

New Mexico Register

The official publication for all official notices of rulemaking
and filing of proposed, adopted and emergency rules.

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New Mexico Register

Volume XXXVII, Issue 1

January 13, 2026

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Notices of Rulemaking and Proposed Rules

ENVIRONMENT DEPARTMENT

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD NOTICE OF RULEMAKING HEARING TO CONSIDER THE PROPOSED REPEAL AND REPLACEMENT OF 20.2.71 NMAC – OPERATING PERMIT EMISSIONS FEES AND 20.2.75 NMAC – CONSTRUCTION PERMIT FEES, EIB 25-77 (R)

The New Mexico Environmental Improvement Board (“EIB”) will hold a public hearing beginning on March 23, 2026, at 9:00 a.m. to consider EIB 25-77 (R) – In the Matter of Proposed Repeal and Replacement of 20.2.71 NMAC – Operating Permit Emissions Fees and 20.2.75 NMAC – Construction Permit Fees. The hearing will last as long as required to hear all testimony, evidence, and public comment, and is expected to last approximately three days. The EIB may deliberate and make a decision on the proposed regulatory changes at the conclusion of the hearing or may convene a meeting after the hearing to consider action on the proposal.

The hearing will be conducted in a hybrid format to allow for both in-person and virtual participation. The in-person component will be held at the New Mexico State Capitol, 490 Old Santa Fe Trail (alternatively 411 S. State Capital Street), Santa Fe, New Mexico 87501. Hearing details, including the meeting room number and how to participate virtually, will be available on the New Mexico Environment Department (“NMED”) events calendar at <https://www.env.nm.gov/events-calendar/>, under the calendar entry corresponding to the hearing start date. For more information, contact the EIB Administrator at (505) 660-4305 or pamela.jones@env.nm.gov.

The purpose of the hearing is for the

EIB to consider and take possible action on a petition by NMED requesting that the EIB repeal and replace 20.2.71 NMAC, Operating Permit Emissions Fees, and 20.2.75 NMAC, Construction Permit Fees. The petition, statement of reasons (attached to the petition as Exhibit A), proposed replacement rules 20.2.71 NMAC and 20.2.75 NMAC (attached to the petition as Exhibits B and C), and current rules 20.2.71 NMAC and 20.2.75 NMAC with proposed changes shown in redline fashion (attached to the petition as Exhibits D and E) are available on NMED’s docketed matters website at <https://www.env.nm.gov/opf/docketed-matters/>. To access these documents, click on “Environmental Improvement Board” to display the drop-down list of matters before the EIB, then click on “EIB 25-77 (R): In the Matter of Proposed Repeal and Replacement of 20.2.71 NMAC – Operating Permit Emissions Fees and 20.2.75 NMAC – Construction Permit Fees” to display the drop-down list of all documents filed in conjunction with this matter. Copies of the petition, statement of reasons, and proposed replacement rules can also be obtained by contacting Eric Peters at (505) 629-5299 or eric.peters@env.nm.gov, or at any of NMED’s offices statewide.

The purpose of proposed replacement rules 20.2.71 NMAC and 20.2.75 NMAC is to ensure that NMED’s emissions and construction permit fees are sufficient to cover the reasonable costs of NMED’s Title V Operating Permit Program and Construction Permit Program. The EIB is authorized to adopt the proposed rules pursuant to the Environmental Improvement Act, Section 74-1-8(A)(4), and the Air Quality Control Act, NMSA 1978, Sections 74-2-1 to 17. The schedule of Title V operating permit emissions fees must be consistent with the provisions of Section 502(b)(3) of the 1990 amendments to the federal Clean Air Act, which requires sources that

permit to pay fees sufficient to cover all reasonable direct and indirect costs of developing and administering the state’s Title V Operating Permit Program. See Air Quality Control Act, NMSA 1978, Section 74-2-7(B)(7). The schedule of construction permit fees must be sufficient to cover the reasonable costs of reviewing and acting upon any application for such permit and implementing and enforcing the terms and conditions of the permit, excluding any court costs or other costs associated with an enforcement action. See Air Quality Control Act, NMSA 1978, Section 74-2-7(B)(6).

20.2.71 NMAC establishes a schedule of emissions fees for sources required to obtain a Title V permit under 20.2.70 NMAC, Operating Permits. The schedule specifies the annual emissions fee for each fee pollutant expressed in dollars per ton of allowable emissions. Proposed replacement rule 20.2.71 NMAC revises the current definition of fee pollutant, adding particulate matter 10 micrometers or less in diameter (“PM10”) and particulate matter 2.5 micrometers or less in diameter (“PM2.5”) and removing mercury and total suspended particulate matter; reduces the maximum tons used in the fee calculation for each fee pollutant; provides that a fee shall be assessed for either PM10 or PM2.5, not both, depending on which has the higher allowable emission rate; increases the dollar per ton amount used in the fee calculation for each fee pollutant; establishes a late fee for failing to timely pay annual emissions fees; and confirms administrative compliance costs for enforcement of New Mexico’s air quality regulations. If adopted, replacement rule 20.2.71 NMAC will be submitted to the U.S. Environmental Protection Agency (“EPA”) as a revision to New Mexico’s Title V Operating Permit Program.

Similarly, 20.2.75 NMAC establishes a schedule of construction permit fees for notices of intent, permits

to construct or modify a source, construction permit revisions, and technical reviews of existing construction permits under 20.2.72 NMAC, Construction Permits, and 20.2.73 NMAC, Notice of Intent and Emissions Inventory Requirements. The schedule includes a complexity-based points schedule for various actions and a cost per point, which is multiplied by the sum of all the points applicable to a given permitting action to determine the required permit fee. The schedule also includes an annual fee for sources that have already been issued a construction permit. Proposed replacement rule 20.2.75 NMAC revises the current complexity-based points schedule, increasing the points for certain actions and adding points for notices of intent; increases the cost per point used to calculate permit fees; increases the annual fee for sources that have already been issued a construction permit and institutes an annual fee for sources that have filed a notice of intent; establishes a late fee for failing to timely pay annual fees; and confirms administrative compliance costs for enforcement of New Mexico's air quality regulations. If adopted, replacement rule 20.2.75 NMAC will be submitted to EPA as a revision to the New Mexico State Implementation Plan.

The hearing will be conducted in accordance with 20.1.1 NMAC, Rulemaking Procedures – Environmental Improvement Board; the Environmental Improvement Act, NMSA 1978, Section 74-1-9; the Air Quality Control Act, NMSA 1978, Section 74-2-6; orders issued by the hearing officer appointed by the EIB; and other applicable procedures.

PUBLIC PARTICIPATION: The EIB's hearings and meetings are open to the public, and the general public is encouraged to participate. All interested persons will be given a reasonable opportunity to participate by filing a notice of intent to present technical testimony, filing an entry of appearance, or participating as

a member of the general public. "Technical testimony" means scientific, engineering, economic or other specialized testimony, but does not include legal argument, general comments, or statements of policy or position concerning matters at issue in the hearing. "General public" includes any person attending a hearing who has not submitted a notice of intent to present technical testimony.

Any member of the general public may testify at the hearing. Any person who provides testimony at the hearing is subject to cross-examination on the subject matter of his or her testimony and matters affecting his or her credibility. Any person attending the hearing is entitled to conduct such cross-examination as may be required for a full and true disclosure of matters at issue in the hearing. All testimony will be taken under oath or affirmation which may be accomplished in mass or individually.

TECHNICAL TESTIMONY:

Any person who wishes to present technical testimony at the hearing must file a written notice of intent with the EIB Administrator no later than February 20, 2026, in accordance with the EIB's Order Scheduling Hearing, Appointing Hearing Officer and Setting Certain Filing Dates (issued December 23, 2025), available on NMED's docketed matters website, and shall be a party. The notice of intent shall: (1) identify the person for whom the witness(es) will testify; (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background; (3) if the hearing will be conducted at multiple locations, indicate the location or locations at which the witnesses will be present; (4) include a copy of the direct testimony of each technical witness in narrative form; (5) include the text of any recommended modifications to the proposed regulatory change; and (6) list and attach all exhibits

anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules. Any person who files a notice of intent shall serve a copy on NMED.

ENTRY OF APPEARANCE:

Any person may file an entry of appearance as a party. The entry of appearance shall be filed with the EIB Administrator no later than February 20, 2026, in accordance with the EIB's Order Scheduling Hearing, Appointing Hearing Officer and Setting Certain Filing Dates (issued December 23, 2025).

PUBLIC COMMENT: The general public may submit a written public comment or testify orally at the hearing. A member of the general public who wishes to submit a written public comment as a statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing or submit it at the hearing. Those wishing to submit a written public comment prior to the hearing may submit the written public comment online at <https://nmed.commentinput.com/?id=t8BRr4m76>, email the written public comment to pamela.jones@env.nm.gov, or mail the written public comment to EIB Administrator, New Mexico Environment Department – Harold Runnels Building, P.O. Box 5469, Santa Fe, New Mexico 87502. Additionally, there will be an opportunity each day of the hearing for oral testimony from members of the general public. No prior notification is required for the general public to present non-technical testimony at the hearing. The general public may also offer non-technical exhibits in connection with their written public comment or oral testimony, so long as the exhibits are not unduly repetitious of the testimony and comply with 20.1.1.402 NMAC. The appointed hearing officer shall determine the process and times for the general public to testify during the hearing.

ACCESSIBILITY: Persons requiring language interpretation services or having a disability who need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing should contact the EIB Administrator at least 14 days prior to the hearing or as soon as possible at (505) 660-4305 or pamela.jones@env.nm.gov. To access this number via Relay New Mexico dial 711, or call (800) 659-8331 (TTY) or (800) 659-1779 (voice).

NOTICE OF NON-

DISCRIMINATION: NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 CFR Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kate Cardenas, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, New Mexico 87502, (505) 827-2855, nd.coordinator@env.nm.gov. If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.

ENVIRONMENT DEPARTMENT

JUNTA DE MEJORA AMBIENTAL DE NUEVO MÉXICO AVISO DE AUDIENCIA DE REGLAMENTACIÓN PARA CONSIDERAR LA PROPUESTA DE DEROGACIÓN Y SUSTITUCIÓN DE 20.2.71 NMAC – CUOTAS DE EMISIONES DE PERMISO DE OPERACIÓN Y 20.2.75 NMAC – CUOTAS DE PERMISO DE CONSTRUCCIÓN, EIB 25-77 (R)

La Junta de Mejora Ambiental de Nuevo México ("EIB" por sus siglas en inglés) llevará a cabo una audiencia pública que comenzará el 23 de Marzo de 2026 a las 9:00a.m. para considerar la EIB 25-77 (R) – En el asunto de la Propuesta de Derogación y Sustitución de 20.2.71 NMAC – Cuotas de Emisiones de Permiso de Operación y 20.2.75 NMAC – Cuotas de Permiso de Construcción. La audiencia durará el tiempo que sea necesario para escuchar todos los testimonios, pruebas y comentarios públicos, y se espera que dure aproximadamente tres días. La EIB puede deliberar y podrá tomar una decisión sobre los cambios regulatorios propuestos al concluir la audiencia o puede convocar a una reunión después de la audiencia para considerar medidas sobre la propuesta.

La audiencia se llevará a cabo en un formato híbrido para permitir la participación tanto en persona como virtual. El componente presencial se llevará a cabo en la capital del estado de Nuevo México, 490 Old Santa Fe Trail (alternativamente 411 S. State Capital Street), Santa Fe, Nuevo México 87501. Detalles de la audiencia, incluyendo el número de la sala de reuniones y cómo participar de forma virtual, estarán disponibles en el Departamento de Medio Ambiente de Nuevo México ("NMED" por sus siglas en inglés) calendario de eventos en <https://www.env.nm.gov/events-calendar/>, debajo de la entrada del calendario correspondiente a la

fecha de inicio de la audiencia. Para más información, comuníquese con la administradora de la EIB llamando al (505) 660-4305 o en pamela.jones@env.nm.gov.

El propósito de la audiencia es que la EIB considere y tome las medidas necesarias respecto a la Petición del NMED en la que solicita a la EIB la derogación y sustitución 20.2.71 NMAC, Cuotas de Emisiones de Permiso de Operación, y 20.2.75 NMAC, Cuotas de Permiso de Construcción. La petición, declaración de motivos (adjunto a la petición como Anexo A), normas de reemplazo propuestas 20.2.71 NMAC y 20.2.75 NMAC (adjunto a la petición como Anexos B y C), y las reglas actuales 20.2.71 NMAC 20.2.75 NMAC con los cambios propuestos mostrados en rojo (adjunto a la petición como Anexos D y E) están disponibles en el sitio web de asuntos archivados de NMED en <https://www.env.nm.gov/opf/docketed-matters/>. Para acceder a estos documentos, haga clic en "Junta de Mejora Ambiental" para mostrar la lista desplegable de asuntos ante el EIB, después haga clic en "EIB 25-77 (R): En El Asunto de la Propuesta de Derogación y Sustitución de 20.2.71 NMAC – Cuotas de Emisiones de Operación y 20.2.75 NMAC – Cuotas de Permiso de Construcción" para mostrar la lista desplegable de todos los documentos presentados en relación con este asunto. Copias de la petición, declaración de motivos, las normas de sustitución también se pueden obtener contactando Eric Peters al (505) 629-5299 o eric.peters@env.nm.gov, o en todas las oficinas del NMED en todo el estado.

El propósito de las reglas de sustitución 20.2.71 NMAC y 20.2.75 NMAC es para asegurar que las emisiones y las cuotas de permiso de construcción del NMED son suficientes para cubrir los costos razonables del Programa de Permisos de Operación Título V y del Programa de Permisos de Construcción de NMED. La EIB está autorizada a adoptar las normas propuestas de

conformidad con la Ley de Mejora Ambiental, Sección 74-1-8(A)(4), y la Ley de Control de la Calidad del Aire, NMSA 1978, Secciones 74-2-1 a 17. El horario de cuotas por emisiones de los permisos de operación del Título V debe ser coherente con las disposiciones de la Sección 502(b)(3) de las enmiendas de 1990 a la Ley Federal de Aire Limpio, esto exige que las fuentes que requieren un permiso de operación paguen cuotas suficientes para cubrir todos los costos directos e indirectos razonables del desarrollo y la administración del programa estatal de permisos de operación conforme al Título V. Véase Ley de Control de la Calidad del Aire, NMSA 1978, Sección 74-2-7 (B)(7). El horario de las cuotas de permiso de construcción debe ser suficientes para cubrir los costos razonables de revisión y tramitación de cualquier solicitud de dicho permiso, así como la implementación y el cumplimiento de los términos y condiciones del permiso, excluyendo los gastos judiciales u otros gastos asociados a una acción coercitiva. Véase Ley de Control de la Calidad del Aire, NMSA 1978, Sección 74-2-7(B)(6).

20.2.71 NMAC establece un horario de cuotas por emisiones para las fuentes que deben obtener un permiso de conformidad con el Título V, según lo estipulado en la norma 20.2.70 de NMAC, Permisos de Operación. El horario especifica la cuota anual por emisiones para cada contaminante sujeto a pago, expresada en dólares por tonelada de emisiones permitidas. La regla de sustitución 20.2.71 NMAC revisa la definición actual de contaminante sujeto a cuota, agregando materia particulada de 10 micrómetros o menos de diámetro ("PM10") y materia particulada de 2.5 micrómetros o menos de diámetro ("PM2.5") y eliminando mercurio y partículas totales en suspensión; reduce las toneladas máximas utilizadas en el cálculo de la cuota para cada contaminante sujeto a cuota; establece que se cobrará una cuota por PM10 o PM2.5, no ambas, dependiendo de cuál tenga la mayor

tasa de emisión permitida; aumenta el monto en dólares por tonelada utilizado en el cálculo de la cuota para cada contaminante sujeto a cuota; establece una cuota por pago tardío por no pagar oportunamente las cuotas anuales de emisión; y confirma los costos administrativos de cumplimiento para la aplicación de las regulaciones de calidad del aire de Nuevo México. Si se adopta, la regla de sustitución 20.2.71 NMAC se presentará a la Agencia de Protección Ambiental de los Estados Unidos ("EPA" por sus siglas en inglés) como una revisión del Programa de Permisos de Operación Título V de Nuevo México.

Similarmente, 20.2.75 NMAC establece un horario de cuotas de permisos de construcción para avisos de intención, permisos para construir o modificar una fuente, revisiones de permisos de construcción y revisiones técnicas de permisos de construcción existentes bajo 20.2.72 NMAC, Permisos de Construcción, y 20.2.73 NMAC, Requisitos de Aviso de Intención e Inventario de Emisiones. El horario incluye un esquema de puntos basado en la complejidad para varias acciones y un costo por punto, que se multiplica por la suma de todos los puntos aplicables a una acción de permiso determinada para determinar la cuota de permiso requerida. El horario también incluye una cuota anual para fuentes a las que ya se les ha emitido un permiso de construcción. La regla propuesta de sustitución 20.2.75 NMAC revisa el calendario de puntos basado en la complejidad actual, aumentando los puntos para ciertas acciones y agregando puntos para avisos de intención; incrementa el costo por punto utilizado para calcular las cuotas de permisos; aumenta la cuota anual para fuentes que ya han recibido un permiso de construcción e instituye una cuota anual para fuentes que han presentado un aviso de intención; establece una multa por pago tardío de las cuotas anuales; y confirma los costos administrativos de cumplimiento para la aplicación de las regulaciones de calidad del aire de

Nuevo México. Si se adopta, la regla de sustitución 20.2.75 NMAC será enviada a la EPA como una revisión del Plan de Implementación Estatal de Nuevo México.

La audiencia se llevará a cabo de conformidad con 20.1.1 NMAC, Procedimientos de Reglamentación – Junta de Mejora Ambiental; la Ley de Mejora Ambiental, NMSA 1978, Sección 74-1-9; la Ley de Control de Calidad del Aire, NMSA 1978, Sección 74-2-6; las órdenes emitidas por el oficial de audiencias designado por la EIB; y otros procedimientos aplicables.

PARTICIPACIÓN PÚBLICA: Las audiencias y reuniones de la EIB están abiertas al público y se anima al público en general a participar. Todas las personas interesadas tendrán una oportunidad razonable de participar presentando un aviso de intención de presentar testimonio técnico, presentando un registro de comparecencia o participando como miembros del público. "Testimonio técnico" se refiere a testimonios científicos, de ingeniería, económicos o especializados, pero no incluye argumentos legales, comentarios generales o declaraciones de política o posición sobre los asuntos tratados en la audiencia. "Público en general" incluye a cualquier persona que asista a una audiencia y no haya presentado un aviso de intención de presentar testimonio técnico.

Cualquier miembro del público podrá testificar en la audiencia. Toda persona que preste testimonio en la audiencia estará sujeta a contrainterrogatorio sobre el tema de su testimonio directo y sobre cuestiones que afecten su credibilidad. Toda persona que asista a la audiencia tendrá derecho a realizar el contrainterrogatorio que sea necesario para una divulgación completa y veraz de los asuntos tratados en la audiencia. Todos los testimonios se tomarán bajo juramento o afirmación, que podrá realizarse en masa o de forma individual.

TESTIMONIO TÉCNICO:

Cualquier persona que desee presentar testimonio técnico en la audiencia debe presentar un aviso de intención por escrito al Administrador del EIB a más tardar el 20 de Febrero de 2026, de conformidad con la Orden del EIB que Programa la Audiencia, Nombra al Funcionario de la Audiencia y Establece Ciertas Fechas de Presentación (emitida el 23 de Diciembre de 2025), disponible en el sitio web de asuntos archivados de NMED, y deberá ser parte. El aviso de intención deberá: (1) identificar a la persona para la cual testificarán los testigos; (2) identificar a cada testigo técnico que la persona tenga la intención de presentar y declarar las cualificaciones de ese testigo, incluyendo una descripción de su formación educativa y experiencia laboral; (3) si la audiencia se llevará a cabo en múltiples lugares, indicar el o los lugares donde estarán presentes los testigos; (4) incluir una copia del testimonio directo de cada testigo técnico en forma narrativa; (5) incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y (6) enumerar y adjuntar todos los documentos que se prevé que dicha persona presente en la audiencia, incluida cualquier declaración propuesta de motivos para la adopción de las normas. Cualquier persona que presente un aviso de intención deberá entregar una copia al NMED.

REGISTRO DE

COMPARECENCIA: Cualquier persona puede presentar un registro de comparecencia como parte. El registro de comparecencia deberá presentarse ante la administradora de la EIB a más tardar el 20 de Febrero de 2026, de conformidad con la Orden del EIB sobre la Programación de Audiencias, del Funcionario de Audiencias Designado y la Fijación de Determinadas Fechas de Presentación (emitida el 23 de Diciembre de 2025).

