

NOTICE OF PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Board of Barbers and Cosmetologists will hold a rule hearing on Monday, December 12, 2022, at 9:00 a.m. Following the rule hearing the Board will convene a regular board meeting to adopt the rules and take care of regular business. The rule hearing and board meeting will be held at the Regulation and Licensing Department, 2550 Cerrillos Road, Santa Fe, New Mexico, for those desiring to attend in person.

The meeting will also be held via Cisco Webex Meetings for those desiring to attend virtually.

<https://nmrld.webex.com/nmrld/j.php?MTID=m9ef456b2cdd0a0b1b91dc2c3a9cdaec1>

Meeting (Access) Code: 2490 704 9363

Join by phone: 1-415-655-0002 United States Toll

Access Code: 2490 704 9363

The purpose of the rule hearing is to consider proposed amendments to the following rules:

16.34.1 NMAC - General Provisions

16.34.2 NMAC - Licensing

16.34.5 NMAC - Regular Licenses

16.34.6 NMAC - Expedited Licensure

16.34.8 NMAC - Schools

16.34.11 NMAC - Violations

16.34.14 NMAC - Fees

16.34.17 NMAC - Licensure for Military Service Members, Spouses, Dependent Children and Veterans

To obtain and review copies of the proposed changes you may go to the Board's website at:

<https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/barbers-and-cosmetologists-overview/bc-laws-rules-and-policies/> or contact the New Mexico Board of Barbers and Cosmetologists (505) 476-4690 or by e-mail at barber.cosmoboard@rld.nm.gov.

The Board is currently accepting public written comments on the proposed amendments. Please submit written comments on the proposed changes to Pauline M. Varela, Senior Board Administrator, via electronic mail to barber.cosmoboard@rld.nm.gov, or by regular mail at P.O. Box 25101, Santa Fe, NM 87504, no later than Friday, December 9, 2022. Written comments received prior to the rule hearing will be posted to the RLD website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/barbers-and-cosmetologists-overview/bc-board-information/bc-board-meetings/>. Persons will also be given the opportunity to present their written or oral comments at the public rule hearing.

The agenda for the board meeting will be posted and available at least 72 hours before the meeting on the Board website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/barbers-and-cosmetologists-overview/bc-board-information/bc-board-meetings/>. Copies of the rules or the agenda may also be obtained by contacting Pauline M. Varela, Senior Board Administrator at (505) 476-4690.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Pauline M. Varela, Senior Board Administrator (505) 476-4690.

Statutory Authority: Subsection A of Section 61-17A-7 NMSA 1978 of the Barbers and Cosmetologists Act, Sections 61-17A-1 to -25 NMSA 1978, specifically authorizes the Board to "(1) adopt and file, in accordance with the State Rules Act, rules necessary to carry out the provisions of the Barbers and Cosmetologists Act." In addition,

Section 61-1-31.1 NMSA 1978 of the Uniform Licensing Act, requires the Board to “determine those states and territories of the United States and District of Columbia from which the board will not accept an applicant for expedited licensure and those foreign countries from which the Board will accept an applicant for expedited licensure.”

Purpose of the Proposed Rules: The proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among licensees and certificate holders. In addition, several of the proposed rule changes are intended to address recent statutory changes to the Uniform Licensing Act and the Barbers and Cosmetologists Act. See H.B. 191, 56th Leg., Regular Session. (N.M. 2022), available at <https://nmlegis.gov/Sessions/22%20Regular/final/HB0191.pdf>.

