

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**  
**CHAPTER 8 COMMERCIAL AND MEDICAL CANNABIS**  
**PART 10 CANNABIS SERVERS LICENSING AND TRAINING PROGRAM**

**16.8.10.1 ISSUING AGENCY:** New Mexico Regulation and Licensing Department, Cannabis Control Division.  
[16.8.10.1 NMAC – N, 07/12/2022]

**16.8.10.2 SCOPE:** This rule applies to applicants for cannabis server permit education provider and a cannabis server permit pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act or division rules, and where applicable, the general public.  
[16.8.10.2 NMAC - N, 07/12/2022]

**16.8.10.3 STATUTORY AUTHORITY:** The requirements set forth herein are promulgated by the cannabis control division pursuant to the authority granted under the Cannabis Regulation Act and the licensing provisions of the Lynn and Erin Compassionate Use Act.  
[16.8.10.3 NMAC - N, 07/12/2022]

**16.8.10.4 DURATION:** Permanent.  
[16.8.10.4 NMAC - N, 07/12/2022]

**16.8.10.5 EFFECTIVE DATE:** July 12, 2022, unless an earlier date is cited at the end of a section.  
[16.8.10.5 NMAC - N, 07/12/2022]

**16.8.10.6 OBJECTIVE:** The objective of Part 10 is to set forth the provisions that apply to cannabis server permit education and server permits.  
[16.8.10.6 NMAC - N, 07/12/2022]

**16.8.10.7 DEFINITIONS:** Unless otherwise defined below, terms used in Title 16, Chapter 8, Part 1, have the same meanings as set for in 16.8.1 NMAC, the Cannabis Regulation Act, and the Lynn and Erin Compassionate Use Act.  
[16.8.10.7 NMAC - N, 07/12/2022]

**16.8.10.8 CANNABIS SERVER PERMITS: ISSUANCE, DISTRIBUTION, REPLACEMENT:**

**A. Cannabis server permit required.** A licensee approved to operate a cannabis consumption area and all servers must satisfactorily complete a program every three years to obtain a server permit. No person shall be employed as a server on a licensed cannabis consumption area unless that person obtains a server permit, except that a person not previously certified must obtain a server permit within 30 days of employment.

**B. Server permit issuance.** Satisfactory completion of a certified program will be determined by the student earning a score of eighty percent or higher on an approved test administered at the end of a classroom program or administered at the end of or after completion of a module for on-line programs. Each student who satisfactorily completes a certified program may be issued a server permit by the division. If the student has a child support hold placed on him or her by the human services department, the division shall not issue a server permit to that student until the child support hold has been lifted.

**C. Providers' duty to inform the division of student's satisfactory completion.** Within 10 business days of satisfactory completion of any certified program, the provider who administered the program shall submit to the division a server permit application for each student who satisfactorily completed the program, including their name, personal identifier, address, date of birth, and any other information required by the division on forms prescribed by the division and in accordance with methods prescribed by the division, including electronic submission. Server permits will be numbered sequentially to provide a unique number for each student who satisfactorily completes a program. Any application received by the division more than 10 business days after the date the course was completed will subject the provider to a late fee of five dollars (\$5) per application. Any incomplete application received by the division shall be returned to the provider for completion.

**D. Division will distribute permits.** The division will prepare and distribute the server permits to the student within 90 days of satisfactory completion of a certified program. Providers are required to store original server permit applications in a secured manner for six months from the date of satisfactory completion of the certified program. After six months from the date of satisfactory completion, providers may destroy the original server permit applications through shredding or another method that ensures the information cannot be stolen or otherwise re-used.

**E. Temporary Server Permits.** Providers who administer a classroom program may issue temporary server permits by recording the test grade on the server permit application and issuing a designated copy of the application to the student. Providers who administer on-line programs may issue temporary server permits by allowing the student to print out a computer generated document, containing information as required by the division, upon satisfactory completion of the program by student. Temporary server permits are valid for 90 days from the date the exam is successfully completed. Photocopies of the designated copy of the application or computer print-out are not valid temporary server permits. If the server loses the temporary server permit, it is the responsibility of the provider to supply a replacement temporary server permit. Providers are required to inform all students that it will take up to 120 days from the date the exam is successfully completed for the server to receive a permanent permit from the division and that if the server needs a replacement temporary server permit the server may obtain one from the provider.