COMENTARIOS PÚBLICOS: El público en general podrá testificar mediante comentarios públicos

por escrito o de forma oral en la audiencia. Quienes deseen presentar una declaración por escrito para que conste en actas, en lugar de prestar testimonio oral en la audiencia, deberán presentarla antes de la audiencia o durante la misma. Quienes deseen presentar comentarios públicos por escrito antes de la audiencia pueden hacerlo en línea en <https://nmed.commentinput.com/?id=t8BRr4m76>, envíe por correo electrónico el comentario público por escrito a pamela.jones@env.nm.gov, o envíe un comunicado público por correo postal al Administrador de la EIB, Departamento de Medio Ambiente de Nuevo México – Harold Runnels Building, P.O. Box 5469, Santa Fe, NM 87502. Además, cada día de la audiencia se proporcionará oportunidad para que el público general preste testimonio oral. No se requiere aviso previo del público general para presentar testimonio no técnico en la audiencia. El público en general también puede presentar exhibiciones no técnicas en relación con su comentario público por escrito o testimonio oral, siempre que las exhibiciones no sean excesivamente repetitivas del testimonio y cumplan con 20.1.1.402 NMAC. El funcionario de audiencias designado determinará el proceso y los horarios para que el público general preste testimonio durante la audiencia.

ACCESIBILIDAD: Las personas que necesiten servicios de interpretación de idiomas o que tengan alguna discapacidad y requieran un lector, amplificador, intérprete calificado de lenguaje de señas u otra forma de ayuda o servicio auxiliar para asistir o participar en la audiencia deben comunicarse con el Administrador del EIB al menos 14 días antes de la audiencia o lo antes posible al (505) 660-4305 o pamela.jones@env.nm.gov. Para acceder a este número a través de Relay New Mexico marque 711, o llame al (800) 659-8331 (TTY) o al (800) 659-1779 (voz).

AVISO DE NO

DISCRIMINACIÓN: El NMED no discrimina por motivos de raza, color, nacionalidad, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigen las leyes y regulaciones aplicables. El NMED es responsable de coordinar los esfuerzos de cumplimiento y recibir consultas sobre los requisitos de no discriminación implementados por 40 CFR Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, en su forma enmendada; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas a la Educación de 1972 y la Sección 13 de las Enmiendas a la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación de NMED, puede comunicarse con: Kate Cardenas, coordinadora de no discriminación, Departamento de Medio Ambiente de Nuevo México, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, 505-827-2855, nd.coordinator@env.nm.gov. Si cree que ha sido discriminado con respecto a un programa o actividad del NMED, puede comunicarse con la coordinadora de no discriminación identificada anteriormente o visite <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para aprender cómo y dónde presentar una queja por discriminación.

HEALTH CARE AUTHORITY INCOME SUPPORT DIVISION

AMENDED NOTICE OF HEARING

The Health Care Authority (HCA) Income Support Division (ISD) is amending the Notice of Hearing that was originally posted on State Records Center and Archives (SRCA) New Mexico Register, Volume XXXVI,

Issue 22, November 18, 2025 (Notice). The Notice of Hearing was not posted to the New Mexico HCA website or the Sunshine Portal. This amended notice is issued to ensure publication on both platforms. ISD will hold a hybrid public hearing to receive testimony on COLA Rule will be held pursuant to Section 14-4-5.6 NMSA 1978, on Thursday February 12, 2026, 10:00 am-11:00 am. You may join:

In Person: at HCA Income Support Division Santa Fe County Field Office, 39B Plaza La Prensa, Santa Fe NM 87507.

Virtually from your computer, tablet or smartphone by logging into: **Microsoft Teams** Need help? **Join the meeting now Meeting ID:** 226 706 625 662 44 **Passcode:** JC7oF2Ns You may join virtually from your computer, tablet or smartphone: +1 505-312-4308,,580736416#_United States, Albuquerque (888) 506-1357,,580736416#_United States (Toll-free) Find a local number Phone conference ID: 580 736 416#

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the American Disabilities Act Coordinator, at Office-505-709-5468, Fax- 505-827-6286 or through the New Mexico Relay system, toll free at #711. The Authority requests at least a 10-day advance notice to provide the requested alternative formats and special accommodations.

Individuals who do not wish to attend the hearing may submit written or recorded comments by the following ways:

- * Drop of at HCA Income Support Division, Sandoval County Office Attn: Monica Pineda at HCA Income Support Division Santa Fe County Field Office, 39B Plaza La Prensa, Santa Fe NM 87507.
- * Calling (505) 819-8118.
- * Mailing comments to: Income Support Division: Attn,

Monica Pineda at P.O. Box 2348, Santa Fe, NM 87504-2348.

* Emailed electronically to: HCA-isdrules@hca.nm.gov.

Written or recorded comments must be received by 5:00 p.m. on the date of the hearing, February 12, 2026. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments will be posted on the agency website at Income Support Division Registers - New Mexico Health Care Authority within 3 days of receipt.

ISD implemented a temporary emergency rule which was effective October 1, 2025, this does not permanently amend or repeal the existing rule and will only remain in effect until this permanent rule takes effect under the normal rule making process.

Each year the Authority is required to make changes to the income and resource eligibility standards as well as the deduction amounts available to otherwise eligible households. These amounts are determined by the United States Department of Agriculture (USDA) Food and Nutrition Services (FNS).

The Authority received notification of the adjusted amounts on August 13, 2025, and made the adjustments effective for benefit month October 2025 for Federal Fiscal Year (FFY) 2026 to comply with federal law and regulations. Because the Authority received the notice of the federal Cost-of-Living Adjustments (COLA) with less than sixty days to implement the changes to be effective on October 1 and had insufficient time to follow the regular rulemaking process an emergency rule was implemented to remain federally compliant as failure to implement by October 1 would place the Authority in violation of Federal law.

The rules that will be amended New Mexico Administrative Code (NMAC) sections:

8.106.500

Section 1:

- * Changing New Mexico Human Services Department to New Mexico Health Care Authority
- * No other language in section 1 is under review at this time.

Section 8:

- * Updating Subsection B. "Gross income limits"
- (2) The gross income limit for the size of the benefit group is as follows:
 - (a) one person
[~~\$1,067~~] \$1,109
 - (b) two persons
[~~\$1,448~~] \$1,499
 - (c) three persons
[~~\$1,829~~] \$1,888
 - (d) four persons
[~~\$2,210~~] \$2,278
 - (e) five persons
[~~\$2,592~~] \$2,667
 - (f) six persons
[~~\$2,972~~] \$3,057
 - (g) seven persons
[~~\$3,353~~] \$3,447
 - (h) eight persons
[~~\$3,735~~] \$3,836
 - (i) add [~~\$382~~] \$390 for each additional person.
- * Updating Subsection H by deleting human services department and updating to health care authority
- * No other language in section 8 is under review at this time.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations necessary to carry out the duties of the Authority and its divisions.

Regulations issued pursuant to the act are contained in 45 CFR Parts 200-299. Administration of the HCA, including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).

The Authority promulgated these emergency rules and made them effective October 1, 2025, to be in compliance with Federal law. The emergency rulemaking process is necessary to avoid placing HCA in violation of federal law; the Authority is now proposing regular final rule.

The Health Care Authority Register Vol. 48 No. 39 outlining the proposed rule regulations is available on the HSD's website at: Income Support Division Registers – New Mexico Health Care Authority.

PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING DOCKET NO. 24-00258-UT

The New Mexico Public Regulation Commission ("Commission") gives notice of its initiation of a formal rulemaking to promulgate rule amendments at Title 17, Chapter 9, Part 573 of the New Mexico Administrative Code, entitled "Community Solar." Rule amendments which may eventually be adopted by the Commission may include all, part, or none of the language in the proposed rule. The Commission will also consider additional and alternative amendments to the rule.

Summary and concise statement of proposed rule amendments:

The Commission proposes amendments to the following sections of 17.9.573 NMAC: 7 (Definitions), 10 (Community Solar Facility Requirements), 11 (Statewide Capacity Program Caps), 12 (Process for Selection of Community Solar Facilities), 13 (Interconnection and Administrative Costs), 14 (Registration of Subscriber Organizations), 15 (Special Subscriber Provisions), 16 (Subscriber Protections), 17 (Subscription Agreements), and 20 (Community Solar Bill Credit Rate). The Commission also proposes adding new sections to the rule concerning the calculation of the three-percent limit on subsidization and consolidated billing.

Legal authority: Paragraph (10) of Subsection B of Section 62-19-9 and Section 62-16B-7 NMSA 1978.

How a copy of the full text of the proposed rule amendments may be obtained: A copy of the full text of the proposed rule amendments and instructions on how to access the complete rulemaking record, reports, and other items filed in the commission's e-docket system may be obtained from the Rulemaking Proceedings section of the Commission's website at <https://www.prc.nm.gov/rulemaking-proceedings/> under Docket No. 24-00258-UT or by calling LaurieAnn Santillanes in the Office of General Counsel at (505) 670-4830.

How a person may comment on the proposed rule amendments, where comments will be received, and when comments are due: Written initial comments may be filed no later than **February 27, 2026**, written response comments may be filed no later than **March 20, 2026**. Filed comments shall refer to Docket No. 24-00258-UT. Comments may be electronically filed by sending them in PDF format to prc.records@prc.nm.gov. All written comments will be posted on the Commission's e-Docket website within three days of their receipt by the Commission's Records Management Bureau.

The record of this case closes on **April 3, 2026**. From that date through the completion of this proceeding, rulemaking participants shall be forbidden from communicating with the Commission or its representatives concerning substantive issues in this proceeding.

When and where a public rule hearing will be held and how a person may participate in the hearing: A public comment hearing on the proposed rule amendments and any proposed alternatives, to be presided over by the Commission or its designee, shall be held beginning at **1:00 P.M. on March 25, 2026, at the New Mexico State Capitol, Room 309, 490 Old Santa Fe Trail, Santa Fe, NM 87501**, and via the Zoom video-conferencing platform.

Any interested person who wishes to make a comment may do so either in person or via Zoom. Those who wish to comment via Zoom at the hearing should contact Patrick Rodriguez via email at public.comment@prc.nm.gov or by phone at (505) 490-7910 as soon as possible before the start of the hearing to sign up as a commenter. The Zoom invitation will include a call-in number for those commenters who are unable to access Zoom's video-conferencing platform. The public comment hearing shall be held to receive oral comments relevant to this rulemaking proceeding. All commenters may be limited in time to speak, subject to the discretion of the Commission or its designee. The Commission or its designee may also determine that a spokesperson should be designated to speak on behalf of an organization, a group, or a group of individuals that share the same message or seek the same goals, in order to maximize the efficiency of the public hearing. No testimony or other evidence shall be taken at the hearing as this is a rulemaking proceeding. A court reporter will prepare a transcript of the hearing for filing in this docket.

Any person with a disability requiring special assistance to participate in the hearing should contact the **Consumer Relations Division of the Commission at (505) 827-8019** as soon as possible prior to the commencement of the hearing.

Technical information that served as a basis for the proposed rule and how the information can be obtained: A Review of Value of Solar Studies In Theory and In Practice, Lawrence Berkeley National Laboratory (Jan. 2025); NARUC Manual on Distributed Energy Resources Rate Design and Compensation, NARUC Staff Subcommittee on Rate Design (2016); Review of the Public Service Commission of the District of Columbia Value of Distributed Energy Resource Study, The District of Columbia Department of Energy and Environment (July 2024); Community Solar Consolidated Billing – Review

of State Requirements, Policies, and Key Considerations, National Association of State Energy Officials (May 2023); and Community Solar Consolidated Billing: An Exploration of Implementation and Alternatives, National Renewable Energy Laboratory and Lawrence Berkeley National Laboratory (Dec. 2024). This technical information is available to the public at <https://www.prc.nm.gov/rulemaking-proceedings/> (go to Active Rulemakings and search for 24-00258-UT).

**REGULATION
AND LICENSING
DEPARTMENT
DENTAL HEALTH CARE,
BOARD OF**

**NOTICE OF PUBLIC RULE
HEARING AND BOARD
MEETING**

The New Mexico Board of Dental Health Care will hold a rule hearing on February 20, 2026, at 9:00 a.m., immediately followed by a regular board meeting for the adoption of the proposed rules listed below. The hearing and subsequent committee and board meeting will take place at the Regulation and Licensing Department, located at 2550 Cerrillo Road, Santa Fe, NM, in the Rio Grande Conference Room.

The hearing and subsequent Board of Dental Health Care meeting will also be accessed virtually via Microsoft Teams for those desiring to attend virtually.

Meeting Link: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>

Meeting ID: 268 620 588 349 29
Passcode: He2Ka6X9

Dial in by phone
+1 505-312-4308, United States,
Albuquerque

Phone conference ID: 832 032 41#

The purpose of the rule hearing is to consider the initiation of rulemaking for the following rules:

Rule 16.5.1 General Provisions
Rule 16.5.3 Mandatory Reporting Requirements
Rule 16.5.5 Dentists, Fees
Rule 16.5.6 Dentists, Licensure by Exam
Rule 16.5.7 Dentists, Temporary or Public Service Licensure
Rule 16.5.8 Dentists, Licensure by Credentials
Rule 16.5.9 Non-Dentist Owners
Rule 16.5.10 Dentists, Continuing Education Requirements
Rule 16.5.11 Dentists, License Expiration and Renewal
Rule 16.5.15 Dentists, Anesthesia Sedation Administration
Rule 16.5.16 Dentists, Disciplinary Proceedings, License Revocation or Suspension for Disciplinary Actions
Rule 16.5.17 Dentists and Dental Hygienists, Collaborative Practice
Rule 16.5.18 Dental Hygienists, Fees
Rule 16.5.19 Dental Hygienists, Licensure by Examination
Rule 16.5.20 Dental Hygienists, Licensure by Credentials
Rule 16.5.23 Dental Hygienists, Continuing Education Requirements
Rule 16.5.24 Dental Hygienists, License Expiration and Renewal
Rule 16.5.28 Dental Hygienists, Local Anesthesia Certification
Rule 16.5.32 Dental Assistants, Fees
Rule 16.5.33 Dental Assistants, Requirements for Certification
Rule 16.5.36 Dental Assistants, Continuing Education Requirements
Rule 16.5.41 Expanded Function Dental Auxiliary, Fees
Rule 16.5.44 Expanded Function Dental Auxiliary, Continuing Education Requirements
Rule 16.5.49 Community Dental Health Coordinator, Fees
Rule 16.5.52 Community Dental Health Coordinator, Continuing Education Requirements
Rule 16.5.59 Expedited Licensure and Expedited Licensure for Military Service Members, Spouses, Dependent Children and Veterans
Rule 16.5.60 Dental Therapists, Fees
Rule 16.5.62 Dental Therapists, Continuing Education Requirements

On Tuesday, January 13, 2026, copies of the proposed rules may be obtained through the New Mexico Board of Dental Health Care website <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/dental-health-care/board-information/dhc-board-meetings/> or by contacting Kathy Ortiz, Board Administrator, at dental.board@rld.nm.gov

The New Mexico Board of Dental Health Care and the Regulation and Licensing Department will begin accepting written public comment regarding the proposed rule changes beginning Tuesday, January 13, 2026, and ending Friday, February 20, 2026, at 9:00 a.m. Written public comment may be submitted either by email to Dental.board@rld.nm.gov or by postal mail to the following address: New Mexico Board of Dental Health Care
P.O. Box 25101
Santa Fe, NM 87504

Written comments received during the public comment period (beginning January 13, 2026, and ending February 20, 2026) will be posted to the website page linked above. Public comments will also be accepted during the rule hearing and may be submitted in writing or presented orally by those attending in-person. The members of the New Mexico Board of Dental Health Care will not enter substantive discussion of public comments during the rule hearing but will consider and deliberate any public comment during the regular board meeting immediately following the conclusion of the public rule hearing.

The agenda for the New Mexico Board of Dental Health Care regular meeting, which will begin immediately after the public rule hearing, will be available no less than 72 hours prior to the meeting, and available on the website linked above or by contacting the Board Administrator, Kathy Ortiz.

If you are an individual with a

disability who needs a reader, amplifier, qualified signed language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or the regular board meeting, please contact the Board Administrator, Kathy Ortiz at (505) 476-4622 at least 7 days prior to the rule hearing and regular board meeting. Public documents, including the proposed rules, meeting agenda and minutes, can be provided in various accessible formats.

For inclement weather: If the New Mexico state offices are placed on a two-hour delay to inclement weather, the rule hearing will be pushed back two hours from the noticed hearing time. If New Mexico state offices are closed due to inclement weather, the rule hearing will be rescheduled as soon as possible.

Statutory Authority: The rule changes are authorized by the Board of Dental Health Care Act §§61-5A-1 through -30, NMSA, which provides explicit authority for the New Mexico Board of Dental Health Care to protect public health and safety and adopt rules for the administration of the Act. The rulemaking and public rule hearing is governed by the State Rules Act, Sections 14-4-1 through 14-4-11 NMSA 1978, and the Default Procedural Rule for Rulemaking promulgated by the New Mexico Department of Justice, Parts 1.24.25 through 1.24.25.16 NMAC.

Purpose of Proposed Rules: The proposed changes will generally align the rules with current procedures, update some requirements for initial licensure and renewals, define terms with more specificity, clarify the qualifications for each license type, update administrative fees, and ensure all license types are included in the adverse actions rule. 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, and to generally satisfy the Board's statutory

obligation to promote, preserve and protect public health, safety and welfare.

Summary of Proposed Changes:

16.5.1 NMAC - General Provisions. Adds definition for ADEX as an approved regional approved exam for written and clinical examinations; Adds National commission on recognition of dental specialties and certifying boards (NCRDSCB) as the specified recognition of dental specialties; adds email address that must be updated as part of the licensee's address on file; adds virtual platforms for board meeting participation; clarify guidelines for continuing education and retention schedule for continuing education; provides clarification and guidelines for patient record keeping.

16.5.3 NMAC - Mandatory Reporting Requirements. Adds compact commissions on mandatory reporting requirements.

16.5.5 NMAC – Dentists, Fees. Adds electronic processing fees and return payment fee; removes copies of statute or rules fee, copy fees and mailing labels of current dental licensees fee.

16.5.6 NMAC – Dentists, Licensure by Examination. Removes requirement to contact board office to take the jurisprudence exam, it is now part of the application; adds national recognized specialty entity NCRDSCB, adds proof of course in ethics or jurisprudence in past 12 months; adds requirement to include sterilization procedures in the infection control technique; changes accepted American Safety and Health Institute to include Health & Safety Institute (HSI) as an approved entity; reorganizes documentation required for easier understanding.

16.5.7 NMAC – Dentist, Temporary or Public Service Licensure. Adds national recognized specialty entity NCRDSCB; adds proof of course in ethics or jurisprudence in past 12 months; adds requirement to include sterilization procedures in the infection control technique; changes accepted American Safety and Health Institute to include Health & Safety

Institute (HSI) as an approved entity; reorganizes required documentation for easier understanding.

16.5.8 NMAC – Dentist, Licensure by Credentials. Adds national recognized specialty entity NCRDSCB; adds proof of course in ethics or jurisprudence in past 12 months; adds requirement to include sterilization procedures in the infection control technique; changes accepted American Safety and Health Institute to include Health & Safety Institute (HSI) as an approved entity; reorganizes required documentation for easier understanding.

16.5.9 NMAC – Non-dentist owners. Clarifies definition and responsibilities for non-dentist owner(s); Clarifies documentation required for licensure as a non-dentist owner for all entities; adds electronic processing fees, jurisprudence exam re-take fee and return payment fee; clarifies the prerequisites for non-dentist owner.

16.5.10 NMAC – Dentists, Continuing Education Requirements. Clarifies requirements for continuing education requirements; adds ethics and jurisprudence as required courses for continuing education; changes retention for continuing education to 4 years.

16.5.11 NMAC – Dentists, License Expiration and Renewal. Adds requirement for licensees to comply with part 5, sections 8 and 10 for continuing education requirements; changes renewal completed application from being post-marked to submitted on or before July 1, of the renewal year.

16.5.15 NMAC - Dentists, Anesthesia Sedation Administration. Clarifies permit requirements to administer anesthesia; changes educational qualifications to administer moderate sedations to include post-doctoral program at a CODA accredited school or residency and clarifies training which did not take place in a CODA accredited dental school, accredited teaching hospital or other CODA-accredited based training that is eligible for a restricted midazolam-only moderate parenteral sedation permit with approval from the

anesthesia committee and board.

16.5.16 NMAC – Dentists, Disciplinary Proceedings, License Revocation or Suspense for Disciplinary Actions. Changes reference from Americal dental association code of ethics to principles of ethics and code of professional conduct; adds adverse actions to include the compact commission; adds negligent supervision and aiding and abetting of a dental therapist, community dental health coordinator, expanded functions dental auxiliary or dental student that were not included in previous rule; revises fraudulent record keeping to include incomplete record keeping.

