

TITLE 7 HEALTH
CHAPTER 32 ALCOHOL AND DRUG ABUSE
PART 20 DRIVING WHILE IMPAIRED (DWI) SCHOOLS

7.32.20.1 ISSUING AGENCY: New Mexico Department of Transportation.
[7.32.20.1 NMAC - Rp, 7 NMAC 32.20.1, 1-1-03; A, 2-13-09]

7.32.20.2 SCOPE: This rule applies to all persons seeking to operate DWI schools, or serve as DWI facilitators for DWI programs offered, in New Mexico.
[7.32.20.2 NMAC - Rp, 7 NMAC 32.20.2, 1-1-03]

7.32.20.3 STATUTORY AUTHORITY: Sections 9-1-5, 66-7-512, and 66-8-102 NMSA 1978.
[7.32.20.3 NMAC - Rp, 7 NMAC 32.20.3, 1-1-03; A, 2-13-09]

7.32.20.4 DURATION: Permanent.
[7.32.20.4 NMAC - Rp, 7 NMAC 32.20.4, 1-1-03]

7.32.20.5 EFFECTIVE DATE: January 1, 2003, unless a later date is cited at the end of a section.
[7.32.20.5 NMAC - Rp, 7 NMAC 32.20.5, 1-1-03]

7.32.20.6 OBJECTIVE: The purpose of this rule is to provide minimum and uniform standards for the issuance, renewal, and revocation of DWI school licenses and DWI facilitator certificates and to establish requirements for the operation of DWI schools.
[7.32.20.6 NMAC - Rp, 7 NMAC 32.20.6, 1-1-03]

7.32.20.7 DEFINITIONS: For use in this part, the following definitions apply:

- A. ADA** means the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.;
- B. bureau** means the traffic safety bureau (TSB) of the New Mexico department of transportation;
- C. certificate** means a document issued by the bureau authorizing a person to serve as a DWI facilitator;
- D. certificate of completion** means an official document obtained from the bureau and issued to the student upon successful completion of a DWI course;
- E. clean driving record** means a person has no more than six (6) points on that person's driver's license, and that person has not within the last ten (10) years had a driver's license suspended or revoked as a result of a DWI conviction or refusal to submit to or failure of chemical tests pursuant to the Implied Consent Act, or been convicted in any jurisdiction of an alcohol or drug-related driving offense, or has received three (3) or more failure to appear summonses or citations in the past year;
- F. convicted or conviction** has the meaning given in Section 66-8-102 NMSA 1978;
- G. credit hour** means fifty (50) minutes of instruction and 10 minutes of break time;
- H. crime involving moral turpitude** means a crime that is contrary to honesty, justice or good morals, such as a crime involving dishonesty, fraud, perjury, forgery, murder or serious sexual offenses;
- I. curriculum** means a course of instruction approved by the bureau pursuant to Section 66-8-102 NMSA 1978;
- J. designee** means a person authorized to perform certain specified duties on behalf of the bureau;
- K. diploma** means a document evidencing that a person has completed a DWI facilitator training course or recertification DWI facilitator training course conducted by the bureau;
- L. DWI course or course** means a driver rehabilitation curriculum taught by a certified DWI facilitator;
- M. DWI school or school or licensee** means a person licensed by the bureau to operate a school offering DWI courses;
- N. DWI facilitator or facilitator** means a person certified by the bureau as qualified and trained to conduct DWI courses pursuant to Section 66-8-102 NMSA 1978;
- O. enrolled** means a student has registered for a DWI program, attended the first day of the course, and the sentencing court has acknowledged the student as enrolled;
- P. extension site** means a location other than the main school site where a licensed DWI school

offers DWI programs;

Q. Implied Consent Act means Sections 66-8-105 through 66-8-112, NMSA 1978;

R. limited driving history means a driving record from the New Mexico motor vehicle division of the taxation and revenue department or its equivalent that includes actions and citations, and drivers' license revocations pursuant to the Implied Consent Act;

S. license means the document issued by the bureau authorizing a person to operate a DWI school;

T. MVD means the New Mexico motor vehicle division of the taxation and revenue department;

U. person means an individual, firm, partnership, association, corporation, or other legal entity;

V. revocation or revoked means the involuntary permanent termination of a license or certificate by the bureau for cause;

W. student means a person who has enrolled in a DWI program; and

X. suspension or suspended means the involuntary termination of a license or certificate by the bureau for cause for a specified period of time.

