp 16 NMAC 34.7.4, 06/16/2001]

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, 06/16/2001]

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, 06/16/2001]

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;

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

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

H. “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;

I. “sterilize or sterilization” means to eliminate all forms of bacteria or other microorganisms.
[16.34.7.1 NMAC - Rp 16 NMAC 34.7.1, 06/16/2001; A, 12/17/2015]

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) a list of all booth renters working in the establishment (if applicable);
- (3) all fees are non-refundable;
- (4) incomplete applications will be returned; and
- (5) 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, 06/16/2001; A, 12/17/2015; A, 07/14/2018]

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 72 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.

(39) Eyebrow thread is a single use item and must be disposed of immediately after use.

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: eyebrow thread, 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 wands, 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, 06/16/2001; A, 07/16/2004; A, 10/4/2007; A, 12/17/2015; A, 07/14/2018]

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, 06/16/2001; A, 12/17/2015]

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, 06/16/2001]

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, 06/16/2001]

16.34.7.14 SPECIAL EVENTS PERMIT: Any licensee desiring to sponsor a special event such as a fundraiser, 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, 06/16/2001]

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, 12/12/1981.

Article V, Cosmetology Establishments, 11/4/1983.

Rule 5, Cosmetology Establishments 3/8/1990.

Rule 5, Cosmetology Establishments, 3/9/1992.

Rule 6, Establishments, 10/19/1993.

Rule 6, Establishments, 5/13/1994.

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

BBE Rule 87-1, NM Board of Barber Examiners, Rules and Regulations - 1987, 11/4/1987.

BBE Rule 88-1, NM Board of Barber Examiners, Rules and Regulations - 1988, 10/4/1988.

History of Repealed Material:

16 NMAC 34.7, Establishments and Enterprises - Repealed, 6/16/2001.