16.5.17 NMAC - Dentists and Dental Hygienists, Collaborative Practice. Corrects spelling on title and minor spelling throughout the part; revises 15 hours of continuing education which includes infection control and medical emergencies to add pediatric and adult medical emergencies; removes bleaching from the list of collaborative practice dental hygienist shall not list; revises and clarified standard collaborative practice protocols.

16.5.18 NMAC – Dentists, Fees. Adds electronic processing fees and return payment fee; removes copies cost and mailing labels of current dental hygiene licensees.

16.5.19 NMAC - Dental Hygienists, Licensure by Examination. Adds national recognized specialty entity NCRDSCB, adds proof of course in ethics or jurisprudence in past 12 months; adds requirement to include sterilization procedures in the infection control technique; changes accepted American Safety and Health Institute to include Health & Safety Institute (HSI) as an approved entity; reorganizes required documentation for easier understanding.

16.5.20 NMAC - Dental Hygienists, Licensure by Credentials. Adds requirement requiring clinical examination approved by the committee and ratified by the board; adds proof of course in ethics or jurisprudence in past 12 months; adds requirement to include sterilization procedures in the

infection control technique; changes accepted American Safety and Health Institute to include Health & Safety Institute (HSI) as an approved entity; reorganizes required documentation for easier understanding.

16.5.23 NMAC – Dental Hygienists, Continuing Education Requirements. Clarifies requirements for continuing education; adds ethics and jurisprudence as required courses for continuing education; changes retention for continuing education to 4 years.

16.5.24 NMAC – Dental Hygienists, License Expiration and Renewals. Adds requirement for licensees to comply with part 23, in addition to part 5, for continuing education requirements; removes post-marked requirement since all renewal applications are submitted online.

16.5.28 NMAC - Dental Hygienists, Local Anesthesia Certification. Spelling corrections were made throughout the part; clarifies supervision requirements for continuing education.

16.5.32 NMAC – Dental Assistants, Fees. adds electronic processing fees and return payment fee; removes copies cost, DXTR rental fees and mailing labels of current certificate holders.

16.5.33 NMAC – Dental Assistants Requirements for Certification. Removes requirements to submit FMX as part of certification requirement, revises the pathway for certification to remove barriers and certification delays; clarifies certification by credentials; reorganizes required documentation for easier understanding; deletes re-examination procedure.

16.5.36 NMAC – Dental Assistants, Continuing Education Requirements. Clarifies requirements for continuing education; adds proof of course in ethics or New Mexico jurisprudence; adds requirement to include sterilization procedures in the infection control technique; changes accepted American Safety and Health Institute to include Health & Safety Institute (HSI) as an approved entity; changes retention for continuing education to 4 years.

16.5.41 NMAC – Expanded Function Dental Auxiliary, Fees. Adds electronic processing fees and return payment fee; removes copies cost and labels of current certificate holders.

16.5.44 NMAC – Expanded Function Dental Auxiliary, Continuing Education Requirements. Clarifies requirements for continuing education; adds proof of course in ethics or New Mexico jurisprudence; adds requirement to include sterilization procedures in the infection control technique; changes accepted American Safety and Health Institute to include Health & Safety Institute (HSI) as an approved entity; changes retention for continuing education to 4 years.

16.5.49 NMAC – Community Dental Health Coordinator, Fees. Adds electronic processing fees and return payment fee; removes copies cost and labels of current certificate holders.

16.5.52 NMAC – Community Dental Health Coordinator, Continuing Education Requirements. Clarifies requirements for continuing education; adds proof of course in ethics or New Mexico jurisprudence; changes accepted American Safety and Health Institute to include Health & Safety Institute (HSI) as an approved entity; changes retention for continuing education to 4 years.

16.5.59 NMAC - Expedited Licensure and Expedited Licensure For Military Service Members, Spouses, Dependent Children and Veterans. Adds additional states to the list of disapproved licensing jurisdictions eligible for dentists expediate licensure: Arizona, Colorado, Kentucky, Minnesota, New York, Oregon, Virginia and Wisconsin; Adds additional states to the list of disapproved licensing jurisdictions eligible for dental hygienists expediate licensure: Arizona, California, Colorado, Kentucky, and Massachusetts; Adds requirement to take the New Mexico jurisprudence exam included on the application.

16.5.60 NMAC – Dental Therapists, Fees. Adds electronic processing fees and return payment fee; removes copies cost and mailing labels of

current certificate holders.
16.5.62 NMAC – Dental Therapists, Continuing Education requirements. Clarifies requirements for continuing education; changes retention for continuing education to 4 years.

TRANSPORTATION, DEPARTMENT OF

NOTICE OF PROPOSED RULEMAKING

The New Mexico Department of Transportation (NMDOT) is proposing to repeal and replace Rule 18.27.2 NMAC, Division 100-General Provisions Standard Specifications for Highway and Bridge Construction.

Purpose: Pursuant to an agreement between NMDOT and the Federal Highway Administration, and New Mexico State Transportation Commission Policy 4, dated November 21, 2024, NMDOT Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction shall be reviewed by the appropriate Department division or other organization unit every five years. The review found that 18.27.2 NMAC should be purposed as a repeal and replace Rule, and approval of the initial rulemaking action for the rule was granted to NMDOT by the New Mexico State Transportation Commission on March 30, 2023, pursuant to Section 67-3-11, Subsection C of Section 67-3-12 and Section 67-8-13 NMSA 1978.

Summary of Full Text: Rule 18.27.2 NMAC incorporates the NMDOT contract administration and general provisions of the NMDOT Standard Specifications for Highway and Bridge Construction, Division 100.

Full Text of the Proposed Rule: A copy of the full text of the repeal and replace rule may be found on the NMDOT website for 30 days prior to the public hearing scheduled in this rulemaking, February 20, 2026, under the following tabs:

Legal Notices - <https://www.dot.nm.gov/public-legal-notice>, and **Public Notices** - <https://www.dot.nm.gov/public-involvement>. A copy of the proposed rule may also be requested by contacting Jessica Hunter by phone: (575) 343-6125 or by email: Jessica.Hunter@dot.nm.gov. A reasonable fee may be charged for printed copies.

Rulemaking Hearing: NMDOT will hold a public hearing for the purpose of receiving oral and written public comments from interested parties on the proposed repeal and replace Rule, 18.27.2 NMAC. The hearing is scheduled for Friday, February 20, 2026, from 9:00 a.m. to 12:00 p.m. at the NMDOT, General Office, Training Rooms 1 and 2, 1120 Cerrillos Road, Santa Fe, NM 87504-1149. Any further information regarding the public hearing may be provided on the NMDOT website under the following tabs:

Legal Notices - <https://www.dot.nm.gov/public-legal-notice>, and **Public Notices** - <https://www.dot.nm.gov/public-involvement>.

Written Comments: To submit written comments on or before February 20, 2026, please send to: Jessica Hunter, New Mexico Department of Transportation, 750 N. Solano Dr., Las Cruces, NM, 88001, Phone: (575) 343-6125; Email: Jessica.Hunter@dot.nm.gov. Written comments will be accepted from the date this notice is published in the New Mexico Register, January 13, 2026, until the close of the hearing scheduled in this rulemaking, February 20, 2026. If you plan to submit written comments, please make sure any documentation contains your name, phone number and email, and if you plan to submit written comments at the hearing, please bring three copies of any documents to the hearing. If submitting written comments by email, please indicate the rule 18.27.2 NMAC in the subject line. Oral comments will only be accepted at the public hearing, and may be subject to time limitations. After the close of the

hearing scheduled in this rulemaking, the rulemaking record will be closed, and no other comments will be accepted. All written comments will be posted on the NMDOT's website within three days of receipt.

Accommodations: Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing may contact: Jessica Hunter by phone: (575) 343-6125 or by email: Jessica.Hunter@dot.nm.gov at least ten days before the hearing.

WORKERS' COMPENSATION ADMINISTRATION

NOTICE OF PROPOSED RULEMAKING

The New Mexico Workers' Compensation Administration ("WCA") will conduct an in-person public hearing on the adoption of new WCA rules on:

Friday, February 27, 2026, 1:30 p.m., Workers' Compensation Administration, 2410 Centre Avenue SE, Albuquerque, NM 87106.

A copy of the proposed changes may be found on the WCA website at: <http://www.workerscomp.nm.gov/>. For a copy by e-mail, contact the WCA General Counsel Office at gc.clerk@wca.nm.gov. For a copy by mail, please submit a self-addressed, stamped envelope with your request to WCA General Counsel Office, 2410 Centre Ave. SE, Albuquerque, NM 87106. Comments should be sent to WCA General Counsel Office, 2410 Centre Ave. SE, Albuquerque, NM 87106 or gc.clerk@wca.nm.gov.

Comments may be made at the public hearing, and written comments will be accepted between February 13, 2026 8:00 am until 5:00pm on March 17, 2026. The Director will take all comments into consideration.

Purpose and summary of the Proposed Rules:

The WCA is proposing to amend its rules regarding:

Part 4, Claims Resolution, Section 11.4.4.15 (Approval of Attorney Fees and Liens) to prescribe with greater particularity the elements required to be pled in an attorney fee petition when the amount sought is contested or equal to or greater than the statutory attorney fee cap.

Part 7, Payments for Health Care Services, Section 11.4.7.12 (Inpatient Admissions, Case Management and Utilization Review) to clarify the obligations of a nurse case manager when communicating during nurse case management services assigned by the WCA.

All proposed rules will take effect April 7, 2026.

The Director of the WCA has authority to adopt reasonable rules pursuant to Section 52-5-4 NMSA 1978 (2003).

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aide or service to attend or attend or participate in the hearing or meetings, please contact the General Counsel Office at gc.clerk@wca.nm.gov. Or you may inquire about assistance through the New Mexico relay network at 1-800-659-1779 or <https://sharenm.org/relay-new-mexico>.

**End of Notices of
Rulemaking and
Proposed Rules**

Adopted Rules

Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico Register as provided in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

ENVIRONMENT DEPARTMENT

The New Mexico Environment Department repealed its rule Hemp Extraction, Production, Transportation, Warehousing, and Testing, 20.10.2 NMAC, filed 12/29/2025, and replaced it with a new rule entitled Hemp Extraction, Production, Transportation, Warehousing, and Testing, 20.10.2 NMAC, adopted 12/18/2025 and effective 1/28/2026.

ENVIRONMENT DEPARTMENT

TITLE 20 ENVIRONMENTAL PROTECTION CHAPTER 10 HEMP POST- HARVEST PROCESSING PART 2 HEMP EXTRACTION, PRODUCTION, TRANSPORTATION, WAREHOUSING, AND TESTING

20.10.2.1 ISSUING

AGENCY: New Mexico Environment Department, P.O. Box 5469, Santa Fe, New Mexico 87502, Telephone No. (505) 827-2855.
[20.10.2.1 NMAC - Rp, 20.10.2.1 NMAC, 1/28/2026]

20.10.2.2 SCOPE: All individuals, businesses, agencies, institutions, or other entities engaged in the transportation, extraction, storage, or processing of hemp products in New Mexico.
[20.10.2.2 NMAC - Rp, 20.10.2.2 NMAC, 1/28/2026]

20.10.2.3 STATUTORY AUTHORITY: Section 76-24-8 NMSA 1978 authorizes the environment department to issue

permits to extract, process, or engage in other manufacturing activities regarding hemp and directs the department to adopt permitting rules that include fees.
[20.10.2.3 NMAC - Rp, 20.10.2.3 NMAC, 1/28/2026]

20.10.2.4 DURATION:

Permanent.
[20.10.2.4 NMAC - Rp, 20.10.2.4 NMAC, 1/28/2026]

20.10.2.5 EFFECTIVE

DATE: January 28, 2026, unless a later date is cited at the end of a section.
[20.10.2.5 NMAC - Rp, 20.10.2.5 NMAC, 1/28/2026]

20.10.2.6 OBJECTIVE:

To establish uniform standards for the transportation, extraction, processing, and testing of hemp products for the purpose of ensuring the safe manufacture and accurate presentation of hemp products for human consumption, absorption, and inhalation.
[20.10.2.6 NMAC - Rp, 20.10.2.6 NMAC, 1/28/2026]

20.10.2.7 DEFINITIONS:

A. "Act" means the Hemp Manufacturing Act, Section 76-24-1, et seq., NMSA 1978.

B. "Adulterated" has the meaning stated in the New Mexico Food Act, Section 25-2-10 NMSA 1978.

C. "Applicant" means a person who has submitted a hemp facility application to the regulatory authority.

D. "Application" means documents provided by, and submitted to, the regulatory authority by an applicant as part of the process for obtaining a permit to extract, process, or engage in other

manufacturing activities regarding hemp or hemp products.

E. "Approved" means acceptable to the regulatory authority based on the regulatory authority's determination of conformity with principles, practices, and generally recognized standards that protect public health and compliance with the requirements of this part and the act.

F. "Blend" means to combine into an integrated whole.

G. "Board" means the environmental improvement board.

H. "Broad spectrum" means hemp extract, hemp intermediate product, or hemp finished product that contains multiple cannabinoids, but where the THC has been removed, and the extract or finished product contains no more than five thousandths of one percent (0.005%) total THC.

I. "Cannabis sativa L." means the plant cannabis sativa L. and any part of the plant, whether growing or not.

J. "CBD" means cannabidiol (Chemical Abstracts Service Number 13956-29-1).

K. "Certificate of analysis" or "COA" means an official certificate issued by a hemp laboratory signed by an authorized official of the hemp laboratory that guarantees the results of the laboratory's testing of a sample.

L. "Conditional employee" means a potential hemp employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential hemp employees who may be suffering from a disease that may be transmitted through hemp, hemp extract, hemp-derived material, or hemp finished product and done in compliance with Title 1 of the

Americans with Disabilities Act of 1990.

M. “Consumer”

means a person who is a member of the public, takes possession of hemp finished product, is not functioning in the capacity of an operator of a hemp facility, and does not offer the hemp finished product for resale.

N. “Cosmetic”

means an article intended to be rubbed, poured, sprinkled, sprayed on, or otherwise applied to the human body.

O. “Disposition”

means the storing, transferring to another person, or disposal of a product or substance regulated by this part or the act.

P. “Drinking water”

means water that meets criteria as specified in 20.7.10 NMAC. Drinking water is traditionally known as “potable water” and includes the term “water” except where the term used connotes that the water is not potable, such as “boiler water,” “mop water,” “rainwater,” “wastewater,” and “non-drinking” water.

Q. “Employee”

means the permit holder, person in charge, hemp employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a hemp facility.

R. “Food handler

card” means a card issued to an individual after successful completion of a food handler training program to function as a manufacturing employee.

S. “Food handler

training program” means an ANSI/ASTM E2659-09 accredited food handler training certificate program.

T. “Full spectrum”

means hemp extract or hemp finished product containing all phytochemicals, trace cannabinoids, terpenes, essential oils, and other compounds found naturally in hemp, processed without the intentional removal or addition of any compound or cannabinoid.

U. “Hemp”

means the plant cannabis sativa L. and any part

of that plant, including seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a THC concentration of not more than three-tenths percent on a dry weight basis.

V. “Hemp extract”

means oil and extracts derived from hemp, containing THC in any concentration, including cannabidiol, cannabidiolic acid, and other identified and non-identified compounds.

W. “Hemp extraction facility” means an operation that produces hemp extract.

X. “Hemp facility”

means a hemp extraction facility, hemp manufacturing facility, hemp retail manufacturer, or hemp warehouse.

Y. “Hemp finished

product” means a product intended for retail sale to consumers for human consumption, cosmetics, or inhalation that contains hemp or hemp extract. Hemp finished product does not include products manufactured for research and development purposes or products provided to another hemp facility or hemp retailer as samples that will not be used in the formulation of another hemp finished product or provided to consumers.

Z. “Hemp harvest

certificate” means a document issued by the New Mexico department of agriculture to a person licensed to harvest hemp for distribution or sale certifying that a quantity of hemp meets the THC concentration required pursuant to 21.20.3 NMAC.

AA. “Hemp

laboratory” means an analytical laboratory approved by the regulatory authority to conduct laboratory analysis of hemp products.

BB. “Hemp

manufacturing facility” means an operation, other than a hemp extraction facility, hemp retail manufacturer, or hemp warehouse that produces or repackages hemp products, other than hemp extract, and provides hemp products for sale or distribution to other business entities.

CC. “Hemp

intermediate product” means a product containing multiple ingredients, including hemp or hemp extract, that will be incorporated into a hemp finished product.

DD. “Hemp product”

means hemp, hemp extract, hemp intermediate product, or hemp finished product.

EE. “Hemp retail

manufacturer” means an operation that produces or repackages hemp finished products and provides them directly to consumers.

FF. “Hemp retailer”

means a person that provides hemp finished products directly to consumers.

GG. “Hemp tincture”

means a liquid hemp finished product packaged in a container of four fluid ounces or less that contains a non-potable solution of at least twenty-five percent non-denatured alcohol, glycerin, plant-based oil, or concentrated syrup; hemp extract; and may contain additional ingredients that do not contain added sweeteners and is intended for human consumption.

HH. “Hemp

transportation manifest” means a form used for identifying the quantity, composition, origin, and destination of hemp, hemp extract, or hemp intermediate product during transportation.

II. “Hemp

warehouse” means a location, other than a hemp extraction facility, hemp manufacturing facility, or hemp retail manufacturer where hemp extract is stored.

JJ. “Human

consumption” means the process of taking food, drink or another substance into the body by swallowing or absorbing it.

KK. “Imminent health

hazard” means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

(1) the number of potential injuries; and
(2) the nature, severity, and duration of the anticipated injury.

LL. “Labeling” means the information written, printed, displayed on, or accompanying a hemp finished product that provides details about the product’s identity, contents, and usage.

MM. “Law” means applicable local, state, and federal statutes, regulations, and ordinances.

NN. “Licensee” means a person that possesses a valid license for hemp production issued by NMDA.

OO. “Manufacturing employee” means an individual working with unpackaged hemp, hemp extract, hemp intermediate product, or other ingredients used to produce hemp finished products, processing equipment or utensils, or surfaces that contact unpackaged hemp, hemp extract, hemp intermediate product, or other ingredients used to produce hemp finished products.

PP. “Misbranded” has the meaning stated in the New Mexico Food Act, Section 25-2-11 NMSA 1978.

QQ. “NMDA” means the New Mexico department of agriculture.

RR. “Operational plan” means a written plan outlining the operational procedures of a hemp facility, including, but not limited to product formulation, production steps, safety requirements, cleaning and sanitization, records and record keeping, product distribution, labeling, and recall procedures that will be implemented by a hemp facility when processing hemp product.

SS. “Permit” means the document issued by the regulatory authority that authorizes a person to operate a hemp facility.

TT. “Permit holder” means the entity that:

(1) is legally responsible for the operation of the hemp facility such as the owner, the owner’s agent, or other person; and

(2) possesses a valid permit to operate a hemp facility.

UU. “Person” means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

VV. “Person in charge” means the individual present at a hemp facility who is responsible for the operation at the time of inspection.

WW. “Personal care items” means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person’s health, hygiene, or appearance, and includes items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

XX. “Poisonous or toxic materials” means substances that are not intended for ingestion and are included in four categories:

(1) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(2) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;

(3) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(4) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

YY. “Premises” means:

(1) The physical facility, its contents, and the contiguous land or property under the control of the permit hold; or

(2) The physical facility, its contents, and the land or property not described in Paragraph (1) of this definition if its facilities and contents are under the control of the permit holder and

may impact hemp facility personnel, facilities, or operations, and a hemp facility is only one component of a larger operation.

ZZ. “Process authority” means an approved expert in the processes for controlling pathogenic microorganisms in food and/or hemp product, and as such, is qualified by education, training and experience to evaluate all of the aspects of pathogen control measures and determine if such control measures, when properly implemented, will control pathogens effectively.

AAA. “Public water system” has the meaning stated in 20.7.10 NMAC.

BBB. “Recall” means a return of hemp product that is either known or suspected to be adulterated, misbranded, or otherwise unsafe for human consumption, to the manufacturer or distributor, or that is disposed of by approved methods.

CCC. “Regulatory authority” means the New Mexico environment department.

DDD. “Remediation” means a process or technique applied to a hemp product to remove heavy metals, pesticides or solvents, and does not include dilution.

EEE. “RLD / LP gas bureau” means the New Mexico regulation and licensing department, LP gas bureau.

FFF. “Secretary” means the secretary of New Mexico environment department or a designee.