[7.32.20.7 NMAC - Rp, 7 NMAC 32.20.7, 1-1-03; A, 2-13-09]

7.32.20.8 DWI SCHOOL NEEDS ASSESSMENT: The bureau shall have ultimate responsibility for assessing the need for a DWI school in a particular community and may conduct a needs assessment on its own initiative. The bureau shall find that a need exists for a DWI school if:

A. the existing DWI school license in that community will expire on October 31 of that year and the owner has not applied to renew the license or the bureau has decided not to renew the license, the DWI school license has been revoked for cause by the bureau, or the DWI school has ceased operations;

B. community needs are not being adequately served by existing DWI schools and the number of students from the community in a given time period would be sufficient to make a DWI school economically self-sustaining; or

C. the distance to the nearest licensed DWI school would create safety problems for students.

[7.32.20.8 NMAC - Rp, 7 NMAC 32.20.8, 1-1-03; A, 2-13-09]

7.32.20.9 REQUEST FOR DWI SCHOOL APPLICATIONS:

A. Whenever the bureau determines that there is a need for a DWI school in a community, the bureau shall publish a request for applications for a license to operate a DWI school in that community. The request for applications shall be published once in a newspaper of general circulation in the community. The bureau shall accept applications for DWI school licenses for the period of time specified in the request, but for not less than thirty (30) days.

B. The bureau shall select the successful applicant and notify all applicants of its decision.

[7.32.20.9 NMAC - Rp, 7 NMAC 32.20.9, 1-1-03; A, 2-13-09]

7.32.20.10 APPLICATION FOR DWI SCHOOL LICENSE:

A. License required. No person may operate a DWI school without first having obtained a license from the bureau.

B. Application form. A person wishing to obtain a license to operate a DWI school shall file an application with the bureau. A person may obtain an application by contacting the bureau at 1-800-541-7952 or accessing the bureau's website at <http://www.nmshtd.state.nm.us> and clicking on "traffic safety".

C. Contents of application. An application for a DWI school license shall contain:

(1) the applicant's name, mailing address, telephone number, physical address of the main school site, and, if the applicant has one, the applicant's e-mail address;

(2) a photocopy of the certificate of maximum occupant load issued by the state or local fire marshal stating the maximum occupancy allowed by the fire code for each room at the main school site and each extension site, if applicable, that will be used as a classroom;

(3) a list of all extension sites to be used for conducting DWI courses;

(4) a list of all facilitators who will conduct DWI courses;

(5) a schedule of fees applicable to students who enroll in a DWI course, including primary and incidental costs charged for the course, school policies for passing and failing, refund and reschedule policies and attendance requirements;

(6) the proposed curriculum, handouts and videos for the DWI course;

(7) the name, address, and telephone number of three (3) character and employment references who

are not family members;

(8) the applicant's resume or related work history;

(9) a copy of the applicant's limited driving history from the motor vehicle division, driver services bureau or its equivalent from any state in which the applicant has held a driver's license in the past ten (10) years dated no earlier than sixty (60) days before the date the application is filed with the bureau; and

(10) a state police background check from any state in which the applicant has resided in the past ten (10) years dated no earlier than sixty (60) days before the date the application is filed with the bureau, or verification that the applicant submitted a request for a state police background check to the department of public safety or its equivalent at least sixty (60) days before the date the application is filed with the bureau.