**F. Replacement server permits.** Requests for replacement server permits must be submitted in writing to the division. Requests must be made by the server, must be submitted on forms prescribed by the division and must be accompanied by a ten dollar (\$10.00) replacement fee in the form approved by the division. If the request is made in person, the server must present a valid, government issued identification card. If the request is made by mail, the server must enclose a photocopy of a valid, government issued identification card. A request to change the name of the server may, in lieu of a valid, government issued identification card, include a copy of a marriage certificate, divorce decree, or court order.

[16.8.10.8 NMAC - N, 07/12/2022]

#### **16.8.10.9 PROVIDER, INSTRUCTOR AND PROGRAM CERTIFICATION; RENEWAL:**

**A.** Certification required: Any person seeking certification as a provider, instructor or program must submit an application to the division for approval in accordance with this section. An on-line program and a classroom program cannot be combined into one application.

**B.** Applications for providers and programs:

**(1)** Providers and instructors:

**(a)** the name and qualifications of the provider or the name and qualifications of the instructor(s), including a resume, references and the name of the certified program that applicant intends to administer;

**(b)** for on-line providers, the name and address of all entities owning, profiting, or both from the administration of the on-line course;

**(c)** fees that will be charged to take the program; and

**(d)** any other relevant information as may be required by the director.

**(2)** Programs:

**(a)** a description of program content that meets the minimum requirements contained in the Cannabis Regulation Act, specifically Section 26-2C-11, NMSA 1978, including a copy of the classroom program's handbook or a copy of the on-line program's quick reference materials to be distributed to and retained by students after satisfactory completion of the program. All programs should include real life examples and should be administered, at least in part, in an interactive way;

**(b)** all proposed programs must include a minimum of four and one-half classroom hours or the equivalent for on-line programs;

**(c)** for on-line programs:

**(i)** a description of the procedure for electronic transmission of the student's full name, address, personal identifier, driver's license or other government-issued identification number and state of issuance, date of birth, phone number, e-mail address, sex, height, weight, hair color, eye color, test score and test completion date within 10 days of a student's successful completion of the program, including a description of the security measures that will be taken to ensure that the information is stored and transmitted in a secure manner. The electronic transmission of the student's information should meet the data security standards prescribed by the payment card industry security council or the equivalent as determined by the division, and in a format approved by the division;

(ii) a description of any and all security measures taken to ensure that the person who is taking the course is the same person who will receive credit for taking the course and who will submit to the proctored exam at the end of the course;

(iii) proof to the satisfaction of the division that the average user will take at least four clock hours or the equivalent to complete course;

(iv) proof to the satisfaction of the division that students cannot fast-forward or skip through the course materials.

(d) any other reasonably relevant information as may be required by the division;

**C. Completeness check:** When the division receives an application for certification as a provider, instructor or program, the division will check the application for completeness.

(1) if the application is incomplete, the division will contact the applicant for additional information;

(2) if the application is complete, the division shall review the application.

**D. Standards for licensure:** An application for licensure may be granted if the standards identified in this section are met.

(1) Providers and instructors: In reviewing applications for licensure as a provider or instructor the division shall consider:

(a) whether all the information required by these rules has been submitted and is accurate and valid;

(b) the qualifications and references of the applicant, including whether the applicant has 3 or more years of experience related to the sale or service of cannabis and cannabis products;

(c) whether applicant is 21 years of age or older;

(d) whether applicant has ever been found guilty of or admitted guilt to a violation of the Cannabis Regulation Act;

(e) whether applicant intends to teach a program approved by the division in accordance with these rules;

(f) any other reliable and relevant information, as determined by the division.

(2) Programs: In reviewing applications for licensure as a program the division shall consider:

(a) whether the information required by these rules has been submitted and is accurate and valid;

(b) whether the program includes all content required by law, currently contained in Section 26-2C-11 NMSA 1978;

(c) whether the program includes comprehensive training on how to detect obvious signs of intoxication, focusing both on the sale of cannabis and cannabis products for off-premise and on-premise consumption;

(d) whether the program includes an up-to-date sample photo of a driver's license issued to a minor by the New Mexico motor vehicle division of the New Mexico department of taxation and revenue and training on how to detect a fake or fabricated identification card;

(e) whether the program includes management-specific training, including strategies for management to support servers working under their supervision;

(f) whether the program is reviewed and revised annually to ensure current comprehensive training;

(g) whether the program is interactive and includes real life instructional examples;

(h) for on-line programs whether it is easy to navigate and user-friendly; and

(i) any other reliable and relevant information, as determined by the division.

(3) In addition to the other standards listed above, all providers and instructors shall hold current server permits at all times when providing instruction.