GGG. “Semi-synthetic cannabinoid” means a substance that is created by a chemical reaction that converts one cannabinoid extracted from a *Cannabis sativa* L. directly into a different cannabinoid. Semi-synthetic cannabinoid does not include cannabinoids produced via decarboxylation of naturally occurring acidic forms of cannabinoids, such as Tetrahydrocannabinolic acid into the corresponding neutral cannabinoid, such as THC, through the use of heat or light, without the use of chemical reagents or catalysts, and that results in no other chemical change.

HHH. “Sewage” means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

III. “Synthetic cannabinoid” means a cannabinoid-like compound that was produced by using chemical synthesis, chemical modification, or chemical conversion. Synthetic cannabinoid does not include:

(1) A compound produced through the decarboxylation of naturally occurring cannabinoids from their acidic forms; or,

(2) A semi-synthetic cannabinoid.

JJJ. “THC” or “Total THC” means delta-9 tetrahydrocannabinol (CAS number 1972-08-3) as measured using a post-decarboxylation method and based on percentage dry weight.

KKK. “THCA” means tetrahydrocannabinolic acid (CAS number 23978-85-0).

LLL. “Variance” means a written document issued by the regulatory authority that authorizes a modification or waiver of one or more requirements of this part if the regulatory authority determines that no hazard to human health or the environment will result from the modification or waiver.
[20.10.2.7 NMAC - Rp, 20.10.2.7 NMAC, 1/28/2026]

20.10.2.8 GENERAL PROVISIONS:

A. Prerequisite and responsibility for operation:

(1) A person may not operate a hemp facility without a valid permit to operate issued by the regulatory authority.

(2) Except as specified in Paragraph (9) of this subsection, when more than a single hemp facility is operated on the premises, each one shall be separately permitted.

(3) When a food processing plant or food establishment permitted by the regulatory authority or a home rule

municipality also operates as a hemp facility, both operations shall be permitted separately.

(4) Except as otherwise provided, the permit holder shall be responsible for all hemp facility operations conducted on the premises for which a permit is issued.

(5) When multiple hemp facilities are permitted by multiple permit holders on the same premises, each permit holder shall only be responsible for the hemp facility operations within the scope of their permit.

(6) Each permit holder shall be responsible for shared facilities or equipment on the premises.

(7) The permit holder shall ensure that the hemp facility remains in compliance with this part and the act. A violation of any provision of this part or the act may result in civil or criminal proceedings authorized in law, including but not limited to the assessment of civil penalties, the suspension or revocation of permit(s), destruction of hemp product, or other such actions.

(8) The issuance of a permit does not relieve any person operating a hemp facility from the responsibility of complying with other applicable laws, ordinances and regulations.

(9) A hemp facility that is permitted as a hemp manufacturing facility, hemp extraction facility, or hemp retail manufacturer is not required to also be permitted as a hemp warehouse.

B. Application, plans, and specifications requirements:

(1) An applicant shall submit a written application for a permit, on a form provided by the regulatory authority, at least 30 calendar days prior to:

(a) operating a hemp facility;

(b) the construction of a hemp facility;

(c) the conversion of an existing structure for use as a hemp facility;

(d) the remodeling of a hemp facility or a change of type of hemp facility if the regulatory authority determines that plans and specifications are necessary to ensure compliance with this part; or

(e) opening or changing ownership of an existing hemp facility, if current plans and specifications are not on file with the regulatory authority.

(2) It is the sole responsibility of the applicant to provide the regulatory authority with a complete permit application. The regulatory authority will not act on incomplete permit applications.

C. Operational plans.

(1) Except as specified in Paragraph (5) of this subsection, a hemp facility shall submit a written proposed operational plan containing the following information:

(a) Planned source of hemp products;

(b) Method to demonstrate hemp product received is derived from hemp;

(c) Plan to secure and limit access to hemp extract or hemp intermediate product with a Total THC concentration of greater than three tenths of a percent (0.30%), as specified in Subsection J of Section 11 of this part;

(d) Storage plan for non-hemp ingredients, hemp, hemp extract, hemp intermediate product, solvents, and residual solvents;

(e) Hemp finished product analytical testing plan meeting the requirements of Section 14 and Subsection L of Section 11 of this part;

(f) Manager and employee training plan;

(g) Employee health and hygiene plan;

(h) Standard sanitation operating procedures;

(i) Pest control plan;

(j) Production monitoring equipment list;

<p>(k) Recall plan for hemp products that may be adulterated, misbranded, or otherwise unsafe for human consumption, cosmetics, or inhalation, including:</p>	<p>(ii) Process for the removal of all solvents used during the extraction process; and</p>	<p>holder shall provide to the regulatory authority:</p>
<p>(i) Method to identify products which may be adulterated or misbranded;</p>	<p>(iii) Final disposition for all hemp products and residual solvents that will not be used further in the operation of the hemp facility;</p>	<p>(a) For each new hemp product, the information specified in Paragraph (2) of this subsection; and</p>
<p>(ii) Procedures to collect, warehouse, control, rework, and/or dispose of recalled products;</p>	<p>(iv) Safety measures proposed to protect the public and employees from dangers associated with extraction methods;</p>	<p>(b) For each existing product for which a change will be made in the manufacturing process, the original information submitted and accepted by the regulatory authority, as specified in Paragraph (2) of this subsection, with changes clearly denoted.</p>
<p>(iii) System for determining the effectiveness of recalls; and</p>	<p>(g) Type of packaging to be used meeting the requirements specified in Subsection I, and if applicable Subsection J, of Section 13 of this part, including:</p>	<p>(4) The regulatory authority may require that the hemp facility's processes be reviewed by an approved process authority to verify all critical factors of public health significance are addressed.</p>
<p>(iv) Persons to contact when implementing a recall, including the regulatory authority;</p>	<p>(i) Packaging specification sheet demonstrating compliance with Subsection I, and if applicable Subsection J, of Section 13 of this part; and</p>	<p>(5) A hemp warehouse is exempt from the requirements of Paragraphs (1) and (2) of this subsection, except hemp warehouses shall provide:</p>
<p>(l) Hemp transportation manifest plan and sample of the manifest that will be used;</p>	<p>(ii) if the packaging is integral to product stability, indicate how and provide documentation demonstrating its effectiveness;</p>	<p>(a) Pest control plan;</p>
<p>(m) Proposed record keeping system; and</p>	<p>(h) Proposed product label meeting the requirements of Section 13 of this part;</p>	<p>(b) If products held onsite are shelf stable or require refrigeration or freezing;</p>
<p>(n) Allergen control plan.</p> <p>(2) In addition to the requirements specified in Paragraph (1) of this subsection, a hemp facility shall submit written hemp product information, for each product, including:</p>	<p>(i) Description of the batch/lot ID coding system to track hemp finished product distribution, as specified in Subsection F of Section 13 of this part;</p>	<p>(c) Record keeping system;</p>
<p>(a) Name of hemp product;</p>	<p>(j) Proposed product shelf-life with documentation supporting proposal;</p>	<p>(d) Recall plan meeting the requirements specified in Subparagraph (k) of Paragraph (1), of this subsection; and</p>
<p>(b) Names of ingredients listed in order by weight;</p>	<p>(k) Product care, including:</p>	<p>(e) If storing non-hemp products in the same warehouse as hemp product, a complete operational procedure outlining how hemp product will remain clearly identified, segregated from non-hemp products, and unadulterated during storage.</p>
<p>(c) Final product pH;</p>	<p>(i) If product is shelf stable or requires refrigeration or freezing;</p>	<p>(6) Unless approved, a hemp retail manufacturer shall only receive and use hemp extract that is broad spectrum.</p>
<p>(d) Final product water activity;</p>	<p>(ii) If the product is ready-to-consume or requires preparation by the consumer; and</p>	<p>D. Fees and Expiration Dates:</p>
<p>(e) Names of preservatives;</p>	<p>(l) Intended distribution of the product.</p>	<p>(1) Initial and renewal application fees shall be:</p>
<p>(f) Complete operational procedure for the product beginning with receiving incoming ingredients and continuing to final product distribution, including identification of critical control points, and the following, if extraction will be conducted:</p>	<p>(3) Prior to manufacturing a new hemp product, or changing the stated process for any existing hemp product, the permit</p>	<p>(a) \$1000.00 for a hemp extraction facility;</p>
<p>(i) Extraction method, including approval from RLD/LP Gas Bureau if utilizing propane, butane, or any other method requiring approval from the RLD/LP Gas Bureau;</p>		

(b) \$1000.00 for a hemp manufacturing facility;	(b) comply with the requirements of this part and the act;	(d) immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist as specified in Section 18 of this part;
(c) \$1000.00 for a hemp warehouse.; and	(c) allow access to the hemp facility by the regulatory authority	(e) allow representatives of the regulatory authority access to the hemp facility as specified in this part;
(d) \$500.00 for a hemp retail manufacturer.	(d) allow the regulatory authority to take photographs to document conditions on the premises of the hemp facility;	(f) allow the regulatory authority to take photographs to document conditions on the premises of the hemp facility;
(2) Application fees specified in Paragraph (1) of this subsection shall be paid upon submission of an initial or renewal application.	(e) provide the regulatory authority requested information; and	(g) replace existing facilities and equipment that comply with this part if:
(3) Permits issued pursuant to Subsection E of this section shall expire on the last day of the anniversary month of the date of original issue.	(f) pay the required fees as specified in Subsection D of this section.	(i) the regulatory authority directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted;
(4) In addition to the renewal application fees specified in Paragraph (1) of this subsection, a \$200.00 late fee shall be added to the renewal application fee if the renewal application and applicable fee are not received on or before the expiration date of the permit.	(2) The regulatory authority shall issue an initial permit to operate to the applicant after:	(ii) the regulatory authority directs the replacement of the facilities and equipment because of a change of ownership; or
(5) When a re-inspection is scheduled by the regulatory authority, a re-inspection fee of \$500.00 shall be assessed by the regulatory authority and paid by the permit holder prior to the re-inspection being conducted as specified in Subsection B of Section 17 of this part or prior to the approval of a renewal application.	(a) a properly completed application is submitted;	(iii) the facilities and equipment are replaced in the normal course of operation.
(6) A variance application fee of \$300 shall be paid upon submission of a variance application as specified in Section 24 of this part.	(b) the required fee, as specified in Paragraph (1) of Subsection D of this section, is submitted;	(h) comply with directives of the regulatory authority including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the regulatory authority in regard to the permit holder's hemp facility or in response to community emergencies;
(7) The regulatory authority may charge administrative compliance costs in addition to the fees specified in this Subsection.	(c) the application is approved by the regulatory authority;	(i) accept notices issued and served by the regulatory authority according to law;
(8) Fees specified in this Subsection are non-refundable.	(d) a preoperational inspection by the regulatory authority is conducted and demonstrates that the hemp facility is built or remodeled in accordance with the approved plans and specifications; and,	(j) be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this part, the act, or a directive of the regulatory authority, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and
E. Permit issuance, permit denial, permit renewal, and change of ownership:	(e) the hemp facility is in compliance with this part and the act.	
(1) To qualify for a permit, an applicant shall:	(3) Upon acceptance of the permit issued by the regulatory authority, the permit holder, in order to retain the permit, shall:	
(a) be an owner of the hemp facility or an official authorized by the owner of a hemp facility;	(a) post the permit in a conspicuous location in the hemp facility;	
	(b) comply with the provisions of this part and the act, including the approved operational plans;	
	(c) immediately contact the regulatory authority to report an illness of a hemp employee or conditional employee as specified under Subsection A of Section 9 of this part;	

(k) provide the most recent hemp facility inspection report to consumers upon request.

(4) If an application for a permit to operate is denied, the regulatory authority shall provide the applicant with a written notice that includes:

(a) the specific reasons or regulation citations for the permit denial; and

(b) advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

(5) A permit may not be transferred. This includes a prohibition on transferring a permit from one person to another person, from one location to another location, or from one type of operation to another type of operation.

(6) The regulatory authority may issue a permit to a new owner of an existing hemp facility upon completion of requirements as specified in this subsection.

(7) The regulatory authority may renew a permit for a hemp facility upon submission of a renewal application provided by the regulatory authority, the required application fee as specified in Paragraph (1) of Subsection D of this section, and any other outstanding fees authorized by this part. If all outstanding fees are not paid, a permit shall not be renewed.

[20.10.2.8 NMAC - Rp, 20.10.2.8 NMAC, 1/28/2026]

20.10.2.9 MANAGEMENT AND PERSONNEL:

A. Adoption of food code subparts 2-201, 2-301, and 2-401, and section 2-103.11. Except as otherwise provided, subpart 2-201, 2-301, and 2-401, and section 2-103.11 of the 2022 United States food and drug administration model food code is hereby adopted and incorporated in its entirety.

B. The permit holder shall implement a management and

employee training plan to facilitate the protection of public health and the operation of a hemp facility in compliance with the requirements of this part and the act. The management and employee training plan shall, at a minimum, meet the requirements of this section.

C. Except as otherwise provided, the permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the hemp facility during all hours of operation and fulfills the requirements specified in section 2-103.11 of the food code as specified in Subsection A of this section.

D. In a hemp facility with two or more separately permitted departments that are the legal responsibility of the same permit holder and that are located on the same premises, the permit holder may designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for each separately permitted hemp facility on the premises.

E. The person in charge shall have the education, training, or experience necessary to supervise the production of clean and safe hemp product and ensure the hemp facility remains in compliance with this part and the act at all times.

F. Personal care items on the premises shall be stored in a manner to protect hemp product, other ingredients, equipment, and utensils from contamination at all times.

G. A hemp facility shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the hemp facility. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, hemp products, non-hemp ingredients, packaging materials, and surfaces to vomitus or fecal matter.

H. Food handler cards:

(1) Except as specified in Paragraph (2) of this subsection, manufacturing employees shall demonstrate their knowledge of safe food handling practices through passing a test from a food handler training program and possess a valid food handler card;

(2) Manufacturing employees who do not possess a valid food handler card prior to employment shall obtain one within 30 calendar days from the beginning of employment;

(3) Food handler cards shall be kept by the manufacturing employee on his or her person while working at a hemp facility or a copy kept on file by the current employer and be made available for inspection by the regulatory authority;

(4) An employee or person in charge at any hemp facility must provide training regarding pertinent safe food handling practices to manufacturing employees prior to beginning manufacturing employee duties, if the employee does not hold a valid food handler card. Record of the training, including name of instructor, date of training, and name(s) of manufacturing employees shall be maintained on file and made available to the regulatory authority upon request. The record of training shall be maintained for the duration of the manufacturing employee's employment;

(5) Food handler cards shall be valid for three years from the date of issuance; and

(6) The requirement to possess a food handler card in Paragraph (1) of this subsection shall be effective 60 days after the effective date of this part. [20.10.2.9 NMAC - Rp, 20.10.2.9 NMAC, 1/28/2026]

20.10.2.10 HEMP PRODUCT TRANSPORTATION REQUIREMENTS:

A. Hemp facilities shall only transport hemp product to NMED permitted hemp facilities or persons approved by the regulatory authority.

B. Hemp facilities shall create and utilize a hemp transportation manifest meeting the requirements of Subsection C of this section when transporting hemp, hemp extract, or hemp intermediate product.

C. A hemp transportation manifest created by a hemp facility shall contain the following information:

- (1) Name, address, phone number, and permit number of the hemp facility;
- (2) Batch/lot ID created by the hemp facility;
- (3) Item(s) description/composition of hemp product;
- (4) Quantity of hemp product;
- (5) Shipping date;
- (6) Destination of the hemp product, including the name, address, and phone number of the person receiving the hemp product; and,

(7) A COA from an approved laboratory for any hemp extract or hemp intermediate product, unless otherwise provided, if hemp extract or hemp intermediate product, include a COA from an approved laboratory.

D. Hemp facilities transporting hemp product shall transport such items under conditions that will protect against allergen cross-contact and against biological, chemical (including radiological), and physical contamination, as well as against deterioration of the hemp product and the container in accordance with the New Mexico Food Service Sanitation Act and the New Mexico Food Act.

[20.10.2.10 NMAC - Rp, 20.10.2.10 NMAC, 1/28/2026]

20.10.2.11 HEMP FACILITY REQUIREMENTS:

A. It is illegal to operate a hemp facility that does not meet the requirements of this part and the act.

B. Adoption of 21 CFR 117 Subparts A, B, and

F. Except as otherwise provided, Subparts A, B, and F of the United States code of federal regulations, title 21, part 117 are hereby adopted and incorporated in their entirety.

C. Modifications. Except as otherwise provided, the following modifications are made to the incorporated subparts of 21 CFR 117:

(1) 117.301: All records required by this part are subject to all requirements of this subpart;

(2) 117.315(c): Offsite storage of records is permitted if such records can be retrieved and provided onsite within 24 hours of request for official review. Electronic records are considered to be onsite if they are accessible from an onsite location; and

(3) 117.320: All records required by this part must be made promptly available to the regulatory authority for official review and copying upon oral or written request.

D. Omissions. The following provisions are omitted from the incorporated subparts of 21 CFR 117:

- (1) 117.1;
- (2) 117.5;
- (3) 117.7;
- (4) 117.8;
- (5) 117.310;
- (6)

117.315(d); and

- (7) 117.325;
- (8) 117.335.

E. The current 21 CFR 111 and United States federal food, drug, and cosmetic act, title 21, chapter 9 are hereby adopted as a technical reference and interpretation guide.

F. Hemp product source and receiving.

(1) Hemp facilities shall not receive hemp without a hemp harvest certificate issued by NMDA or from a person approved by the regulatory authority, who provides documentation, such as a COA, verifying the hemp being transported has a Total THC

concentration of not more than three-tenths of one percent (0.30%) on a dry weight basis.

(2) Hemp facilities shall not receive hemp, hemp extract, or hemp intermediate product unless it is received from an NMED permitted hemp facility or a person approved by the regulatory authority.

(3) Hemp facilities shall not receive hemp extract or hemp intermediate product unless:

(a) documentation is obtained by the hemp facility from the person providing it, demonstrating it is hemp-derived. The documentation shall be obtained at, or before the time of receiving it; and

(b) it is accompanied by a hemp transportation manifest meeting the requirements of Paragraphs (1) through (7) of Subsection C of Section 10 of this part.

(4) Hemp facilities shall not receive non-hemp ingredients, hemp, hemp extract, or hemp intermediate product unless the product was transported under conditions that will protect against allergen cross-contact and against biological, chemical (including radiological), and physical contamination, as well as against deterioration of the hemp product and the container in accordance with the New Mexico Food Service Sanitation Act and the New Mexico Food Act.

G. Records and traceability.

(1) Hemp facilities shall implement the approved record keeping system at all times.

(2) Hemp facilities shall maintain shipping and receiving records for all hemp products, non-hemp ingredients, and packaging materials used when manufacturing hemp products for a period of two years, including but not limited to:

(a) hemp harvest certificates;

(b) hemp transportation manifests;
(c) date of receipt;
(d) date(s) of use; and
(e) COAs.

H. Hemp facilities shall maintain the operational plans and recall plan, accepted by the regulatory authority, onsite during all hours of operation and shall make them available for review by the regulatory authority.

I. The final disposition of all hemp product and residual solvents that will not be used further in the operation of the hemp facility shall be conducted as approved by the regulatory authority in Subsection C of Section 8 of this part.

J. The permit holder shall be responsible for ensuring the security of, and limit access to, hemp-extract and hemp intermediate product with a total THC concentration of greater than three-tenths of one percent (0.30%) as approved by the regulatory authority in Subsection C of Section 8 of this part.

K. Except as provided in Subsection L of this section, when conducting activities authorized under this part or the act, a hemp facility shall not receive, possess, manufacture, offer, advertise, market, or sell semi-synthetic cannabinoids or synthetic cannabinoids or products containing semi-synthetic cannabinoids or synthetic cannabinoids.

L. A hemp facility may receive and use as an ingredient in hemp finished products semi-synthetic cannabinoids or synthetic cannabinoids identified in Paragraphs (1) through (9) of this subsection, provided that before use in manufacturing, laboratory analysis completed by an approved analytical laboratory utilizing a validated method of the semi-synthetic cannabinoid or synthetic cannabinoid demonstrate the cannabinoid has a purity of greater than or equal to ninety-eight percent. Semi-synthetic cannabinoids or synthetic

cannabinoids meeting the purity requirements of this Subsection that may be received and used as an ingredient in hemp finished products are:

- (1) Delta-9 tetrahydrocannabivarin tetrahydrocannabivarin (THCV);
 - (2) Cannabichromene (CBC);
 - (3) Cannabicitran (CBT);
 - (4) Cannabicyclol (CBL);
 - (5) Cannabielsoin (CBE);
 - (6) Cannabigerol (CBG);
 - (7) Cannabidivarin (CBDV);
 - (8) Cannabidiol (CBD); and
 - (9) Cannabinol (CBN).
- [20.10.2.11 NMAC - Rp, 20.10.2.11 NMAC, 1/28/2026]

20.10.2.12 HEMP FINISHED PRODUCT REQUIREMENTS

A. Unless specified in Subsections B, C, and D of this section, a hemp finished product shall:

- (1) not have a Total THC concentration of more than three-tenths of one percent (0.30%);
- (2) contain no more than 2.0 milligrams of Total THC per serving;
- (3) contain no more than 20 milligrams of Total THC per package.