D. Completeness. When the bureau receives an application for a DWI school license, the bureau shall check the application for completeness.

(1) If the application is not complete, the bureau shall contact the applicant for additional information within fifteen (15) days of receipt. The applicant shall then have thirty (30) days from the date of contact to complete the application. If the applicant fails to complete the application within the thirty (30) days, the applicant's file shall be closed and the application shall be returned to the applicant.

(2) If the application is complete, the bureau shall review the application.

[7.32.20.10 NMAC - Rp, 7 NMAC 32.20.9, 1-1-03; A, 2-13-09]

7.32.20.11 ISSUANCE OF INITIAL DWI SCHOOL LICENSE:

A. Standards for issuance. In reviewing applications for DWI schools, the bureau shall consider whether:

(1) the information provided by the applicant is accurate and valid;

(2) the character and employment references provided by the applicant report that the applicant is fit to operate a DWI school;

(3) the community's needs will be adequately served;

(4) the proposed DWI school can certify that its facilities meet the accessibility requirements of the ADA;

(5) the applicant has not been convicted of a crime involving moral turpitude;

(6) the applicant has a clean driving record;

(7) the applicant's name does not appear on the human services department (HSD) listing for failure to comply with any valid child support order or agreement pursuant to the Parental Responsibility Act, Sections 40-5A-1 et seq. NMSA 1978 or any rule implementing that act; and

(8) the persons who will serve as DWI facilitators meet the requirements of this rule.

B. Issuance of initial license. If the bureau determines that an applicant meets the standards prescribed in Subsection A of this section, the bureau shall issue a license upon:

(1) payment of the \$50.00 license fee (or \$25.00 for applications filed on or after May 1 of the current license year);

(2) payment of the \$35.00 extension site fee for each extension site, if applicable; and

(3) posting of a surety bond with the bureau in the amount of \$5,000 issued by a company authorized to transact surety business in New Mexico. The surety bond shall be continuous, shall name the New Mexico department of transportation, traffic safety bureau as obligee, and shall assure the satisfactory performance of all contracts with students, including tuition refund agreements, and the maintenance of student records.

C. Interim licenses. The bureau may issue an interim license to a DWI school for a term to expire on October 31 of the year in which the interim license is issued in order to provide a replacement for a school that has ceased operations or had its license revoked.

D. Denial of license. If the bureau determines that an applicant does not meet the standards prescribed in Subsection A of this section, the bureau shall issue a letter stating the reasons for denial of the license. A person may reapply for a license at any time.

[7.32.20.11 NMAC - Rp, 7 NMAC 32.20.9, 1-1-03; A, 2-13-09]

7.32.20.12 TERM OF DWI SCHOOL LICENSE:

A. Term. An initial license shall be valid until October 31 of each year, unless suspended or revoked for cause before that date. Initial licenses shall be valid from the date of issuance to the next October 31. Renewal licenses shall be valid from November 1 of the year of renewal to October 31 of the following year.

B. License renewal.

(1) A licensee shall file an application for renewal of its license with the bureau on or before October 1 of each year to ensure license renewal by November 1. A licensee who files an application for renewal after October 1 shall pay a late fee of \$25.00.

(2) A person may obtain an application for renewal by contacting the bureau at 1-800-541-7952 or accessing the bureau's website at <http://www.nmshtd.state.nm.us> and clicking on "traffic safety".

(3) The application for renewal shall be accompanied by the documents specified in Subsection C of 7.32.20.10 NMAC, except for the documents specified in Paragraphs (7) and (8) of Subsection C of 7.32.20.10 NMAC.

(4) The bureau shall review applications for renewal in the order in which they are received.

C. Approval/disapproval of application for license renewal.

(1) The bureau will renew a license for a period of one (1) year if:

(a) the bureau or its designee finds that the DWI school is in compliance with the requirements of this rule;

(b) the licensee has submitted all required reports to the bureau;

(c) the licensee has submitted a continuation certificate or proof of payment for the surety bond required by Paragraph 3 of Subsection B of 7.32.20.11 NMAC; and

(d) the licensee pays the \$50.00 annual license fee and, if applicable, the \$35.00 extension site fee for each extension site and the \$25.00 late fee if the application was filed after October 1.