**E. Expiration of licensure:** Provider, instructor and program licensure expire on December 31 each year.

**F. Renewal:** Renewal applications for provider, instructor and program licensure must be submitted no later than November 30 of each year.

(1) Renewal applications for providers and instructors must include names and qualifications of the provider or instructors and proof that the provider is covered by a surety bond in the amount of five thousand dollars (\$5,000) of a surety company authorized to transact business in New Mexico;

(2) Renewal applications for programs shall include a summary of all proposed changes to program content from the prior year and any updates that have been made or will be made to the program, including where those changes can be found in the program materials. At a minimum, programs must be updated annually to reflect changes to the law, updated statistical information and an up-to-date sample photo of a driver's license issued to a minor by the New Mexico motor vehicle division of the New Mexico department of taxation and revenue if applicable.

**G. Transferability:** Provider, instructor and program licensure are non-transferrable.

**H. Cancellation:** A provider or instructor certification shall automatically be cancelled if the provider or instructor ceases to offer classes for 60 days or more, or upon written notice from the provider.

[16.8.10.9 NMAC - N, 07/12/2022]

**16.8.10.10 ADMINISTRATION OF SERVER PERMIT TRAINING PROGRAM:**

**A.** Providers' responsibility in administering program: It is the responsibility of providers to ensure that they and any instructors employed by them are teaching an approved program.

**B.** Course materials: Providers shall ensure that each student is provided complete course materials at the beginning of each program. Providers who administer an on-line program shall ensure that each student either has electronic access to course materials or is able to print out course materials for quick reference after satisfactory completion of the program. All course materials shall be presented by instructors in a manner that does not indicate which material is selected for the proctored test.

**C.** Prior approval required: Providers must obtain prior approval from the division before changing the required content of an approved program.

**D.** Proctored tests: Proctored tests must be administered in person immediately after completion of a classroom program. Students may not have access to course materials during administration of the proctored test. Exam questions must be rotated on a regular basis to ensure exam validity and security. Providers may allow an applicant who fails the test to re-take it at another time in the presence of an instructor. Proctored tests must be graded by a certified instructor and cannot be graded by a student.

**E.** On-line tests: On-line tests must be available to be administered immediately after students complete the course or complete a particular module of the course. Exam questions must be rotated on a regular basis to ensure exam validity and security. Students may not have access to course materials during administration of the on-line test. Providers administering on-line tests shall provide the necessary security measures to the satisfaction of the division to combat the potential for cheating. Examples of security measures include, but are not limited to, shuffling exam questions each time a new exam begins, prohibit students from stopping and resuming the exam session, implement a reasonable time limit on the exam, present security questions at random throughout the exam. The results of the on-line test must be given to the student after completion of the on-line test, and providers shall provide a score report indicating wrong answers by referencing course content section.

**F.** ADA compliance: Providers and instructors are required to comply with the Americans with Disabilities Act (ADA) and ensure that students with disabilities are provided with reasonable accommodation for instructional and learning purposes to the extent required by law.

**G.** Administration of on-line programs: Providers who administer an on-line program without the presence of a live instructor must ensure the following:

(1) a secure login process is in place to confirm the identity of the person taking the course;  
(2) students may not be allowed to fast-forward through the instruction portion of the course;  
(3) students must have adequate access to a help desk or customer service to resolve technical problems without delaying the flow of instruction, as well as access to a person who can answer substantive questions that may arise in the course of the training within 72 hours of the student asking the question;

(4) no advertisements appear during course instruction; and

(5) students either have electronic access to course materials or are able to print out course materials for quick reference after satisfactory completion of the on-line program as required by these rules.

[16.8.10.10 NMAC - N, 07/12/2022]

**16.8.10.12 VIOLATION OF PROVIDER AND PROGRAM REQUIREMENTS:** The division may take disciplinary action against any program, or refuse to renew licensure, when the division determines that:

**A.** a provider, instructor or an agent, knowingly provided false information to the division with regard to completion of a program by any person;

**B.** a provider, instructor or an agent, failed to conduct the program as approved by the division;

C. any person filing an application with the division for licensure of a provider, instructor or program knowingly submitted false information to the division;

D. a provider failed to provide to the division complete, timely reports of applicants who satisfactorily completed the program; or

E. a provider or instructor otherwise failed to comply with the alcohol server education article or these rules.

[16.8.10.12 NMAC - N, 07/12/2022]

**16.8.10.13 SEVERABILITY:** If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.

[16.8.10.13 NMAC - N, 07/12/2022]

**History of 16.8.10 NMAC: [RESERVED]**