B. Hemp tinctures shall contain no more than 100 milligrams of Total THC per package.

C. Broad spectrum hemp finished products shall contain no more than 6.0 milligrams of Total THC per package.

D. Cosmetics and vapes are exempt from the Total THC content requirements specified in Paragraphs (2) and (3) of Subsection A of this section.

E. The serving size for hemp finished product for human consumption shall comply with Table 2 of 21 CFR 101.12.

F. Unless otherwise provided, the permit holder shall demonstrate that hemp used to manufacture hemp finished product was grown using only pesticides registered by NMDA and do not contain pesticide residues not registered for use in the production of hemp by NMDA. Hemp finished products shall be tested for pesticide residues as specified in specified in Section 14 of this part.

G. The requirements of this section shall be effective 60 days after the effective date of this part. [20.10.2.12 NMAC - Rp, 20.10.2.12 NMAC, 1/28/2026]

20.10.2.13 HEMP FINISHED PRODUCT LABELING AND PACKAGING:

A. Unless otherwise specified, hemp finished products shall meet the labeling and packaging requirements of this section.

B. General labeling requirements. Hemp finished products shall meet the following labeling requirements:

- (1) human consumption: 21 CFR 101 and the New Mexico Food Act;
- (2) human cosmetics: 21 CFR 701 and 740; and
- (3) human inhalation: shall meet applicable state and federal labeling requirements.

(4) Labels shall be in English, but may contain other languages. If the label bears representation in a foreign language, the label must bear all the requirements of this Section in the foreign language, as well as in English. This requirement does not apply to Spanish names that are commonly used in New Mexico.

C. Principal display panel labeling requirements. Hemp finished products shall clearly identify on the principal display panel of the label:

- (1) A statement that the product is produced from hemp;
- (2) Unless the product is broad spectrum, a consumer notice statement indicating the product contains THC;

(3) CBD content per serving and CBD content in the package and/or container, labeled in milligrams; and

(4) Total THC content per serving and total THC content in the package and/or container, labeled in milligrams.

D. Additional Labeling Requirements. Unless otherwise specified in Subsection H or this section, hemp finished product labels shall include:

(1) the following statement, or similar approved statement: “This product is not approved by the FDA to treat, cure, or prevent any disease. The FDA has not evaluated this product for safety, effectiveness, and quality. This product may cause unknown interactions with other medications and long-term adverse health effects.”;

(2) Statement recommending those who are pregnant, may become pregnant, or are breastfeeding to consult with their physician about the use of the product;

(3) Statement to keep out of reach of children; and

(4) Unless a hemp finished product is broad spectrum, the label shall include the following notices:

(a) The potential for the product to cause a positive drug test result;

(b) The potential for the product to create impairment;

E. Hemp finished product labels and packaging shall not:

(1) contain medical, health, or benefit claims, including claims that the product can, or is intended to, diagnose, cure, mitigate, treat, or prevent disease;

(2) be designed to appeal to children and shall not feature:

(a) cartoons;

(b) a design, brand or name that resembles a non-hemp consumer product of

the type that is typically marketed to minors;

(c) symbols or celebrities that are commonly used to market products to minors;

(d) images of minors; or

(e) words that refer to products that are commonly associated with minors or marketed by minors, including use of the word(s) “candy” and/or “candies” on the label of any container; and

(3) unless otherwise approved, contain statements representing or inferring a hemp finished product contains no THC.

F. Hemp facilities shall design, maintain and use a coding system that will identify the date and place of manufacture of each hemp finished product and shall be clearly visible on the product label or securely affixed to the body of the container.

G. Except as specified in Paragraph (1) of Subsection C of Section 14 of this part, product concentration and content stated on a hemp finished product label shall not deviate by more than ten percent of what is stated on the label.

H. A static quick response (QR) code may be used to provide labeling information specified in Subsection D of this section when approved by the regulatory authority. When used, a QR code shall have the statement “Important Safety Information” prominently displayed above or directly adjacent to the QR code. The statement shall be in bold type, and the type size shall be reasonably related to the size of the QR code. There shall be no intervening material around the QR code or statement that would detract from its prominence.

I. Hemp product packaging shall be food-grade or generally recognized as safe by the United States food and drug administration.

J. Hemp finished product that contains multiple servings in a single package that

require dosing by the consumer shall contain an accurate dosing device.

K. The following requirements of this section shall be effective 60 days after the effective date of this part:

(1) Paragraphs (1), (2), and (4) of Subsection C;

(2) Subsection D;

(3) CBD per serving as specified in Paragraph (3) of Subsection C;

(4) Paragraph (2) of Subsection E; and

(5) Subsection J.

[20.10.2.13 NMAC - Rp, 20.10.2.13 NMAC, 1/28/2026]

20.10.2.14 HEMP FINISHED PRODUCT ANALYTICAL TESTING:

A. Unless otherwise provided, hemp finished products that will be used for human consumption, cosmetics, or inhalation shall be tested by an approved analytical laboratory and meet the requirements of this section before they leave the hemp facility and are transported, distributed, sold or otherwise made available to consumers.

B. Analytical testing requirements. Except as otherwise provided, each batch/lot of hemp finished product shall be tested as follows:

(1) Cannabinoid profile, including at a minimum the concentration of the following:

(a) Total THC calculated as $THC = (0.877 \times THCA) + THC$;

(b) D9-THC;

(c) THCA;

(d) CBD; and

(e) CBDA;

(2) Content of CBD, Total THC, and other compounds derived from hemp stated on the label of the hemp finished product;

(3) Hemp processed or dried as a hemp finished product or hemp product that does not require further processing before being offered as a hemp finished product shall be prepared for analytical testing by blending the entire batch/lot prior to testing or be tested in accordance with a testing plan approved by the regulatory authority and tested for:

- (a) Water content;
- (b) Total aerobic microbial count;
- (c) Total combined yeast and mold count;
- (d) Bile-tolerant gram-negative bacteria;
- (e) Salmonella spp. and E. coli; and
- (f) Total coliforms count.

(4) Solvents (volatile organic compounds) utilized throughout the processing of the hemp product; and

(5) Pesticide profile as determined by the regulatory authority and listed on the regulatory authority's pesticide panel list that is available upon request or on the regulatory authority's website. The regulatory shall notify all permit holders and approved analytical laboratories at least 30 days prior to implementing changes to the pesticide panel list.

C. Analytical testing limits. Unless otherwise provided, testing limits for hemp finished product shall be as follows:

(1) Total THC concentration shall not exceed more than three-tenths of one percent (0.30%);

(2) Unless specified in Subsection D of Section 12 of this part, Total THC shall be less than or equal to 2.0 milligrams per serving and 20 milligrams per package;

(3) Hemp tinctures shall contain less than or equal to 100 milligrams of Total THC per package;

(4) Content of CBD, Total THC, and other

compounds derived from hemp stated on the label of the hemp finished product shall comply with Subsection G of Section 13 of this part;

(5) Solvents (volatile organic compounds) utilized throughout the processing of the hemp finished product shall not exceed the current United States Pharmacopeia recommended limits for residual solvents;

(6) Pesticide residue as follows:

(a) Pesticides registered by the New Mexico department of agriculture shall be equal to or less than thresholds set by the United States environmental protection agency; and

(b) Pesticides not registered by the New Mexico department of agriculture shall not be detected; and

(7) If dried usable hemp finished product:

(a) Water content shall be less than fifteen percent by weight;

(b) Total aerobic microbial count shall be less than 100,000 colony forming units per gram (cfu/g) or colony forming units per milliliter (cfu/mL);

(c) Total combined yeast and mold count shall be less than 10,000 cfu/g or cfu/mL;

(d) Bile-tolerant gram-negative bacteria shall be less than 1,000 cfu/g or cfu/mL;

(e) Salmonella spp. and E. coli shall be absent in 10 grams cfu/g or cfu/mL; and;

(f) Total coliforms count shall be less than 1,000 cfu/g or cfu/mL.

D. Hemp finished product that does not meet the testing limits specified in Subsection C of this section Subsection G of Section 13 of this part, or Subsection L of Section 11 of this part, may undergo a confirming test by a hemp laboratory. The confirming test shall be conducted using the original product sample tested. If a confirming test is

required, the permit holder and the approved analytical laboratory shall independently report the results of the initial and confirming test to the regulatory authority within 24 hours of the completion of the confirming test.

E. Hemp finished products that do not meet the testing limits specified in Subsection C of this section and Subsection G of Section 13 of this part, shall not be distributed and shall be:

(1) disposed of in an approved manner; or

(2) re-worked or remediated in an approved manner.

F. Hemp finished product that is re-worked or remediated as specified in this section shall meet requirements of this section before leaving the hemp facility and being transported, distributed, sold or otherwise made available to consumers.

G. Hemp facilities shall obtain a COA for each hemp finished product batch/lot from an approved laboratory. The COA shall include the results of the testing required in this section and shall include the following information:

(1) The batch identification number;

(2) The date received;

(3) The date of testing completion;

(4) The method of analysis for each test conducted; and

(5) The signature of an authorized official of the hemp laboratory that guarantees the results of the laboratory's testing of a sample.

H. Hemp facilities shall provide the COA via a QR code on the package or with hemp finished products as follows:

(1) If shipped to another business entity, the certificate of analysis for each hemp finished product shall be provided to the business entity; or

(2) If shipped directly to the consumer, shall be provided to the consumer upon request.

I. Paragraph (5) of Subsection B and Paragraph (6) of Subsection C this section shall be effective 60 days after the effective date of this part.

[20.10.2.14 NMAC - Rp, 20.10.2.14 NMAC, 1/28/2026]

20.10.2.15 HEMP ANALYTICAL LABORATORIES:

A. Analytical testing required in this part shall be conducted by an approved analytical laboratory that has no direct ownership or financial interest in the hemp facility for which the testing is being conducted.

B. Approved analytical laboratories shall include all chemicals listed on the regulatory authority's pesticide panel list when conducting pesticide testing as required in this part.

C. Approved analytical laboratories shall notify the regulatory authority of a confirming test and test results as specified in Subsection D of Section 14 of this part.

[20.10.2.15 NMAC - Rp, 20.10.2.15 NMAC, 1/28/2026]

20.10.2.16 WATER SUPPLY AND SEWAGE:

A. Drinking water shall be obtained from an approved source that is:

- (1) a public water system; or
- (2) a non-public water system that is constructed, maintained, and operated according to law.

B. A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.

C. Except as specified under Subsection D of this section:

- (1) Water from a public water system shall meet the construction and drinking water quality standards specified in 20.7.10 NMAC; and
- (2) Water from a non-public water system shall meet:

(a) the construction requirements and drinking water quality standards of a non-community water system as specified in 20.7.10 NMAC; and

(b) the drinking water source setback requirements as specified in 20.7.3 NMAC.

D. A non-drinking water supply shall be used only if its use is approved and shall be used only for nonculinary purposes such as air conditioning, non-hemp equipment cooling, and fire protection.

E. Except when used as specified in Subsection D of this section, water from a non-public water system shall meet the sampling requirements of a non-community water system as specified in 20.7.10 NMAC.

F. The most recent sample report for the non-public water system shall be retained on file in the hemp facility or the report shall be maintained as specified by state water quality regulations.

G. Water shall be received from the source through the use of:

- (1) an approved public water main; or
- (2) one or more of the following that shall be constructed, maintained, and operated according to law:

(a) Non-public water main, water pumps, pipes, hoses, connections, and other appurtenances;

(b) Water transport vehicles; or

(c) Water containers.

H. Sewage shall be disposed of according to law. Liquid waste systems shall meet the requirements of 20.7.3 NMAC. [20.10.2.16 NMAC - Rp, 20.10.2.16 NMAC, 1/28/2026]

20.10.2.17 INSPECTION BY REGULATORY AUTHORITY:

A. The regulatory authority shall conduct inspections of hemp facilities to determine compliance with the act, Food Service

Sanitation Act, the New Mexico Food Act, and this part.

B. When an inspection conducted by the regulatory authority reveals a violation or repeat violation of this part, and a re-inspection is scheduled by the regulatory authority, a re-inspection fee shall be assessed by the regulatory authority and paid by the permit holder as specified in Paragraph (5) of Subsection D of Section 8 of this part.

C. After the regulatory authority presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, an employee of the hemp facility shall allow the regulatory authority to determine if the hemp facility is in compliance with this part and the act by allowing access to the facility to make an inspection, interview employees, and take photos, and providing information and records requested and to which the regulatory authority is entitled according to law, during the hemp facility's hours of operation and other reasonable times.

D. The regulatory authority shall be allowed to copy any records pertaining to the manufacture, processing, packing, distribution, receipt, holding, or importation of hemp product maintained by or on behalf of a hemp facility in any format, including paper and electronic formats, and at any location. Proprietary documents shall be protected by the regulatory authority according to law.

E. If an employee denies access to the regulatory authority, the regulatory authority shall:

(1) inform the person that:

(a) the permit holder is required to allow access to the regulatory authority as specified in Subsection F of this section;

(b) access is a condition of the acceptance and retention of a hemp facility permit to operate as specified in Paragraph (3) of Subsection E of Section 8 or this part;

(c) if access is denied, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection order, may be obtained according to law;

(d) refusal to allow access is grounds for immediate permit suspension or revocation; and

(2) make a final request for access.

F. If after the regulatory authority presents credentials and provides notice as specified in Subsection C of this section, explains the authority upon which access is requested, and makes a final request for access as specified in Subsection E of this section, the employee continues to refuse access, the regulatory authority shall provide details of the denial of access on an inspection report form.

G. If denied access to a hemp facility for an authorized purpose and after complying with Subsection E of this section, the regulatory authority may issue, or apply for the issuance of, an inspection order to gain access as provided in law.

H. The regulatory authority shall document on an inspection report form:

(1) Specific factual observations of violative conditions or other deviations from this part or the act that require correction by the permit holder; and

(2) Time frame for correction of the violations observed and documented.

I. Except as otherwise provided, a permit holder shall at the time of inspection correct violations of this part.

J. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may agree to or specify a longer time frame.

K. After observing at the time of inspection a correction of a violation, the regulatory authority shall enter the violation

and information about the corrective action on the inspection report.

L. As specified in Subsection J of this section, after receiving notification that the permit holder has corrected a violation, or at the end of the specified period of time, the regulatory authority shall verify correction of the violation, document the information on an inspection report, and enter the report in the regulatory authority's records.

M. The regulatory authority shall request a signed acknowledgment of receipt by a hemp facility employee and provide a copy of the completed inspection report and the notice to correct violations, as soon as possible after the inspection, to the permit holder or to the person in charge.

N. If a hemp facility employee declines to sign an acknowledgment of receipt of inspection findings as specified in Subsection M of this section the regulatory authority shall make a note in the inspection report that an employee of the hemp facility refused to sign to acknowledge receipt of the inspection report prior to providing a copy of the report to the employee. [20.10.2.17 NMAC - Rp, 20.10.2.17 NMAC, 1/28/2026]

20.10.2.18 CEASING OPERATIONS AND REPORTING:

A. Except as specified in Subsections B and C of this section, a permit holder shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent hemp product illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health, employees, or the environment.

B. A permit holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

C. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may allow the permit holder to continue operations in the event of an extended interruption of electrical or water service if:

(1) a written emergency operating plan has been approved;

(2) immediate corrective action is taken to eliminate, prevent, or control any food safety risk and imminent health hazard associated with the electrical or water service interruption; and

(3) the regulatory authority is informed upon implementation of the written emergency operating plan.

D. If operations are discontinued as specified in Subsection A of this section or otherwise according to law, the permit holder shall obtain approval from the regulatory authority before resuming operations.

[20.10.2.18 NMAC - Rp, 20.10.2.18 NMAC, 1/28/2026]

20.10.2.19 PERMIT SUSPENSION AND REVOCATION:

A. The regulatory authority may immediately suspend a permit, without prior warning, notice of a hearing, or a hearing, if it determines through inspection, examination of employees, hemp product records, or other means as specified in this part, if:

(1) an imminent health hazard exists; or

(2) the permit holder:

(a) allows serious or repeated violations of the Food Service Sanitation Act, the New Mexico Food Act, the act, or this part;

(b) allows violations of this part to remain uncorrected beyond time frames for correction approved, directed, or ordered by the regulatory authority;

(c) violates any term or condition of a permit as specified under Paragraph (3) of Subsection E of Section 8 of this part;

(d) fails to comply with Subsection C of Section 17 of this part;

(e) fails to comply with a regulatory authority order issued concerning an employee or conditional employee suspected of having a disease transmissible through hemp products by infected persons; or

(f) fails to comply with a hold order as specified in Subsection A of Section 22 of this part.

B. The regulatory authority shall provide written notice of the immediate suspension to the permit holder or person in charge.

C. After receiving a written request from the permit holder stating that the conditions cited in the immediate suspension notice no longer exist, the regulatory authority shall conduct a reinspection of the hemp facility for which the permit was summarily suspended.

D. A permit suspension shall remain in effect until the conditions cited in the immediate suspension notice no longer exist and their elimination has been confirmed by the regulatory authority through re-inspection and other means as appropriate as described in Subsection C of this section.

E. If a permit has been suspended more than one time, the regulatory authority may revoke the permit.

F. If a hemp facility fails to comply with an employee restriction order, an order to hold and not transport hemp product, or an immediate suspension notice, the regulatory authority may revoke the permit.

G. The regulatory authority shall conduct a hearing as specified in Section 20 of this part prior to revoking a permit.

H. A permit that has been revoked shall not be considered for reapplication until the permit

holder has demonstrated to the satisfaction of the regulatory authority that the hemp facility will comply with this part.

[20.10.2.19 NMAC - Rp, 20.10.2.19 NMAC, 1/28/2026]

20.10.2.20 APPEAL HEARINGS:

A. A permit holder may request an appeal hearing to address concerns about the regulatory authority's denial of an application for permit, suspension or revocation of a permit, or an enforcement action taken by the regulatory authority. A hearing request does not stay the regulatory authority's immediate suspension as specified in Subsection A of Section 18 of this part.

B. The permit holder shall submit a written hearing request to the secretary within 10 calendar days from the date of receipt of the denial of an application for permit, permit suspension, permit revocation, or enforcement action.

C. The written request for hearing as specified in Subsection B of this section shall contain the following information:

(1) A statement of the issue of fact for which the hearing is requested;

(2) A statement of defense, mitigation, denial, or explanation concerning each allegation of fact;

(3) A statement indicating whether witnesses will be utilized during the hearing; and

(4) The name and address of the respondent's or requestor's legal counsel, if any.

D. If the regulatory authority receives a hearing request within the required timeframe, the regulatory authority shall issue a notice of hearing. The secretary may designate a person to conduct the hearing and make a final decision or make recommendations for a final decision. The secretary's hearing notice shall indicate who will conduct the hearing and make the final decision.

E. A notice of hearing shall contain the following information:

(1) Time, date and place of the hearing;

(2) Purpose of the hearing;

(3) The rights of the respondent, including the right to be represented by counsel and to present witnesses and evidence on the respondent's behalf as specified in Subsection M of this section; and

(4) The consequences of failing to appear at the hearing.

F. In the appeal hearing, the burden of proof is on the person who requested the hearing.

G. A complete digital recording of a hearing shall be made and maintained as part of the regulatory authority's records.

H. The rules of civil procedure and the rules of evidence shall not apply, but a hearing shall be conducted so that all relevant views, arguments, and testimony are amply and fairly presented.

I. Parties to a hearing may be represented by counsel, examine and cross-examine witnesses, and present evidence in support of their position.

J. The regulatory authority shall present at the hearing its evidence, orders, directives, and reports related to the proposed or appealed administrative remedy.

K. Evidence shall be excluded that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds, or on the basis of evidentiary privilege.

L. Testimony of parties and witnesses shall be made under oath or affirmation administered by a duly authorized official.

M. Written evidence may be received if it will expedite the hearing without substantial prejudice to a party's interests.

N. Documentary evidence may be received in the form of a copy or excerpt.

O. At the end of the hearing, the secretary shall decide and announce if the hearing record

will remain open and for how long and for what reason it will be left open. Based upon the evidence presented at the hearing, the secretary shall sustain, modify, or reverse the action of the regulatory authority. The secretary's decision shall be by written order within 15 working days following the closing of the hearing record. The decision shall state the reasons therefore and shall be sent by certified mail to the hearing requestor and any other affected person who requests notice. Appeals from the secretary's final decision are by Rule 1-075 NMRA.