(2) The bureau shall not renew the license of any DWI school not in compliance with the requirements of this rule.

D. Notice of rule violation. The bureau may send any licensee a notice of rule violation if it finds that the DWI school is not in compliance with one or more requirements of this rule. The notice of rule violation shall specify the provisions of this rule with which the licensee is not in compliance. Failure to correct the rule violation in the time requested by the bureau may result in suspension or revocation of the license.

E. Early termination.

(1) A license shall automatically terminate if a DWI school ceases operation.

(2) The bureau may suspend or revoke a license for cause as provided in this rule.

(3) If a DWI school ceases operation for any reason, the school shall comply with the requirements of Subsection L of 7.32.20.14 NMAC.

F. Restriction on sale of license. A DWI school license shall not be sold or transferred. [7.32.20.12 NMAC - Rp, 7 NMAC 32.20.9 and 32.20.23, 1-1-03; A, 2-13-09]

7.32.20.13 CLASSROOM COURSE REQUIREMENTS FOR DWI SCHOOLS: A licensee shall:

A. engage as DWI facilitators only those persons who have been certified by the bureau; a licensee may not serve as a facilitator unless the licensee has been certified by the bureau as a facilitator pursuant to this rule;

B. enroll no fewer than four (4) students and no more than thirty (30) students per facilitator or the maximum occupancy allowed by the fire code, whichever is less, in a DWI program, unless prior written approval is obtained from the bureau;

C. not charge a student more than \$175.00, including tax, for enrolling in a DWI program;

D. display the license issued by the bureau in an appropriate and visible location;

E. display the placard issued by the fire marshal stating the maximum occupancy of each classroom in an appropriate and visible location in the classroom;

F. use classroom facilities that:

(1) have adequate space, lighting, heating, and ventilation;

(2) have seats and tables or seats with attached tables for each student in the class; and

(3) comply with all federal, state, and local laws relating to persons with disabilities, public health, safety, and sanitation, including restroom facilities;

G. ensure that the learning environment is conducive to learning and free from discrimination, intimidation, and harassment; no person shall engage in, or be permitted to engage in, conduct that is offensive to the ordinary dignity, decency, and morality of others;

H. use only the curriculum, handouts and videos, approved by the bureau;

I. if a licensee becomes aware that a student is disabled, inquire as to the need for accommodations, and provide reasonable accommodations for the student, including but not limited to auxiliary aids or services such as assisted listening devices or a sign language interpreter, unless the accommodation presents an undue burden on the licensee; the bureau shall pay for sign language interpretation if the student is under the age of eighteen (18),

provided that the licensee shall contact the bureau at least fourteen (14) days before the scheduled date of the driver education course to arrange for interpretation;

J. provide at least twelve (12) program hours for each DWI program, divided into no fewer than three (3) four-hour segments scheduled at least one (1) week apart;

K. offer classes as frequently as necessary to accommodate the number of students in the community, but no less frequently than once every three (3) months;

L. if certificates of completion are issued, use certificates obtained from the bureau, issued sequentially by the licensee; and

M. not permit a student to attend any DWI classes until the student has received written information stating all fees, including primary and incidental costs, charged for the course, school policies for passing and failing, refund and reschedule policies, and attendance requirements.

