

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 34 BARBERS AND COSMETOLOGISTS
PART 2 LICENSING

16.34.2.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.34.2.1 NMAC - Rp 16 NMAC 34.2.1, 6/16/2001]

16.34.2.2 SCOPE: All barbers, cosmetologists, hairstylists, estheticians, manicurist/pedicurists, manicurist/estheticians, instructors, electrologists, schools, enterprises, and establishments.
[16.34.2.2 NMAC - Rp 16 NMAC 34.2.2, 6/16/2001; A, 7/14/2018]

16.34.2.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Barbers and Cosmetology Act, Sections 61-17A-1 to -25 NMSA 1978.
[16.34.2.3 NMAC - Rp 16 NMAC 34.2.3, 6/16/2001, A, 12/27/2022]

16.34.2.4 DURATION: Permanent
[16.34.2.4 NMAC - Rp 16 NMAC 34.2.4, 6/16/2001]

16.34.2.5 EFFECTIVE DATE: June 16, 2001 unless a later date is cited in the history note at the end of a section.
[16.34.2.5 NMAC - Rp 16 NMAC 34.2.5, 6/16/2001]

16.34.2.6 OBJECTIVE: Pursuant to the Barbers and Cosmetologists Act this part establishes licensure requirements for barbers, cosmetologists, hairstylists, manicurist/pedicurists, estheticians and electrologists. It further provides for licensure requirements of establishments, enterprises, electrology clinics, schools and instructors.
[16.34.2.6 NMAC - Rp 16 NMAC 34.2.6, 6/16/2001; A, 7/14/2018]

16.34.2.7 DEFINITIONS: [RESERVED]
[16.34.2.7 NMAC - Rp 16 NMAC 34.2.7, 6/16/2001; A, 12/17/2015; A, 4/15/2022]

16.34.2.8 [RESERVED]

16.34.2.9 CUSTODY AND ALTERATION OF LICENSES:

A. All board issued licenses and permits are property of the board and shall remain in the custody of the licensee at the discretion of the board.

B. Licenses and permits shall not be altered in any way.

C. Inspectors or board designees may retrieve any license or permit which is altered, suspended, revoked, expired, or left by a licensee who is no longer employed at an establishment, an enterprise, an electrology clinic, or school.

[16.34.2.9 NMAC - Rp 16 NMAC 34.2.9, 6/16/2001; A, 10/04/2007; A, 12/17/2015]

16.34.2.10 LICENSES POSTED:

A. All licenses, except identification licenses, issued by the board shall be posted where clearly visible to the public upon entry to the establishment at all times.

B. Licensees must attach a recent passport size colored photograph to the board issued license and sign the license where indicated.

C. All licensees, who have been placed on probation, will be issued a license, which states the licensee is on disciplinary probation. The license shall be posted where clearly visible to the public upon entry to the establishment at all times.

D. Licensees must present a driver's license or other identification when requested by the public, the board or its authorized representative.

E. Hours of operation shall be posted where clearly visible to the public at all times.

F. Most recent inspection report shall be printed and posted in each establishment within 72 hours of the inspection and posted where clearly visible to the public. It is the responsibility of the licensee that signed the inspection report and the operator to ensure this requirement is met.

[16.34.2.10 NMAC - Rp 16 NMAC 34.2.10, 6/16/2001; A, 10/04/2007; A, 12/17/2015]

[16.34.2.11 [RESERVED]]

[16.34.2.11 NMAC - N/E, 11/10/2005; A, 7/14/2018, Repealed, 12/27/2022]

[16.34.2.12 [RESERVED]]

[16.34.2.12 NMAC - N/E, 11/10/2005, Repealed, 12/27/2022]

16.34.2.13 [RESERVED]

[16.34.2.13 NMAC - N, 12/17/2015; Repealed, 4/15/2022]

16.34.2.14 [RESERVED]

[16.34.2.14 NMAC - N, 12/17/2015; Repealed 4/15/2022]

16.34.2.15 CRIMINAL CONVICTIONS:

A. Felony convictions for any of the following offenses, or their equivalents in any other jurisdiction, are disqualifying criminal convictions that may disqualify an applicant from receiving or retaining a license issued by the board:

- (1) homicide or manslaughter;
- (2) kidnapping, false imprisonment, aggravated assault or aggravated battery;
- (3) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;

- (4) crimes involving child abuse or neglect;
- (5) crimes involving fraud, forgery, embezzlement, credit card fraud, or receiving stolen property; or

- (6) an attempt, solicitation, or conspiracy involving any of the felonies in this subsection.

B. The board shall not consider the fact of a felony criminal conviction as part of an application for licensure unless the felony conviction in question is one of the disqualifying felony criminal convictions listed in Subsection A of this rule.

C. The board shall not deny, suspend or revoke a license on the sole basis of a felony criminal conviction unless the felony conviction in question is one of the disqualifying felony criminal convictions listed in Subsection A of this rule.

D. Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Barbers and Cosmetologists Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying felony criminal convictions listed in Subsection A of this rule.

E. In connection with an application for licensure, the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

- (1) an arrest not followed by a valid conviction;
- (2) a conviction that has been sealed, dismissed, expunged or pardoned;
- (3) a juvenile adjudication; or
- (4) a conviction for any crime other than the disqualifying criminal convictions listed in

Subsection A of this rule.

[16.34.2.15 NMAC - N, 4/15/2022]

HISTORY OF 16.34.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Article I, Licensing, 12/21/1981

Rule 1, Licensing, 3/8/1990

Rule 1, Licensing, 3/9/1992

Rule 1, Licensing, 10/19/1993

Rule 1, Licensing, 5/23/1995

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 34.2, Licensing - Repealed, 6/16/2001