P. The regulatory authority may settle a case after a notice of hearing is served by providing a respondent with an opportunity to request a settlement before a hearing commences on the matter and by entering into a consent agreement with the respondent.

Q. Respondents accepting a consent agreement pursuant to Subsection P of this section waive their right to a hearing on the matter.

R. Failure by the permit holder to appear at the hearing shall result in the secretary upholding the regulatory authority's initial decision which led to the permit holder's hearing request.
[20.10.2.20 NMAC - Rp, 20.10.2.20 NMAC, 1/28/2026]

20.10.2.21 REMEDIES: The regulatory authority may seek an administrative or judicial remedy to achieve compliance with the provisions of this part if a person operating a hemp facility:

A. fails to have a valid permit to operate a hemp facility as specified in Subsection A of Section 8 of this part;

B. fails to comply with an employee restriction or exclusion order, an order to hold and not transport hemp product, or an immediate suspension notice issued by the regulatory authority as specified in Subsection A of Section 19 of this part; or

C. denies the regulatory authority access to the premises of a hemp facility to:

(1) make an inspection, including taking photographs;

(2) examine and sample hemp products or other substances found on the premises; or

(3) examine and copy the records on the premises relating to hemp products as specified in Subsection C of Section 17 of this part.

[20.10.2.21 NMAC - Rp, 20.10.2.21 NMAC, 1/28/2026]

20.10.2.22 HOLDING, EXAMINATION, AND DESTRUCTION OF HEMP PRODUCTS:

A. The regulatory authority may place a hold order on hemp products in a permitted hemp facility that:

(1) originated from an unapproved source;

(2) may be adulterated, misbranded, not accurately presented, or otherwise unsafe for human consumption, cosmetics, or inhalation;

(3) are not labeled according to law;

(4) did not meet analytical testing requirements of this part; or

(5) are otherwise not in compliance with this part or the act.

B. If the regulatory authority has reasonable cause to believe that the hold order will be violated, or finds that the order is violated, the regulatory authority may remove the hemp products that are subject to the order to a place of safekeeping.

C. The regulatory authority may issue a hold order to a permit holder or to a hemp facility employee, as specified in Subsection A of this section, without prior warning, notice of a hearing, or a hearing on the hold order.

D. If the suspected hemp products have been transported, the permit holder shall be given the opportunity to recall the hemp products voluntarily at the permit holder's expense.

E. If the permit holder refuses to recall the suspected hemp products, the regulatory authority may order a mandatory recall of the suspected hemp products at the permit holder's expense.

F. The hold order notice shall:

(1) state that hemp products subject to the order may not be used, sold, moved from the hemp facility, or destroyed without a written release of the order from the regulatory authority;

(2) state the specific reasons for placing the hemp products under the hold order with reference to the applicable provisions of this part and the hazard or adverse effect created by the observed condition;

(3) completely identify the hemp products subject to the hold order by the common name, the label information, a container description, the quantity, regulatory authority's tag or identification information, and location;

(4) state that the permit holder has the right to an appeal hearing and may request a hearing by submitting a timely request as specified in Section 20 of this part;

(5) state that the regulatory authority may order the destruction of the hemp products if a timely request for an appeal hearing is not received; and

(6) provide the name and address of the regulatory authority representative to whom a request for an appeal hearing may be made.

G. The regulatory authority shall securely place an official tag or label on the hemp products or containers or otherwise conspicuously identify hemp products subject to the hold order.

H. The tag or other method used to identify a hemp product that is the subject of a hold order shall include a summary of the provisions specified in Subsection F of this section and shall be signed and dated by the regulatory authority.

I. Except as otherwise provided, hemp products placed

under a hold order may not be used, sold, served, or moved from the establishment by any person.

J. The regulatory authority may allow the permit holder the opportunity to store the hemp products in an area of the hemp facility if the hemp products are protected from subsequent deterioration and the storage does not restrict operations of the hemp facility.

K. Only the regulatory authority may remove hold order tags, labels, or other identification from hemp products subject to a hold order.

L. The regulatory authority may examine, sample, and test the hemp products in order to determine its compliance with the Food Service Sanitation Act, the New Mexico Food Act, the act, or this part.

M. When hemp products are found to be adulterated, misbranded, or otherwise unsafe for human consumption, or not accurately presented; or found in any room, building, vehicle of transportation or other structure, any hemp products which are unsound or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the procedures outlined in Section 25-2-6 NMSA 1978 shall be followed.

N. When any product is found, by examination or laboratory analysis, to be in violation with this part or the act, the regulatory authority may order condemnation and disposal of the product lot, at the expense of the permit holder.

O. The regulatory authority shall issue a written notice of release from a hold order and shall remove hold tags, labels, or other identification from the hemp product if the hold order is vacated.
[20.10.2.22 NMAC - Rp, 20.10.2.22 NMAC, 1/28/2026]

20.10.2.23 SERVICE OF NOTICE:

A. A notice issued in accordance with this part shall be considered to be properly served if

it is served by one of the following methods:

(1) The notice is personally served by the regulatory authority, a law enforcement officer, or a person authorized to serve a civil process to the permit holder, the person in charge, or person operating a hemp facility without a permit; or

(2) The notice is sent by the regulatory authority to the last known address of the permit holder or the person operating a hemp facility without a permit, by registered or certified mail or by other public means so that a written acknowledgment of receipt may be acquired.

B. An employee restriction or exclusion order, an order to hold and not transport hemp product, or an immediate suspension order shall be:

(1) served as specified in Paragraph (1) of Subsection A of this section; or

(2) clearly posted by the regulatory authority at a public entrance to the hemp facility and a copy of the notice sent by first class mail to the permit holder or to the owner or custodian of the hemp product, as appropriate.

C. Service is effective at the time of the notice's receipt or if service is made as specified in Paragraph (2) of Subsection B of this section, at the time of the notice's posting.

D. Proof of proper service may be made by affidavit of the person making service or by admission of the receipt signed by the permit holder, the person operating a hemp facility without a permit to operate, or an authorized agent.
[20.10.2.23 NMAC - Rp, 20.10.2.23 NMAC, 1/28/2026]

20.10.2.24 VARIANCES:

A. The regulatory authority may grant a variance by modifying or waiving the requirements of this part if the regulatory authority determines that no hazard to human health or the environment will result from the modification or waiver.

B. The person requesting a variance shall submit a written application, with the variance application fee as specified in Paragraph (6) of Subsection D of Section 8 of this part, on a form provided by the regulatory authority. The following information shall be provided by the person requesting the variance:

(1) A statement of the proposed variance;

(2) The applicable code citations from which the variance is requested; and

(3) A detailed rationale for how the potential hazards to human health or the environment addressed by the applicable code citations will be alternatively addressed by the proposal; and

(4) If applicable, documentation supporting the rationale provided.

C. The regulatory shall grant the variance, grant the variance subject to conditions, or deny the variance within 15 working days following the receipt of the variance request.

D. If the regulatory authority grants a variance as specified in this section, the permit holder shall:

(1) comply with the procedures that were approved; and

(2) when required as a condition of the variance, maintain and provide to the regulatory authority, upon request, records that demonstrate compliance with the approved variance.
[20.10.2.24 NMAC - Rp, 20.10.2.24 NMAC, 1/28/2026]

HISTORY OF 20.10.2 NMAC:

20.10.2 NMAC, Hemp Extraction, Production, Transportation, Warehousing, and Testing, filed and effective August 1, 2019, duration expired by operation of law, January 27, 2020.

20.10.2 NMAC, Hemp Extraction, Production, Transportation, Warehousing, and Testing, filed and

effective August 1, 2025, duration expired by operation of law, August 5, 2025.

20.10.2 NMAC, Hemp Extraction, Production, Transportation, Warehousing, and Testing, filed and effective August 5, 2025, Replaced by 20.10.2 NMAC, Hemp Extraction, Production, Transportation, Warehousing, and Testing, effective January 28, 2026.

REGULATION AND LICENSING DEPARTMENT ACCOUNTANCY, BOARD OF PUBLIC

This is an amendment to 16.60.1 NMAC, Sections 5, 7 and 10, effective 1/13/2026

16.60.1.5 EFFECTIVE DATE: [~~February 14, 2002~~] January 1, 2026, unless a later date is cited at the end of a section.
[16.60.1.5 NMAC - Rp 16 NMAC 60.1.5, 2/14/2002; A, 1/13/2026]

16.60.1.7 DEFINITIONS:

A. "Acceptance letter" means a document issued by the sponsoring organization indicating the peer review report has been accepted and, if applicable, any remedial/corrective actions to be agreed to and completed by the firm.

B. "Accounting and auditing services" for peer review purposes means providing any one or more of the following:

(1) engagements performed in accordance with the "statements on auditing standards";

(2) engagements, other than preparation services, performed in accordance with the "statements on standards for accounting and review services";

(3) examination, review or agreed upon procedures engagements performed in accordance with the "statements on standards for attestation engagements"; or

(4) engagements performed in accordance with public company accounting oversight board (PCAOB) standards that are not subject to PCOAB permanent inspection.

C. "Accounting experience" means providing service or advice involving the use of accounting, attest management advisory, financial advisory, tax or consulting skills as verified by a certified public accountant who meets requirements prescribed by the board; provided that experience gained through employment in governments, industry, academia or public practice shall be accepted.

[E] D. "Act" means the New Mexico 1999 Public Accountancy Act, Sections 61-28B-1 to 61-28B-29 NMSA 1978.

[D] E. "Agreed upon procedures" are those which are to be performed in accordance with applicable attestation standards. They are also those in which a license is engaged to issue a written finding that is based on specific procedures that the specified parties agreed are sufficient for their purpose, is restricted to the specified parties, and does not provide an opinion or negative assurance.

[E] F. "Attest" means to provide the following services:

(1) An audit or other engagement performed in accordance with the statements on auditing standards;

(2) a review of a financial statement performed in accordance with the statement on standards for accounting and review services;

(3) an engagement performed in accordance with the statements on standards for attestation engagements adopted by the board; and

(4) an engagement to be performed in accordance with the auditing standards of the public company accounting oversight board.

[F] G. "Blended learning" is an educational program incorporating different learning or

instructional delivery methods, both asynchronous and synchronous learning activities, or different levels of guidance.

[G] H. "Client" means the person or entity who retains a licensee for the performance of professional services.

I. "Comparable licensure requirements" means requirements that are comparable to or exceed the education examination and accounting experience requirements of the Act, as determined by the board.

[H] J. "Completion letter" means a document issued by the sponsoring organization after a firm has provided evidence of remedial/corrective actions taken, which were specified in the acceptance letter, and its peer review committee has determined no further actions are required.

K. "Concentration in accounting or business" means completing 30 semester hours in accounting or auditing which may include three semester hours in business law or the equivalent at a recognized educational institution.

[I] L. "Disqualifying criminal conviction" has the same meaning as defined in Subsection E of Section 61-1-36 NMSA 1978.

[J] M. "Electronic mail or an Email" means an electronic mail message created in or received through an electronic mail system, including all attachments that are sent over a communications network, using a computer or other electronic device.

[K] N. "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

[L] O. "Enterprise" means any person or entity who retains a licensee for the performance of professional services.

[M] P. "Financial statements" means statements and footnotes related thereto that purport to show an actual or anticipated financial position or results of

operations, cash flow, or changes in financial position based on generally accepted accounting principles or another comprehensive basis of accounting. The term includes specific elements, accounts, or items of such statements, but it does not include incidental financial data included in management advisory service reports which support recommendations made to clients. In addition, it does not include tax returns and supporting schedules.

[N] Q. “He, his, him” means masculine pronouns when used herein also include the feminine and the neuter.

[O] R. “Holding out to the public as a permit holder or registered firm” means the phrase “holding himself out to the public as a permit holder or registered firm” as used in the definition of “practice of public accountancy” in Section 3 [E] N of the act, and in these rules it means any representation, other than by an individual holding a certificate or firm registration issued by this board pursuant to the [1999 Public Accountancy] Act, Sections 61-28B-7 thru 61-28B-9, 61-28B-1 or 61-28B-13 NMSA 1978, of the fact that a certificate holder holds a permit, certificate or is a registered firm in connection with the performance of, or an offer to perform, services for the public, except as allowed under the practice privilege pursuant to the [1999 Public Accountancy] Act, Sections 61-28B-26 NMSA 1978. Any such representation is presumed to invite the public to rely upon the professional skills implied by the certificate, registration, or permit in connection with the professional services offered to be performed. For the purpose of this rule, a representation shall be deemed to include any oral or written communication conveying the fact that the person holds a certificate, permit or firm registration, including without limitation the use of titles or legends on letterheads, business cards, office doors, advertisements, internet, email, or other electronic media.

[P] S. “License” has the same meaning as defined in

Subsection C of Section 61-1-2 NMSA 1978.

[Q] T. “Licensing fee” has the same meaning as defined in [Paragraph (2) of Subsection F] Paragraph (1) of Subsection E of Section 61-1-34 NMSA 1978.

[R] U. “Mail” as used in the rules shall include mail sent by the United States postal service or commercial courier.

[S] V. “Manager” has, when used in these rules, the same meaning as the term “manager” in a limited liability company.

[T] W. “Member” has, when used in these rules, the same meaning as the term “member” in a limited liability company.

[U] X. “Military service member” has the same meaning as defined in Paragraph (3) of Subsection F of Section 61-1-34 NMSA 1978.

[V] Y. “Nano learning program” is a program designed to permit a participant to learn a given subject in a minimum of 10 minutes and less than 20 minutes through the use of electronic media (including technology applications and processes and computer-based or web-based technology) and without interaction with a real-time instructor. A nano learning program differs from a self-study program in that it is typically focused on a single learning objective and is not paper-based. A nano learning program is not a group program. Nano learning is not a substitute for comprehensive programs addressing complex issues.

[W] Z. “Non-technical” fields of study are subjects that contribute to the maintenance and/or improvement of the competence of a CPA in areas that indirectly relate to the CPA’s field of business and subject to board determination. These fields of study include, but are not limited to:

- (1) Behavioral ethics
- (2) Business management & organization
- (3) Communications and marketing
- (4) Computer software and applications

- (5) Personal development
- (6) Personnel/ human resources;
- (7) Production
- [X] AA. “PCAOB”** means the public company accounting oversight board.

[Y] BB. “Peer review program” means the sponsoring organization’s entire peer review process, including but not limited to the standards for administering, performing and reporting on peer reviews, oversight procedures, training, and related guidance and materials.

[Z] CC. “Peer review committee” means a committee comprised exclusively of CPAs practicing public accountancy and formed by a sponsoring organization for the purpose of overseeing the administration, acceptance, and completion of peer reviews.

[AA] DD. “Peer review oversight committee” means a board appointed committee to provide oversight of the sponsoring organization in order to provide reasonable assurance that peer reviews are being administered, conducted, and reported on in accordance with the minimum standards for performing and reporting on peer reviews.

[BB] EE. “Practice” means performing or offering to perform public accountancy for a client or potential client by a person who makes a representation to the public as a certified public accountant or a registered firm.

[CC] FF. “Public accountancy” means the performance of one or more kinds of services involving accounting or auditing skills, including the issuance of reports on financial statements, the performance of one or more kinds of management, financial advisory or consulting services, the preparation of tax returns or the furnishing of advice on tax matters.

[DD] GG. “Practice privilege” as defined in the [1999 Public Accountancy] Act, Section 61-28B-26 NMSA 1978, a person

whose principal place of business or residence is not in New Mexico shall be presumed to have ~~[qualifications-substantially-similar]~~ comparable licensure requirements to New Mexico's requirements, may exercise all the practice privileges of certificate holders of New Mexico without the need to obtain a certificate pursuant to the ~~[1999 Public Accountancy]~~ Act, Sections 61-28B-9 NMSA 1978, if the individual meets the requirements of the ~~[1999 Public Accountancy]~~ Act, Section 61-28B-26 NMSA 1978.

~~[FF]~~ **HH.**

"Professional engagement" means a written or oral agreement between a client and a licensee relative to the performance of professional services and the services performed under this agreement. Oral agreements may only be used when allowed by professional standards.

~~[FF]~~ **II. "Professional services"** means any service performed or offered to be performed by a licensee for a client in the course of the practice of public accountancy.

~~[GG]~~ **JJ.**

"Public communication" means a communication made in identical form to multiple persons or to the world at large, including but not limited to television, radio, motion pictures, newspaper, pamphlet, mass mailing, letterhead, business card, the internet, email or directory.

~~[HH]~~ **KK.** **"Quality review"** means an interchangeable term for peer review.

~~[H]~~ **LL.** **"Report"** As provided in Subsection N of Section 61-28B-3[N] NMSA 1978 of the act, the term "report" includes the issuance of reports in conjunction with an accounting and auditing practice using the forms of language set out in the American institute of certified public accountants (AICPA) "statements on auditing standards," "statements on standards of accounting and review services," "statements on standards for attestation engagements," and PCOAB standards.

~~[JJ]~~ **MM.** **"Services involving accounting or auditing skills"** means "services involving

accounting or auditing skills" as used in the definition of "practice of public accountancy" in Sections 3K and L of the act. It includes the provision of advice or recommendations in connection with the sale or offer for sale of products, when the advice or recommendations require or imply the possession of accounting or auditing skills or expert knowledge in auditing or accounting.

~~[KK]~~ **NN.**

"Sponsoring Organization" means a board approved professional society, or other organization responsible for the facilitation and administration of peer reviews through use of its peer review program and peer review standards.

~~[LL]~~ **OO.**

"Statement of compliance" means a certified statement from the human services department (HSD) stating that an applicant or licensee is in compliance with a judgment and order for support.

~~[MM]~~ **PP.**

"Statement of non-compliance" means a certified statement from ~~[HSD]~~ a state or federal government entity stating that an applicant or licensee is not in compliance with a judgment and order for support.

~~[NN.]~~ **"Substantially equivalent"** means the determination ~~by the board that the education, examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements of the Act.~~

~~OO]~~ **QQ.**

"Technical" fields of study are technical subjects that contribute to the maintenance and/or improvement of the competence of a CPA in the profession of accountancy and that directly relate to the CPA's field of business. These fields of study include, but are not limited to:

(1)

Accounting

(2)

Government accounting

(3)

Auditing

(4)

Government auditing

(5) Business

law

(6) Economics

(7) Finance

(8)

Information technology

(9)

Management services

(10) Regulatory

ethics

(11) Specialized

knowledge

(12) Statistics

(13) Taxes

~~[PP]~~ **RR.**

"Veteran"

has the same meaning as defined in Paragraph (4) of Subsection F of Section 61-1-34 NMSA 1978.

[16.60.1.7 NMAC - Rp 16 NMAC 60.1.7 and 16 NMAC 60.11.7, 2/14/2002; A, 11/30/2007; A, 4/15/2008; A, 6/30/2008; A, 1/17/2013; A, 9/15/2015; A, 10/1/2016; A, 10/1/2020; A, 12/12/2021; A, 1/13/2026]

16.60.1.10 FEES AND

OBLIGATIONS: Fees charged by the board shall be as follows.

A. Fees set by the board for CPA examination applicants shall not unreasonably exceed the amount required for the board to operate CPA examination administration on a break even basis, but in no case shall the fee be less than the state's cost of procuring and administering the exam.

B. Initial examination qualification review under Section 27F of the act shall be \$75.

C. Delinquency fee for incomplete or delinquent continuing education reports, certificate/license or firm permit renewals under Section 27D of the act shall be \$100.

D. Certificate application under Section 27B of the act shall be: initial certificate, \$175; certificate renewal, \$130.

E. No annual renewal fee shall be assessed for an individual who holds an inactive certificate and who has reached the age of 70.

F. Firm permit application or renewal fee under Section 27C of the act shall be \$75 for each firm, regardless of form of entity.

G. Firm permit renewal delinquency fee under Section 27C of the act shall be \$100 and includes all practitioners whose renewal applications are delinquent.

H. Certificate/license/ firm permit reinstatement fee under Section 27H of the act shall be \$175. For certificate/individual license reinstatements only, reinstatement fee and an additional fee of the current year's renewal fee. No delinquency fee shall be assessed.

I. Continuing professional education waiver and reentry into active certificate status and to comply with continuing professional education under Sections 27H and 27I of the act shall not exceed \$75 each occurrence.

J. Administrative fees for services under Section 27F shall be:

- (1) list of certificate or permit holders, \$250;
- (2) duplicate or replacement certificate card or permit card, \$10 each;
- (3) duplicate or replacement wall certificate, \$25 each;
- (4) board evaluation of coursework for continuing professional education credit, \$50 per hour of board staff research and study;
- (5) certificate application package for reciprocity, \$20 each;
- (6) grade transfer candidates, \$75 each;
- (7) replacement packages for by-examination candidates, \$75 each;
- (8) copies of combined Accountancy Act and board rules, \$10 each;
- (9) copies of records and documents, \$.25 per page; [and]
- (10) returned check or e-check fee; \$35 each occurrence;
- (11) administrative licensing (electronic processing) fee per year; \$10.00;
- (10) the board may, at its discretion, charge for

other administrative costs as it deems appropriate.