[7.32.20.13 NMAC - Rp, 7 NMAC 32.20.10 and 32-20-23, 1-1-03; A, 2-13-09]

7.32.20.14 OPERATING REQUIREMENTS FOR DWI SCHOOLS: A licensee:

A. shall adhere strictly to the requirements of this rule;

B. shall notify the bureau at least thirty (30) days in advance if the DWI school intends to cease operations;

C. shall make all DWI school records available for inspection and copying by the bureau or its designee at any time; a licensee shall maintain all hard copies and electronic versions of its records for a minimum of three (3) years for each student receiving instruction, including students who passed, failed, withdrew, cancelled, or transferred to another school; the records shall be updated for each course;

D. shall:

(1) at the time of enrollment and on a quarterly basis thereafter, provide the bureau with a student report, on a form prepared or approved by the bureau; if no course is held during the quarter, the licensee shall submit a student report indicating the same; and

(2) submit a \$50.00 per student fee to the bureau, unless other arrangements have been made with the bureau in advance;

E. shall have a written refund policy and a written reschedule policy which must be issued to each student upon enrollment;

F. shall, upon request, provide each student with a form prepared by the bureau that allows the student or the student's parent to notify the bureau regarding a comment or concern about the school or a facilitator;

G. shall notify the bureau of:

- (1) any changes in address ten (10) days before opening for business at the new location;
- (2) the addition or closing of extension sites within ten (10) days of their opening or closing; and
- (3) the addition or deletion of facilitators within ten (10) days of their hiring or leaving;

H. shall conduct all school operations in a professional and courteous manner;

I. shall operate all extension sites under the name used for the main school site and be accountable for all extension site operations;

J. shall notify the sentencing court or other appropriate agency in writing within five (5) working days if a student fails to attend any session of the program or fails to complete the program within three (3) months of enrollment;

K. may use the phrases "licensed by the traffic safety bureau" or "curriculum approved by the traffic safety bureau" but may not otherwise use the word "approved" or any of its synonyms in its advertising or promotional materials;

L. upon ceasing operations for any reason, shall make all DWI school records available for inspection or copying by the bureau or its designee at any time, and shall return all unused completion certificates to the bureau within ten (10) days of the school ceasing operation; for any certificates not returned within ten (10) days of the school ceasing operation, the bureau shall notify the appropriate authority that the certificates are no longer valid.

[7.32.20.14 NMAC - Rp, 7 NMAC 32.20.10, 1-1-03; A, 2-13-09]

7.32.20.15 EVALUATION OF DWI SCHOOLS:

A. Responsibility. The bureau or its designee:

(1) shall conduct periodic evaluations of DWI schools using criteria developed by the bureau; the bureau shall prepare a written evaluation and shall provide a copy of the evaluation to the licensee upon request; the bureau may in its discretion conduct evaluations of a DWI school on its own initiative at any time and for any reason

or in response to complaints from any person; the bureau shall document, investigate, and discuss all complaints with the DWI school;

(2) may conduct on-site quality assurance visits; on-site visits may address the adequacy of classroom facilities, facilitators' traffic safety knowledge and teaching techniques, learning environment, quality of the curriculum, class materials and customer service.

B. Relevant factors. In conducting its evaluations, the bureau shall consider:

(1) the number and nature of any comments or complaints received from students, facilitators, judges, law enforcement officers, and others;

(2) whether the DWI school consistently meets the requirements of this rule; and

(3) the results from on-site quality assurance visits.

[7.32.20.15 NMAC - Rp, 7 NMAC 32.20.11, 1-1-03; A, 2-13-09]

7.32.20.16 INITIAL CERTIFICATION OF DWI FACILITATORS:

A. Certification required. No person or licensee may serve as a DWI facilitator without first having obtained a certificate from the bureau.

B. Application requirements. A person wishing to obtain a certificate as a DWI facilitator shall file an application with the bureau. A person may obtain an application by contacting the bureau at 1-800-541-7952 or accessing the bureau's website at <http://www.nmshtd.state.nm.us> and clicking on "traffic safety".

