

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, 6/16/2001]

16.34.15.2 SCOPE: All barbers, cosmetologists, hairstylists, estheticians, manicurist/pedicurists, manicurist/estheticians, instructors, electrologists, schools, enterprises and establishments.
[16.34.15.2 NMAC - Rp 16 NMAC 34.15.2, 06/16/2001; A, 07/14/2018]

16.34.15.3 STATUTORY AUTHORITY: Sections 61-17A-7 and 61-17A-23 NMSA1978 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, 6/16/2001]

16.34.15.4 DURATION: Permanent.
[16.34.15.4 NMAC - Rp 16 NMAC 34.15.4, 6/16/2001]

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, 6/16/2001]

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, 6/16/2001]

16.34.15.7 DEFINITIONS: Refer to Part 1
[16.34.15.7 NMAC - Rp 16 NMAC 34.15.7, 6/16/2001]

16.34.15.8 ADMINISTRATIVE PENALTIES AND FINES: 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 (\$1,000) 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:

A. A re-inspection fee of two hundred dollars (\$200) will be assessed for each inspection pursuant to 16.34.11.9

B. Failure to comply with establishment requirements:
(1) first offense: two hundred dollars (\$200);
(2) second offense: four hundred dollars (\$400);
(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 (\$999) 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 (\$200);
(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 (\$999) 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 (\$150);
(2) second offense: four hundred dollars (\$400)
(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 (\$999) 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 (\$150);
(2) second offense: four hundred dollars (\$400);
(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 (\$999) 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 (\$500);
(2) second offense: six hundred dollars (\$600);
(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 (\$999) 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 (\$200);
(2) second offense: four hundred dollars (\$400);
(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 (\$999) 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 Subsection A of Section 61-17-21 NMSA 1978 not otherwise addressed in these rules:
(1) first offense: two hundred dollars (\$200);
(2) second offense: four hundred dollars (\$400);
(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 (\$999) 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 180 days."

J. Official notice of default: The board shall take steps to impose a fine up to nine hundred ninety nine dollars (\$999) 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, 06/16/2001; A, 04/12/2010; A, 07/14/2018]

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, 6/16/2001]

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, 10/19/1993.

Rule 14, Administrative Penalties and Fines, 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 34.15, Administrative Penalties And Fines - Repealed, 6/16/2001.