K. Fee for the transfer of licensure or examination information to a third party under Section 27E of the act shall be \$75.

L. Fee for criminal history background check under Section 8.1 of the act shall be the amount established by the department of public safety for the processing of criminal history background checks.

M. The board may waive charges as it deems appropriate.

N. All fees are non-refundable.
[16.60.1.10 NMAC - Rp 16 NMAC 60.2.8, 2/14/2002; A, 1/15/2004; A, 4/29/2005; A, 11/30/2007; A, 6/30/2008; A, 5/29/2009; A, 11/13/2009; A, 9/15/2010; A, 1/17/2013, A, 12/1/2014; A, 9/15/2015; A, 10/1/2016; A, 10/1/2020; A, 1/13/2026]

REGULATION AND LICENSING DEPARTMENT ACCOUNTANCY, BOARD OF PUBLIC

This is an amendment to 16.60.2 NMAC, Section 9, effective 1/13/2026

16.60.2.9 EDUCATION REQUIREMENTS:

A. [After July 1, 2008] Effective January 1, 2026, Subsection C of Section 61-28B NMSA 1978, [Section 8C] of the act requires an applicant for the uniform CPA examination to hold [a baccalaureate degree or its equivalent conferred by a college or university acceptable to the board, with 30 semester hours in accounting or the equivalent as determined by the board];

(1) a baccalaureate degree or its equivalent conferred by a college or university acceptable to the board, plus completion of an additional 30 semester hours of higher education in accounting or business as determined by the board; or

(2) a baccalaureate from a college or university acceptable to the board with a concentration in accounting or business; or

(3) a master's degree from a college or university acceptable to the board with a concentration in accounting or business.

B. [After July 1, 2008, Section 8C] Effective January 1, 2026, Subsection D of Section 61-28B-8 NMSA 1978 of the act requires an applicant for a certificate to have [at least 150 semester hours of college education or its equivalent earned at a college or university acceptable to the board. Any course for which credit has been awarded by the institution will be accepted toward meeting the 150-semester hour requirement.];

(1) a baccalaureate degree or its equivalent from a college or university acceptable to the board plus completion of an additional 30 semester hours of higher education in accounting or business and evidence of at least one year of accounting experience; or

(2) a baccalaureate degree or its equivalent from a college or university acceptable to the board with a concentration in accounting or business and evidence of at least two years of accounting experience; or

(3) a master's degree from a college or university acceptable to the board with a concentration in accounting or business and evidence of at least one year of accounting experience.

C. [The board will accept not fewer than 30 semester hours of accounting or audit related courses (3 semester hours may be in business law); without repeat, from] The college or university conferring the degree or its equivalent must be a board-recognized educational institution. The recognized educational institution must have accepted [them for] the required semester hours for a concentration in accounting or business for purposes of obtaining a baccalaureate degree or

equivalent, and they must be shown on an official transcript.

D. A prospective CPA examination or CPA certificate candidate is considered as graduating from ~~[an accredited college or university]~~ board recognized educational institution acceptable to the board if, at the time the educational institution grants the applicant's degree, it is accredited at the appropriate level as outlined in these rules. As used in these rules, "accreditation" refers to the process of quality control of the education process. There are 3 different levels of accreditation referred to in these rules, and the degree to which the board relies on accreditation differs according to the level at which the degree granting institution is accredited. In reviewing and evaluating a candidate's educational credentials, the board may rely on accreditation by an accrediting agency at 3 different levels.

E. Level 1 accreditation is associated with the four-year, degree-granting college or university itself. The institution must be accredited by 1 or more of the following board-recognized regional accrediting agencies (or successor agencies):

- (1) middle states association of colleges and secondary schools;
- (2) New England association of schools and colleges;
- (3) north central association of colleges and secondary schools;
- (4) northwest association of schools and colleges;
- (5) southern association of colleges and schools;
- (6) western states association of schools and colleges; and
- (7) accrediting council for independent colleges and schools.

F. Level 2 accreditation is associated with a business school or college of business. The unit must be accredited by a national accreditation

agency recognized by the board, such as the American assembly of collegiate schools of business (AACSB), following a specific and comprehensive review of its faculty, resources, and curricula. In evaluating a candidate's credentials, the board may choose to rely on this accreditation as evidence that the institution's business school has met minimum overall standards of quality for such schools.

G. Level 3 accreditation is associated with an accounting program or department. The program or department must be accredited by a national accreditation agency recognized by the board such as the AACSB. Accounting programs or departments accredited in this manner have met standards substantially higher and much more specific than those required for level 1 or level 2 accreditation. For level 3 accreditation, the accounting program or department must meet a stringent set of standards that addresses faculty credentials, student quality, physical facilities, and curricula. Graduates who submit transcripts from accredited accounting programs may be deemed to have met the board's specific accounting and business course requirements.

H. If an educational institution was not accredited at the time an applicant's degree was received but is so accredited at the time the application is filed with the board, the institution will be deemed to be accredited for the purposes of this rule provided that it:

(1) certifies that the applicant's total educational program would qualify the applicant for graduation with a baccalaureate degree during the time the institution has been accredited; and

(2) furnishes the board satisfactory proof, including college catalogue course numbers and descriptions, that the pre-accrediting courses used to qualify the applicant as an accounting major are substantially equivalent to post-accrediting courses.

I. If an applicant's degree was received at an accredited

educational institution as defined in this rule, but the educational program which was used to qualify the applicant as an accounting major included courses taken at non-accredited institutions, either before or after graduation, such courses will be deemed to have been taken at the accredited institution from which applicant's degree was received, provided the accredited institution either:

(1) has accepted such courses by including them in its official transcript; or
(2) certifies to the board that it will accept such courses for credit toward graduation.

J. A graduate of a four-year, degree-granting institution not accredited at the time the applicant's degree was received or at the time the application was filed will be deemed to be a graduate of a four-year accredited educational institution if:

(1) either the NASBA international evaluation service or a credentials evaluation service that is a member of the national association of credential evaluation services certifies that the applicant's degree is equivalent to a degree from an accredited educational institution defined in this rule; or if

(2) an accredited educational institution as defined in this rule accepts the applicant's non-accredited baccalaureate degree for admission to a graduate business degree program; the applicant satisfactorily completes at least 15 semester hours or the equivalent in post-baccalaureate education at the accredited educational institution, of which at least nine semester hours, or the equivalent, shall be in accounting; and the accredited educational institution certifies that the applicant is in good standing for continuation in the graduate program or has maintained a grade point average in these courses that is necessary for graduation.

K. Advanced subjects completed to qualify under the above section may not be used to satisfy education requirements.

L. The board may provide a mechanism to recognize educational institutions that are not accredited at the institutional, business school, accounting program, or department level.

M. The accounting education concentration or equivalent contemplated by the act shall consist of semester hours of credit earned as in a conventional college semester. Quarter hours will be converted by multiplying the quarter hours earned by two-thirds to determine semester hours earned. No more than 30 semester hours will be recognized for internships or life experience. [16.60.2.9 NMAC - Rp 16 NMAC 60.3.8, 2/14/2002; A, 6/15/2004; A, 6/30/2008; A, 1/17/2013; A, 1/13/2026]

REGULATION AND LICENSING DEPARTMENT ACCOUNTANCY, BOARD OF PUBLIC

This is an amendment to 16.60.3 NMAC, Sections 9, 13, 14 and 15 effective 1/13/2026

16.60.3.9 INITIAL CERTIFICATE/LICENSE REQUIREMENTS:

A. An applicant for initial certification/licensure shall demonstrate to the board's satisfaction that he:

(1) lacks a history of dishonest or felonious acts;

(2) meets the education, experience and examination requirements of the board; and

(3) passes the American institute of certified public accountants ethics examination with a score of ninety percent or higher.

B. Integrity requirement: The board may assess integrity based upon applicant-provided references and background checks to determine an applicant's history of dishonest or felonious acts. The board may request the presence

at a board meeting of an applicant for whom it has unanswered questions.

C. Criminal history background check: Pursuant to Section 61-28B-8.1 NMSA 1978 of the act, all applicants for initial issuance or reinstatement of a certificate and license in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check. Applicants can submit fingerprints through the board approved live scan location prescribed by the New Mexico Department of Public Safety (DPS).

(1) The applicant will register online, through the approved live scan website, with the board's Originating Agency Identification (ORI) number and make payment with registration. After the process is complete, the applicant will receive a registration confirmation.

(2) The applicant shall take their registration confirmation to an approved live scan facility and conduct the electronic fingerprinting process.

(3) Results will be sent to the board electronically. The board shall not issue a certificate or license until the applicant's background check has been successfully completed.

(4) Out-of-State applicants, who are unable to visit an approved live scan fingerprinting facility, may follow the same registration process and submit a hardcopy fingerprint card to the approved live scan facility. The results will be sent to the board electronically. The board shall not issue a certificate or license until the applicant's background check has been successfully completed.

D. Education and examination requirements: Education and examination requirements are specified in Section 8 of the act and are further delineated in Part 2 of board rules. ~~[An applicant who has passed the uniform CPA examination prior to July 1, 2004, is exempt from the 150-semester-hour requirement.]~~

E. Experience required: Applicants documenting

their required experience for issuance of an initial certificate ~~[pursuant to Subsection H of Section 7 of the act, and after July 1, 2004 Subsection H of Section 8]~~ of the act shall:

(1) provide documentation of experience in providing any type of services or advice using accounting, attest, management advisory, financial advisory, tax or consulting skills; acceptable experience shall include experience gained through employment in industry, government, academia or public practice;

(2) have their experience verified by an active, licensed CPA as defined in the act or by an active, licensed CPA from another state; the board shall consider and evaluate factors such as complexity and diversity of the work in determining acceptability of experience submitted:

(a) one year of experience or its 2,000 hour equivalent shall consist of full or part-time employment that extends over a period of no more than three years and includes no fewer than 2,000 hours of performance of services described above;

~~(b)~~ two years of experience or its 4,000 hour equivalent shall consist of full or part-time employment that extends over a period of no more than six years and includes no fewer than 4,000 hours performance of services described above;

~~(b)~~ (c) the CPA verifying an applicant's experience must be employed by, or a consultant to, or provide professional services to, the same organization as the applicant;

~~(c)~~ (d) experience documented in support of an initial application must be obtained within the seven years immediately preceding passing of the examination or within seven years of having passed the examination upon which the application is based; ~~[this does not apply to applicants who qualified and sat for the examination during or prior to the November 2001 administration;]~~

~~[(d)]~~ **(e)** any licensee requested by an applicant to submit evidence of the applicant's experience and who has refused to do so shall, upon request of the board, explain in writing or in person the basis for such refusal; the board may require any licensee who has furnished evidence of an applicant's experience to substantiate the information;

~~[(e)]~~ **(f)** the board may inspect documentation relating to an applicant's claimed experience; any applicant may be required to appear before the board or its representative to supplement or verify evidence of experience.

F. Certificate and license issuance: upon receipt of a complete application packet and successful completion of a fingerprint background check, board staff are authorized to approve and issue a certificate and license to an applicant for whom no licensing issues are present. Pursuant to Subsection I of 16.60.2.13 NMAC, uniform CPA examination scores must be approved by the board's administrative staff prior to the issuance of a certificate and license to an applicant who sat for the uniform CPA examination as a New Mexico candidate.

G. Swearing in ceremony: Every new licensee ~~[must]~~ may participate in a swearing in ceremony. ~~[before the board within one year from the date of the issuance of the initial license. Swearing in ceremonies may be held two times per year in locations to be determined by the board or the board's administrative staff. Upon good cause presented in writing prior to the expiration of the one-year period of initial licensure, the board may extend the period for being sworn in or arrange an alternate method for the licensee to be sworn in. If an extension for good cause is granted, the licensee shall arrange with the board's administrative staff to present him or herself for swearing in before the board within the time prescribed by the board. Failure to appear at a swearing in ceremony before the board may result in the imposition of~~

~~a fine or other disciplinary action, as deemed appropriate by the board.]~~

H. Replacement wall certificates and licenses to practice: Replacement wall certificates and licenses to practice may be issued by the board in appropriate cases and upon payment by the CPA or RPA of the fee as set by the board. A certificate/license holder is specifically prohibited from possessing more than one wall certificate and more than one license to practice as a CPA or RPA. When a replacement wall certificate or license to practice is requested, the certificate/license holder must return the original certificate/license or submit a statement describing the occurrence that necessitated the replacement certificate or license.

I. Renewal requirements: Certificates/licenses for individuals will have staggered expiration dates based on the individual's birth month. Deadline for receipt of certificate/license renewal applications and supporting continuing professional education affidavits or reports is no later than the last day of the CPA or RPA certificate/license holder's birth month or the next business day if the deadline date falls on a weekend or holiday.

(1) The board may accept a sworn affidavit as evidence of certificate/license holder compliance with CPE requirements in support of renewal applications.

(2) Renewal applications and CPE reports received after prescribed deadlines shall include prescribed delinquency fees.

(3) Applications will not be considered complete without satisfactory evidence to the board that the applicant has complied with the continuing professional education requirements of Subsection E of Sections 9 and Subsection A of Section 12 of the act and of these rules.

(4) The board shall send renewal application notices no less than 30 days prior to the renewal deadline.

J. The purpose of this part is to expedite licensure for military service members, their spouses, their dependent children and for veterans pursuant to Section 61-1-34 NMSA 1978.

(1) Applications for registration shall be completed on a form provided by the board.

(2) The applicant shall provide a complete application that includes the following information:

- (a)** applicant's full name;
- (b)** current mailing address;
- (c)** current electronic mail address, if any;
- (d)** date of birth;
- (e)** background check, if required; and
- (f)** proof as described in subsection (3) below.

(3) The applicant shall provide the following satisfactory evidence as follows:

(a) applicant is currently licensed and in good standing in another jurisdiction, including a branch of the United States armed forces;

(b) applicant has met the minimal licensing requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are ~~[substantially equivalent]~~ comparable license requirements to the licensing requirements for New Mexico; and

(c) the following documentation:

- (i)** for military service member: copy of military orders;
- (ii)** for spouse of military service members: copy of military service member's military orders, and copy of marriage license;
- (iii)** for spouses of deceased military service members: copy of decedent's DD 214 and copy of marriage license;

(iv) for dependent children of military service members: copy of military service member's orders listing dependent child, or a copy of military orders and one of the following: copy of birth certificate, military service member's federal tax return or other governmental or judicial documentation establishing dependency;

(v) for veterans (retired or separated): copy of DD 214 showing proof of honorable discharge.

(4) The license or registration shall be issued by the board as soon as practicable but no later than thirty days after a qualified military service member, spouse, dependent child, or veteran files a complete application and provides a background check if required for a license, and any required fees.

(5) Military service members and veterans shall not pay and the board shall not charge a licensing fee for the first three years for a license issued pursuant to this rule.

(6) A license issued pursuant to this section shall be valid for the time period that is specified in the Act.

(7) A license issued pursuant to this section shall not be renewed automatically, and shall be renewed only if the licensee satisfies all requirements for the issuance and renewal of a license pursuant to the 1999 Public Accountancy Act, including Section 61-28B-9 NMSA 1978 and Subsection I of 16.60.3.9 NMAC.

(8) As a courtesy, the board, will send via electronic mail license renewal notifications to licensees or registrants before the license expiration date to the last known email address on file with the board. Failure to receive the renewal notification shall not relieve the licensee or registrant of the responsibility of timely renewal on or before the expiration date.

[16.60.3.9 NMAC - Rp 16
NMAC 60.4.8.2 & 16 NMAC

60.4.8.3, 2/14/2002; A, 1/15/2004; A, 6/15/2004; A, 12/30/2004; A, 4/29/2005; A, 7/29/2005; A, 11/30/2007; A, 6/30/2008; A, 2/27/2009; A, 1/17/2013; A, 12/1/2014; A, 9/15/2015; A, 10/1/2020; A, 12/12/2021; A, 1/13/2026]

REGULATION AND LICENSING DEPARTMENT ACCOUNTANCY, BOARD OF PUBLIC

This is an amendment to 16.60.4 NMAC, Sections 9 and 10, effective 1/13/2026

16.60.4.9 FIRM BUSINESS NAMES PROHIBITIONS:

A. Misleading firm names: A firm name or trade name is misleading pursuant to Section 19 of the act if, among other things, the firm name or trade name:

(1) is not the lawful and registered name of the firm;

(2) implies the existence of a corporation when the firm is not a corporation such as through the use of the words "corporation", "incorporated", "Ltd.", "professional corporation", or an abbreviation thereof as part of the firm name if the firm is not incorporated or is not a professional corporation;

(3) implies the existence of a partnership when there is not a partnership such as by use of the term "partnership", "limited liability partnership", the abbreviation "LLP", "limited liability company", or the abbreviation "LLC" if the firm is not such an entity;

(4) includes the name of an individual who is not a CPA if the title "CPAs" is included in the firm name or trade name, except as provided for in Subsection B of 16.60.4.9 NMAC;

(5) includes information about or indicates an association with persons who are not members of the firm, except as

permitted pursuant to Section 14(i) of the Uniform Accountancy Act;

(6) includes the terms "& company", "& associate", or "group", but the firm does not include, in addition to the named partner, shareholder, owner, or member, at least one other licensee;

(7) contains any representation that would be likely to cause a reasonable person to have a false or unjustified expectation of favorable results or capabilities, through the use of a false or unjustified statement of fact as to any material matter;

(8) claims or implies the ability to influence a regulatory body or official;

(9) includes the name of an owner whose certified public accountant license has been revoked for disciplinary reasons by the board, whereby the licensee has been prohibited from practicing public accountancy or prohibited from using the title CPA or holding himself out as a certified public accountant for more than 90 days after revocation of the license.

B. Permissible firm names: The following types of CPA firm names are not in and of themselves misleading and are permissible:

(1) a firm name or trade name that includes the names of one or more former or present owners;

(2) a firm name or trade name that excludes the names of one or more former or present owners;

(3) a firm name or trade name that uses the "CPA" title as part of the firm name when all named individuals are owners of the firm who hold such title or are former owners who held such title at the time they ceased to be owners of the firm;

(4) a firm name or trade name that includes the name of a non-CPA owner if the "CPA" title is not a part of the firm name.

C. Name of firm formed as a single member limited

liability company (LLC): A firm which is organized as a single member LLC under the Limited Liability Company Act, Sections 53-19-1 to 53-19-74 NMSA 1978, or similar acts of other states may be required by the applicable LLC act to include the word “company” or “Co.” in its name. For purposes of compliance with the act, the firm name shall not include more than one person’s name and shall not include “and”, “&” or a similar term with respect to “company” or “Co.” in a manner which would imply that there was more than 1 owner of the firm.

D. Network firms: A network firm as defined in the AICPA code of professional conduct in effect July 1, 2011 may use a common brand name, or share common initials, as part of the firm name. Such a firm may use the network name as the firm’s name, provided it also shares one or more of the following characteristics with other firms in the network:

(1) common control, as defined by generally accepted accounting principles in the United States, among the firms through ownership, management, or other means;

(2) profits or costs, excluding costs of operating the association, costs of developing audit methodologies, manuals and training course, and other costs that are immaterial to the firm;

(3) common business strategy that involves ongoing collaboration among the firms whereby the firms are responsible for implementing the association’s strategy and are held accountable for performance pursuant to that strategy;

(4) significant part of professional resources;

(5) common quality ~~[control]~~ management policies and procedures that participating firms are required to implement and that are monitored, as defined by peer review standards, by the association. [16.60.4.9 NMAC - Rp 16 NMAC 60.4.10, 2/14/2002; A, 6/30/2008; A, 1/17/2013; A, 1/13/2026]

16.60.4.10 PEER REVIEW REQUIREMENTS:

A. Participation: A firm seeking to obtain or renew a firm permit to provide accounting and auditing services in New Mexico must be enrolled in a peer review program and undergo a peer review pursuant to Section 6.60.4.10 B of the 1999 Public Accountancy Act, 61-28B-1 NMSA 1978, Peer review program objectives are established pursuant to Section 13L of the act to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard-setting bodies. Emphasis is on education, including appropriate education programs or remedial procedures that may be recommended or required where reporting does not comply with appropriate professional standards.

(1) Firms contracting to perform audits of [state] agencies and local public bodies as defined in the audit act must also comply with peer review standards applicable to those audits.

(2) Participation is required of each firm registered with the board who provides accounting or auditing services pursuant to Subsection 13L of the act.

B. Timing of peer reviews:

(1) Each holder of a board-issued firm permit shall enroll in a board approved peer review program and arrange, schedule, complete and allow time for the sponsoring organization to consider their peer reviews for acceptance prior to the June 30 renewal period.