C. Contents of application. The application shall be accompanied by:

(1) a copy of the applicant's limited history driving record from the motor vehicle division, driver services bureau or its equivalent from any state in which the applicant has held a driver's license in the past ten (10) years dated no earlier than sixty (60) days before the date the application is filed with the bureau;

(2) a state police background check from any state in which the applicant has resided in the past ten (10) years dated no earlier than sixty (60) days before the date the application is filed with the bureau, or verification that the applicant submitted a request for a state police background check to the department of public safety or its equivalent at least sixty (60) days before the date the application is filed with the bureau;

(3) a copy of the applicant's health certificate signed by a physician and dated no earlier than sixty (60) days before the date the application is filed with the bureau stating that the applicant is free from all communicable diseases;

(4) the name, address, and telephone number of three (3) character and employment references who are not family members;

(5) the applicant's resume or related work history;

(6) transcripts from any post secondary educational or training institutions the applicant has attended; and

(7) the name of the school at which the facilitator will be providing DWI facilitation.

D. Completeness. When the bureau receives an application for certification as a DWI facilitator, the bureau shall check the application for completeness.

(1) If the application is incomplete, the bureau shall contact the applicant for additional information within fifteen (15) days of receipt. The applicant shall then have thirty (30) days from the date of contact to complete the application. If the applicant fails to complete the application within the thirty (30) days, the applicant's file shall be closed and the application shall be returned to the applicant.

(2) If the application is complete, the bureau shall review the application.

E. Standards for issuance of DWI facilitator certificate. In reviewing applications for DWI facilitators, the bureau shall consider whether:

(1) the information provided is accurate and valid;

(2) the character and employment references provided by the applicant report that the applicant is fit to be a DWI facilitator;

(3) the applicant is at least twenty-one (21) years of age;

(4) the applicant has at least a high school diploma or equivalent;

(5) the applicant holds a valid driver's license;

(6) the applicant has not been convicted of a crime involving moral turpitude;

(7) the applicant has a clean driving record; and

(8) the applicant's name does not appear on the human services department (HSD) listing for failure to comply with any valid child support order or agreement pursuant to the Parental Responsibility Act, Sections 40-5A-1 et seq. NMSA 1978 or any rule implementing that act.

F. Approval for training.

(1) If the bureau determines that the applicant meets the standards in Subsection E of this section, the bureau shall grant approval to proceed with facilitator training. Each applicant for a certificate as a DWI facilitator shall, within six (6) months of approval to proceed with training:

(a) satisfactorily complete the New Mexico DWI facilitator training course, as verified by the bureau;

(b) attend one (1) DWI trial or three (3) DWI hearings in a court in the community, as verified by the clerk of the court;

(c) observe a minimum of one (1) complete twelve-hour DWI program, as verified by the certified DWI facilitator conducting the program; and

(d) co-facilitate at least six (6) hours of a DWI program under the direct supervision of a certified DWI school facilitator, as verified by that facilitator.

(2) If the bureau determines that the applicant does not meet the standards in Subsection E of this section, the bureau shall issue a letter stating the reasons it is not granting approval to proceed with facilitator training.

G. Final review.

(1) If the bureau determines that an applicant has successfully completed the requirements in Subsection F of this section and is otherwise fit, the bureau shall issue a certificate upon payment of the \$50.00 facilitator certification fee.

(2) If the bureau determines that an applicant has not successfully completed the facilitator training program or is otherwise not fit, the bureau shall issue a letter stating its reasons for denial of certification.

H. Term. A DWI facilitator certificate shall be valid until October 31 of each year, unless suspended or revoked for cause before that date. Initial certificates shall be valid from the date of issuance to the next October 31. Renewal certificates shall be valid from November 1 of the year of renewal to October 31 of the following year. If the DWI school at which the facilitator is teaching changes during the term of the certificate, the facilitator shall notify the bureau within ten (10) days of such change.

[7.32.20.16 NMAC - Rp, 7 NMAC 32.20.12, 32.20.13, 32.20.14, and 32-20.23, 1-1-03; A, 2-13-09]

7.32.20.17 RECERTIFICATION OF DWI FACILITATORS:

A. Certificate renewal.

(1) A DWI facilitator shall file an application for renewal of his or her certificate with the bureau on or before October 1 each year to ensure certificate renewal by November 1. A DWI facilitator who files an application for renewal after October 1 shall pay a late fee of \$25.00.