Summary of Proposed Changes: The Board summarizes its proposed changes to its administrative rules as follows:

16.34.1 NMAC - General Provisions

The proposed changes to Part 1 of the Board’s current rules consist of amending existing language. In addition to minor changes for clarity, the proposed amended Part 1 adds in a definition of “department” which reflects the addition a definition for “department” to the Barbers and Cosmetologists Act at Subsection D of 61-17A-2 NMSA 1978. The proposed amended Part 1 additionally removes the definition of “reciprocity” as the provision for licensure by reciprocity is being proposed to be replaced with provisions for expedited licensure pursuant to statutory amendments under HB 191. The proposed amended Part 1 makes explicit the obligations of the Regulation and Licensing Department in relation to the Board, as reflected in amendments under HB 191 at Subsection D of Section 61-17A-7 NMSA 1978. The proposed amended Part 1 makes explicit the Mission of the Board: to promote, preserve and protect the public health, safety and welfare through regulation of barbering, cosmetology, electrology, esthetics, hairstyling, manicuring, and pedicuring in New Mexico. Finally, the proposed amended Part 1 makes explicit the obligations of licensees to provide and maintain current contact information with the regulation and licensing department.

16.34.2 NMAC - Licensing

The proposed changes to Part 2 of the Board’s current rules consist of amending existing language. In addition to minor changes for clarity, the provisions regarding emergency licensure and emergency licensure termination have been removed for a lack of statutory basis in the Barber’s and Cosmetologists Act.

16.34.5 NMAC - Regular Licenses

The proposed changes to Part 5 of the Board’s current rules consist of amending existing language. The proposed amended Part 5 removed the requirement that barbers, cosmetologists, hairstylists, manicurists, estheticians, manicurist/estheticians, and electrologists must have completed the second year of high school or its equivalent prior to licensure as reflected in HB 191 amendments to Sections 61-17A-8, 61-17A-9 NMSA 1978. The proposed amended Part 5 removed the requirement that cosmetologist instructors complete an education equivalent to the completion of four years of high-school, leaving barber instructors as the only type of instructor regulated by the Barbers and Cosmetologists Act required to complete four years of high school or its equivalent as reflected in HB 191 amendments to Subsection A of 61-17A-11 NMSA 1978.

16.34.6 NMAC - Expedited Licensure

The proposed changes to Part 6 of the Board’s current rules consist of repealing and replacing existing language. The proposed Part 6 provides for expedited licensure for applicants currently licensed in an eligible jurisdiction and expedited licensure for military service members, their family members, and veterans, pursuant to statutory amendments under HB 191 to Subsection A of 61-17A-11 NMSA 1978. These additions include a listing of disapproved licensing jurisdictions and the reasons therefore, a list of approved foreign jurisdictions, provisions for the requirements of the expedited licensure application for applicants currently licensed in an eligible jurisdiction, and provisions regarding the initial term of an expedited license and its renewal.

16.34.8 NMAC - Schools

The proposed changes to Part 8 of the Board’s current rules consist of amending existing language. The proposed amended Part 8 removed the requirement that applicants for licensure as barbers, cosmetologists, hairstylists, manicurists, estheticians, manicurist/estheticians, and electrologists must have completed the second year of high

school or its equivalent prior to licensure as reflected in HB 191 amendments to Subsection A of 61-17A-11 NMSA 1978. The proposed amended Part 8 removed the requirement that applicants to become cosmetologist instructors complete an education equivalent to the completion of four years of high-school, leaving applicants to become barber instructors as the only type of instructor regulated by the Barbers and Cosmetologists Act required to complete four years of high school or its equivalent as reflected in HB 191 amendments to Subsection A of 61-17A-11 NMSA 1978.

16.34.11 - Violations

The proposed changes to Part 11 of the Board's current rules consist of amending existing language. The proposed amended Part 8 makes explicit the requirement that cease and desist orders are to be served in accordance with the Uniform Licensing Act, as reflected in the HB 191 amendments to Paragraph (10) of Subsection A of Section 61-17A-11 NMSA 1978.

16.34.14 - Fees

The proposed changes to Part 14 of the Board's current rules consist of amending existing language. In addition to minor changes for clarification, the proposed amended Part 8 amends the fee for "reciprocity" to a fee for "expedited licensure" in congruity with the proposed appeal and replace of Part 6.

16.34.17 - Licensure for Military Service Members, Spouses, Dependent Children and Veterans

The proposed changes to Part 17 of the Board's current rules consist of repeal all of Part 17. Part 17 provides for licensure for military service members, spouses, dependent children and veterans, which has been provided for under the proposed Part 6, making this Part superfluous.