(2) A person may obtain an application for renewal by contacting the bureau at 1-800-541-7952 or accessing the bureau's website at <http://www.nmshtd.state.nm.us> and clicking on "traffic safety".

(3) The application for renewal shall be accompanied by the documents specified in Subsection C of 7.32.20.16 NMAC, except for the documents specified in Paragraphs (4), (5) and (6) of Subsection C of 7.32.20.16 NMAC.

(4) The bureau shall review applications for renewal in the order in which they are received.

B. Continuing education requirements.

(1) DWI facilitators shall complete a minimum of eight (8) credit hours of continuing education each license year to qualify for annual recertification.

(2) A DWI facilitator may satisfy this requirement in whole or in part by attending bureau sponsored:

(a) DWI school workshops;

(b) traffic safety issues forums;

(c) community DWI prevention program workshops; or

(d) any traffic safety related courses or workshops.

(3) The bureau may, in its discretion, approve continuing education credit on the basis of one (1) continuing education credit hour for every hour of attendance at the following types of programs if a copy of the workshop agenda or course curriculum is submitted to the bureau:

(a) drug or alcohol workshops;

(b) counseling or treatment workshops; or

(c) education courses or workshops.

(4) The bureau shall grant one (1) continuing education credit hour for each hour spent observing a DWI school facilitator from the bureau's approved list but not from the same school, up to a maximum of four (4)

credit hours in one year.

C. Approval/disapproval of application for certificate renewal.

(1) The bureau shall renew the certificate of a DWI facilitator for a period of one (1) year if the DWI facilitator:

- (a) pays the \$50.00 annual certification fee;
- (b) meets the standards specified in Subsection E of 7.32.20.16 NMAC;
- (c) has received an overall rating of satisfactory or better in the periodic evaluations conducted by the bureau or its designee in the preceding license year; and
- (d) has completed eight (8) credit hours of continuing education in the license year preceding the application for renewal.

(2) The bureau shall not renew the license of any DWI facilitator who:

(a) fails to complete eight (8) hours of continuing education in the license year preceding the application for renewal; or

(b) fails to meet the standards specified in Subsection E of 7.32.20.16 NMAC.

[7.32.20.17 NMAC - Rp, 7 NMAC 32.20.15, 32.20.16 and 32.20.17, 1-1-03; A, 2-13-09]

7.32.20.18 SUSPENSION OR REVOCATION OF A LICENSE OR CERTIFICATE:

A. Grounds. The bureau may suspend or revoke the license or certificate of a licensee or DWI facilitator:

- (1) who makes a false statement on an application;
- (2) who fails to follow the approved curriculum;
- (3) who poses an immediate danger to the physical or mental safety or health of a student;
- (4) who is convicted of any alcohol or drug-related driving offense;
- (5) who has refused to submit to or failed chemical tests pursuant to the Implied Consent Act;
- (6) whose New Mexico driver's license is suspended or revoked;
- (7) who fails to notify the bureau in writing within ten (10) days that the licensee's or DWI facilitator's driver's license has been suspended or revoked as a result of a DWI conviction or refusal to submit to or failure of chemical tests pursuant to the Implied Consent Act, or that the licensee or DWI facilitator has been convicted in any jurisdiction of an alcohol or drug-related driving offense or an offense involving moral turpitude;
- (8) whose conduct in the performance of official duties is unethical, including but not limited to, verbal abuse or sexual harassment of students;
- (9) who fails to comply with any requirement of this rule or any lawful order of the bureau;
- (10) who becomes employed or remains employed by a DWI school whose license has been revoked pursuant to this rule;
- (11) who employs or continues to employ a DWI facilitator whose certificate has been revoked pursuant to this rule;
- (12) whose name appears on the human services department (HSD) listing for failure to comply with any valid child support order or agreement pursuant to the Parental Responsibility Act, Sections 40-5A-1 et seq. NMSA 1978, or any rule implementing that act; or
- (13) who fails to forward the \$50.00 per-student fee to the bureau within thirty (30) days after the end of the program unless other arrangements have been made with the bureau.

B. Procedure. The bureau shall use the procedures prescribed in the Uniform Licensing Act, Sections 61-1-1 et seq. NMSA 1978, in all suspension and revocations proceedings held pursuant to this rule.

C. Consequences of suspension or revocation.

- (1) A DWI school shall not offer or conduct any DWI programs if its license is suspended or revoked.
- (2) A DWI facilitator shall not conduct any DWI programs if his or her certificate is suspended or revoked.

D. Notice of suspension or revocation. Upon completion of any proceedings held pursuant to the Uniform Licensing Act:

(1) The bureau shall immediately notify by certified mail, return receipt requested, each DWI facilitator employed by a DWI school whose license has been suspended or revoked that the DWI school's license has been suspended or revoked and that the DWI facilitator may not conduct any DWI programs for that DWI school unless and until the license is reinstated by the bureau.

(2) The bureau shall immediately notify by certified mail, return receipt requested, each DWI school that employs a DWI facilitator whose certificate is suspended or revoked that the DWI facilitator's certificate has

been suspended or revoked and that the DWI school may not employ that DWI facilitator unless and until the certificate is reinstated by the bureau.

(3) The bureau shall notify all motor vehicle division field offices that the DWI school's license or the DWI facilitator's certificate has been revoked or suspended.

(4) The bureau shall notify all state courts that the DWI school's license has been revoked or suspended and that the DWI school is no longer an approved school.

[7.32.20.18 NMAC - Rp, 7 NMAC 32.20.24, 32.20.25, and 32.20.29, 1-1-03; A, 2-13-09]

7.32.20.19 EXEMPTION OR VARIANCE:

A. Any school may petition in writing for an exemption or variance from any of the requirements of this rule. Such petition shall:

- (1) identify the section of this rule for which the exemption or variance is requested;
- (2) describe the situation which necessitates the exemption or variance;
- (3) describe the effect of complying with this rule on the school and its customers, and on its competitors and their customers, if the exemption or variance is not granted;
- (4) state how the exemption or variance will achieve the purposes of this rule and the Traffic Safety Act; and
- (5) state why the proposed alternative is in the public interest or is better than the requirement in the rule.

B. Such petition may include a motion that the bureau stay the affected portion of this rule for the transaction specified in the motion.

C. Petitions for an exemption or a variance and motions for a stay must be supported by an affidavit signed by the licensee or other person with authority to bind the licensee.

D. The bureau may, at its discretion, require an informal conference or formal evidentiary hearing prior to making its determination.

E. Each exemption or variance shall be valid for no longer than the end of the current license year.
[7.32.20.19 NMAC - Rp, 7 NMAC 32.20.26, 32.20.27, and 32.20.28, 1-1-03; Repealed, 2-13-09; 7.32.20.19 NMAC - Rn, 7.32.20.20 NMAC & A, 2-13-09]

HISTORY OF 7.32.20 NMAC

Pre-NMAC History. The material in this rule was previously filed with the State Records Center and Archives as SHTD Rule 87-1, Driving While Intoxicated (DWI) Rehabilitation Schools, on 12-3-87.

Repealed Material.

7 NMAC 32.20, Policies, Procedures, and Standards for New Mexico's Driving While Impaired (DWI) Schools, filed 12-17-96, repealed 1-1-03.

NMAC History.

7 NMAC 32.20, Policies, Procedures, and Standards for New Mexico's Driving While Impaired (DWI) Schools (filed 12-17-96) replaced by 7.32.20 NMAC, Driving While Impaired (DWI) Schools, effective 1-1-03.