(a) Firms need to ensure that their peer review year ends and corresponding due dates allow for compliance with Subsection 13E of the act.

(b) Firms may need to consider changing their current peer review year ends and the timing of when their peer reviews are performed in order to comply.

(2) When a firm performs its first engagement requiring its initial peer review, the firm shall be enrolled in a board approved peer review program by the report date of the first engagement, and the due date ordinarily will be 18 months from the report date of that engagement.

(a) The initial peer review must report on the firm’s practice for a full year.

(b) The requirements of Subsection 13L of the act regarding permit renewal are initially applicable to the firm the first June 30 renewal period after the 18 month due date.

(c) Hardship exceptions: The board may make exceptions to the requirements set out in this section for hardships. All hardship requests must be in writing, setting forth detailed reasons for the request, and must be submitted no later than six months prior to expected completion date of the peer review.

(4) The board may grant extensions ~~[up to 180 days from the original due date]~~ in order for the firm to comply with the peer review requirements in Subsection 13E and 13L of the act. All requests for extensions shall be submitted to the board in writing by the firm no later than 30 days prior to renewal date and should include any extensions approved by the sponsoring organization. The board may recognize extensions granted by the sponsoring organization. The board has the authority at its sole discretion to grant any reasonable extensions that it deems necessary and extensions are ordinarily granted for the following reasons:

(a) health;

(b) natural disasters;

(~~(b)~~) (c) military service; or

(~~(c)~~) (d) other good cause clearly outside the control of the firm.

C. Hardship exceptions: The board may make

exceptions to the requirements set out in this section for hardships. All hardship requests must be in writing, setting forth detailed reasons for the request, and must be submitted no later than six months prior to expected completion date of the peer review.

D. Exemptions: A firm which does not perform accounting or auditing engagements, including but not limited to audits, reviews, compilations, attestations, forecasts, or projections is exempt from the peer review program and shall re-certify annually to the board as to this exempt status as part of the firm permit renewal process. A previously exempt firm which begins providing the above described services must initiate and complete a review within 18 months of the date the services were first provided.

E. Reporting to the board: Firms are required to submit a copy of the following documents related to its most recently accepted peer review to the board:

- (1) peer review report which has been accepted by the sponsoring organization;
- (2) the firm's letter of response (accepted by the sponsoring organization), if applicable;
- (3) the acceptance letter from the sponsoring organization;
- (4) letter(s) signed by the firm acknowledging that the firm agrees to take any actions required by the sponsoring organization, if applicable;
- (5) the completion letter signed by the sponsoring organization notifying the firm that required actions have been appropriately completed, if applicable.

(6) Upon request of the board, any correspondence from the sponsoring organization regarding the scheduling or completion of a peer review.

F. Submission of documents: the above documents shall be submitted by the firm to the board via mail, or electronically or digitally as follows:

(1) The documents in Paragraph (1) through (3) of Subsection E of 16.60.4.10 NMAC shall be submitted within 30 days of the sponsoring organization's acceptance.

(2) The documents in Paragraph (4) of Subsection E of 16.60.4.10 NMAC within 30 days from the date the letter is signed by the firm, or with submission of firm renewal application, whichever occurs first.

(3) The documents in Paragraph (5) of Subsection E of 16.60.4.10 NMAC shall be submitted to the board within 30 days of the date of the letter.

(4) The documents in Paragraph (6) of Subsection E of 16.60.4.10 NMAC shall be submitted to the board within 30 days of receiving the documents by the firm or upon request by the board.

(5) If the firm cannot submit the documents in Paragraphs (1) through (5) of Subsection E of 16.60.4.10 NMAC within the stated timeframe or, at the maximum, 180 days after the scheduled due date of the peer review, the firm must submit a letter to the board via mail, electronically or digitally explaining its failure to comply. The board may take disciplinary action for failure to comply.

(6) Firms may also satisfy this document submission requirement by having the sponsoring organization make the documents described in Paragraphs (1) through (5) of Subsection E of 16.60.4.10 NMAC available to the board within the stated time frames via the AICPA facilitated state board access (FSBA) secure website process.

G. Additional information to be provided by firms or the sponsoring organization, upon request by the board, shall provide written permission for the sponsoring organization to provide information to the board. Permission may be granted annually on the firm renewal form. Such information may include the following (or similar) types of

objective information about a firm's review, if known:

- (1) the date the review is or was scheduled to take place;
- (2) the name of the reviewing firm, team captain or review captain;
- (3) if the field work on the peer review has commenced;
- (4) the date the exit conference was expected to or did occur;
- (5) a copy of any extension approval letters;
- (6) whether the peer review working papers have been received by the sponsoring organization;
- (7) whether a must select engagement was included in the scope of engagements reviewed;
- (8) if a technical review is in progress;
- (9) whether the review has been presented to a report acceptance body (RAB);
- (10) the date the review is expected to be presented to the report acceptance body;
- (11) if the firm is going through fair procedures to determine whether it is cooperating with the peer review.

H. Approved peer review sponsoring organizations, programs and peer review standards:

(1) The board shall approve sponsoring organizations, peer review program(s) and standards.

(2) The board adopts the American institute of certified public accountants (AICPA) as an approved sponsoring organization and its peer review program [~~and the New Mexico society of CPAs (NMSCPA) or its successor and other peer review programs~~] administered by entities fully involved in the administration of the AICPA peer review program. These organizations are not required to submit a plan of administration to the board for approval. The board may approve other sponsoring

organizations and peer review programs.

(3) Any board approved peer review program and any peer reviewer performing a peer review under this section shall utilize standards for performing and reporting on peer reviews by a recognized national accountancy organization whose standards are generally accepted by other regulatory authorities in the United States, including but not limited to the *AICPA Standards for Performing and Reporting on Peer Review*.

(4) The board may terminate its approval of a sponsoring organization for cause following notice and opportunity for hearing. For purposes of this paragraph, "cause" includes but is not limited to failure to maintain an ongoing compliance with the requirements.

(5) For an organization, not specifically identified in these rules as board-approved, to receive board approval for its peer review program and standards, the organization must submit evidence to the satisfaction of the board. At a minimum, the evidence shall include the standards, procedures, guidelines, oversight process, training materials and related documents used to administer, perform, and accept peer reviews. The board has the authority to request any other documents/ information from an organization about its peer review program in determining whether to grant approval.

(6) For firms required to be registered with an inspected by the public company accounting oversight board (PCAOB), the board approves the PCAOB's inspection process for reviewing practices subject to its authority (which are not included in the scope of peer review programs). Firms receiving inspections under the PAOB are also required to meet the peer review requirements under a board-approved peer review program that covers the portion of the firm's practice not subject to the PCAOB inspection process, should the firm have such a practice.

I. Authority and function of peer review oversight committee:

(1) The board may appoint up to five individuals licensed in this or another state to a peer review oversight committee to monitor programs administered by the sponsoring organization and report periodically to the board. Peer review oversight committee members shall not be current members of the board or perform any enforcement related work for regulator or governmental bodies, professional organizations (including but not limited to an AICPA ethics committee, AICPA joint trial board or state professional ethics committee) or similar groups or subgroups, including consultants and other similar arrangements for the board; and may be removed or replaced by the board at its discretion.

(2) Each committee member shall annually sign a confidentiality statement indicating they will not divulge any information to the board or any other person or entity that would identify any firm, licensee, or peer reviewer/ reviewing firm.

(3) The peer review oversight committee may conduct oversight of approved sponsoring organization to provide reasonable assurance that the program it is administering is complying with the minimum standards for performing and reporting on peer reviews. The committee shall report to the board any modifications to the sponsoring organization and shall make the recommendations regarding their continued approval.

(a) Oversight procedures to be performed by the peer review oversight committee may consist of, but are not limited to, the following activities:

(i) visit the sponsoring organization for the approved peer review program;

(ii) review the sponsoring organization's procedures for administering the program;

(iii) meet with the sponsoring

organization's RAB during consideration of peer review documents;

(iv) review the sponsoring organization's compliance with their programs.

(b) The peer review oversight committee shall verify that firms comply with peer review requirements as follows:

(i) verification may include review of the peer review report, the firm's response to the matters discussed in the peer review report, and the acceptance letter outlining any additional corrective or monitoring procedures, and the letter(s) signed by the sponsoring organization notifying the firm that required actions have been appropriately completed;

(ii) any other actions deemed necessary by the peer review oversight committee to assure compliance with peer review standards.

J. Disciplinary action:

(1) The board shall take disciplinary action against a firm for failure to comply with peer review requirements. Actions may include, but are not limited to, remedial and corrective procedures, fines, and denial of firm registration.

(2) In the event a firm is unwilling or unable to comply with established standards, or a firm's professional work is so egregious as to warrant disciplinary action, the board shall take appropriate action to protect the public interest.

(3) Peer review documents must be submitted to the board office in accordance with Subsection F of 16.60.4.10 NMAC.

(a) For each day the firm is delinquent in submitting the documents, the board may assess a fine of \$10 per day not to exceed \$1,000.

(b) If peer review documents are submitted more than 100 days late, a notice of contemplated action may be issued against all licensees listed on the most recent firm permit renewal application as owners of the firm.

(4) Requests for extensions must be submitted no later than 30 days prior to renewal date as required by Paragraph (4) of Subsection B of 16.60.4.10 NMAC.

K. Privileged information: A report, statement, memorandum, transcript, funding record, or working paper prepared for and an opinion formulated in connection with any positive enforcement or peer review is privileged information held by the sponsoring organization and may not be subject to discovery, subpoena, or other means of legal compulsion for release to any person and is not admissible as evidence in any judicial or administrative proceeding except for a board hearing.

L. In the event a firm is merged, otherwise combined, dissolved, or separated, the sponsoring organization shall determine which firm is considered to be the succeeding firm, if any. The succeeding firm shall retain its peer review status and the review due date. [16.60.4.10 NMAC - Rp 16 NMAC 60.11.8 & 16 NMAC 60.11.9, 2/14/2002; A, 6/15/2004; A, 12/30/2005; A, 6/30/2008; A, 9/15/2015; A, 10/1/2016; A, 1/13/2026]

**REGULATION
AND LICENSING
DEPARTMENT
ACCOUNTANCY, BOARD OF
PUBLIC**

This is an amendment to 16.60.5 NMAC, Sections 11 and 14, effective 1/13/2026.

16.60.5.11 RULES OF CONDUCT: In addition to abiding by the AICPA code of professional conduct, New Mexico CPA/RPA certificate/license holders and persons with practice privileges pursuant to Subsection C of Section 61-28B-26 NMSA 1978 shall abide by the following board rules:

A. Responses to board communications. The

individual applicant, certificate holder, person with practice privileges or registration holder of a certificate/license or firm permit shall, when requested by the board, substantively and honestly respond in writing to all communication from the board within thirty days of receipt of board communications. Board communications may be sent by regular mail, registered or certified mail, hand delivered or by commercial courier, to the last known address on record with the board. Board communications may also come by email to the last known email address on record with the board. The individual may respond to the board by regular mail, registered or certified mail, hand delivery, by commercial courier. Email is only a valid response to the board if the original communications from the board was delivered by email.

(1) Failure to respond substantively and honestly to written board communications or failure to furnish requested documentation or working papers constitutes conduct indicating lack of fitness to serve the public as a professional accountant and shall be grounds for disciplinary action.

(2) Each applicant, certificate or firm permit holder, persons with practice privileges, and each person required to be registered with the board under the act shall notify the board, in writing, of any and all changes in such person's mailing address and the effective date thereof within 30 days before or after such effective date.

B. Reportable events. ~~[A licensee]~~ New Mexico licensees and persons with practice privileges shall report in writing to the board the occurrence of any of the following events within 30 days of the date ~~[the licensee had]~~ of knowledge of these events:

(1) Receipt of a final peer review report indicating "pass with deficiencies" or "fail" or a public company accounting oversight board (PCAOB) firm inspection report containing deficiencies or identifying potential defects in

the quality control systems. For the purposes of Subsection B of 16.60.5.11 NMAC, "deficiency reports" are reports indicating either "pass with deficiencies" or "fail" as defined in the AICPA peer review standards.

(2) Receipt of a second consecutive deficiency peer review report.

(3) Imposition upon the license of discipline, including, but not limited to, censure, reprimand, sanction, probation, civil penalty, fine, consent decree or order, suspension, revocation, or modification of a license, certificate, permit, or practice rights by:

(a) the securities and exchange commission (SEC), the PCAOB, or the internal revenue service (IRS); or

(b) another state board of accountancy for any cause other than failure to pay a professional license fee by the due date or failure to meet the continuing professional education requirements of another state board of accountancy; or

(c) any other federal or state agency regarding the licensee's conduct while rendering professional services; or

(d) any foreign authority or credentialing body that regulates the practice of accountancy.

(4) The occurrence of any matter reportable that must be reported ~~[by the licensee]~~ to the PCAOB pursuant to Sarbanes Oxley Action Section 102(b)(2)(f) and PCAOB Rules and forms adopted pursuant thereto.

(5) Notice of disciplinary charges filed by the SEC, the PCAOB, the IRS, or another state board of accountancy, or a federal or state taxing, insurance or securities regulatory authority, or a foreign authority or credentialing body that regulates the practice of accountancy.

(6) Unless prohibited by the terms of the agreement, any judgment, award or settlement of a civil action or arbitration proceeding of \$150,000

or more for licensees, or \$25,000 or more for persons with practice privileges, in which the licensee or person with practice privileges was a party if the matter included allegations of gross negligence, violation of specific standards of practice, fraud, or misappropriation of funds in the practice of accounting; provided, ~~[however,]~~ licensed firms shall ~~[only]~~ notify the board regarding civil judgments, settlements, or arbitration awards directly involving the firm's practice of public accounting ~~[in this state]~~.

(7) Conviction or plea of no contest to which the licensee or person with practice privileges is a defendant if the crime is: a criminal conviction listed in subsection A of Section 16.60.5.14 NMAC.

C. Frivolous complaints. An individual certificate/license or firm permit holder who, in writing to the board, accuses another certificate/license or firm permit holder of violating the act or board rules shall assist the board in any investigation or prosecution resulting from the written accusation. Failure to do so, such as not appearing to testify at a hearing or to produce requested documents necessary to the investigation or prosecution, without good cause, is a violation of this rule.

D. Compliance with the Parental Responsibility Act. If an applicant for a certificate/license or a CPA or RPA certificate/license or firm permit holder is identified by ~~[the state of New Mexico human services department (HSD)]~~ a state or federal government entity as not in compliance with a judgment and order for support, the board or its legally authorized designee shall: deny an application for a license; deny the renewal of a license; have grounds for suspension or revocation of a license; and shall initiate a notice of contemplated action under provisions of the Uniform Licensing Act.

(1) If an applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should

contact the ~~[HSD]~~ child support ~~[enforcement]~~ division that has issued the certificate of non-compliance. An applicant or licensee can provide the board with a subsequent statement of compliance, which shall preclude the board from taking any action based solely on the prior statement of non-compliance ~~[from HSD]~~.

(2) When a disciplinary action is taken under this section solely because the applicant or licensee is not in compliance with a judgment and order for support, the order shall state that the application or license shall be reinstated upon presentation of a subsequent statement of compliance. The board may also include any other conditions necessary to comply with board requirements for reapplications or reinstatement of lapsed licenses.

E. Specialty designations. A CPA/RPA certificate/license holder may only represent a claim of special expertise through the use of "specialty designations" in conjunction with the CPA/RPA designation if the specialty designation is:

(1) consistent with designations prescribed by national or regional accreditation bodies offering the designations pursuant to a prescribed course of study, experience, or examination, and

(2) cannot be construed by the public or clients of the CPA/RPA practitioner to be a false fraudulent, misleading, or deceptive claim unsubstantiated by fact.

F. A CPA firm permit holder shall display the firm permit in a clearly visible place to the public in the office or space for which the permit is issued. The license(s) of the qualifying CPA and any licensed CPA employee or CPA associated with the firm shall be displayed in a clearly visible place to the public in the office or space for which the firm permit is issued/registered. Any licensed CPA or firm permit holder shall provide a copy of their license or firm permit upon request.

[16.60.5.11 - R] 16 NMAC 60.7, 16 NMAC 60.9, and 16 NMAC 60.10, 2/14/2002; A, 6/30/2008; A,

1/1/2011; A, 1/17/2013; A, 9/15/2015; A, 10/1/2020; A, 12/12/2021; A, 1/13/2026]

16.60.5.14 CRIMINAL CONVICTIONS:

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

(1) Crimes involving homicide, murder, manslaughter, or resulting in death;

(2) crimes involving human trafficking, or trafficking in controlled substances;

(3) kidnapping, false imprisonment, assault, aggravated assault, battery or aggravated battery;

(4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, prostitution, or other sexual crimes;

(5) crimes involving great bodily harm, adult abuse, child abuse, neglect, abandonment, stalking, aggravated stalking, injury to pregnant woman, custodial interference, breaking and entering, sabotage, property damage, or financial exploitation;

(6) crimes involving ransom, robbery, larceny, extortion, burglary, sabotage, fraud, forgery, embezzlement, identity theft, credit card fraud or unauthorized use of a credit card; receiving stolen property, money laundering, burglary tools, or stolen vehicles;

(7) crimes involving arson, explosives, incendiary devices, facsimile bombs, hoax explosives, deadly weapons, or firearms;

(8) crimes involving seizing or exercising control of a bus by force or violence or by threat of force or violence;

(9) violation of Partial-Birth Abortion Ban Act or the Endowed Care Cemetery Act;

(10) violations of the Model State Commodity Code,

the New Mexico Uniform Securities Act, the Mortgage Loan Company Act, Uniform Money Services Act, or the New Mexico Mortgage Loan Originator Licensing Act;

(11) crimes involving bribery, intimidating witnesses, retaliation against a witness, tampering with evidence, tampering with public records, performing an official act for personal gain, demanding or receiving a bonus, gratuity or bribe, unlawful interest in a contract involving an irrigation district, or receiving profits derived from an unlawful interest in a contract involving an irrigation district, or unlawful interest in a public contract;

(12) crimes involving jury tampering;

(13) crimes involving escape from custody, jail or penitentiary;

(14) crimes involving harboring or aiding a felon;

(15) crimes involving tax evasion or tax fraud;

(16) willful failure to collect and pay over taxes;

(17) crimes involving attempts to evade or defeat any tax;

(18) crimes involving violations of officers or employees engaging in the administration of the property tax who buy property sold for delinquent property taxes that is unlawful;

(19) crimes involving paying or receiving public money for services not rendered;

(20) crimes involving violations of the Cigarette Tax Act, including packaging cigarettes and counterfeit stamps;

(21) crimes involving violations of the Cigarette Enforcement Act;

(22) crimes involving the Savings and Loan or the Credit Union Act;

(23) crimes involving perjury, public assistance, false swearing of oath or affidavit, false voting, falsely obtaining services or accommodations, falsifying documents, filing false documents, making false statements, making

an unauthorized withdrawals, issuing a worthless check, obtaining information under false pretenses, or providing the credit bureau information of a consumer to an entity who is not authorized to receive that information;

(24) Medicaid fraud,

(25) an act or omission, with intent to defraud, expressly declared to be unlawful by the Banking Act,

(26) crimes involving improper disposition of certain court funds or improper sale, disposal, removal or concealing of encumbered property;

(27) crimes involving the possession of 4 or more incomplete credit cards or machinery, plates or other contrivance;

(28) crimes involving altering or changing engine or other number of a vehicle or motor vehicle;

(29) crimes involving any contractor or subcontractor justly indebted to a supplier of material or labor who accepts payment for construction and knowingly and intentionally applies the proceeds to a use other than paying those persons with whom they contracted;

(30) crimes involving knowingly authorizing or assisting in the publication, advertising, distribution or circulation of any false statement or representation concerning any subdivided land offered for sale or lease, or with knowledge that any written statement relating to the subdivided land is false or fraudulent, issuing, circulating, publishing or distributing it;

(31) crimes involving making or permitting a false public voucher;

(32) crimes involving a false public voucher, false reports, uttering false statements, paying or receiving public money for services not rendered;

(33) crimes involving unlawful influencing, unlawful sale of a lottery ticket,

unlawful representation of a business or individual as a credit union, conducting business as a credit union when not authorized to do so, or violations of the New Mexico Uniform Securities Act;

(34) crimes involving extortionate extensions of credit or racketeering;

(35) crimes involving the Pyramid Promotional Scheme Act or Antitrust Act;

(36) crimes involving the unlawful request, receipt, or offer to another that is exchanged for the promised performance of and official act, or illegal kickbacks;

(37) failing to comply with the registration or verification requirements of the Sex Offender Registration and Notification Act;

(38) crimes involving the practice of medicine, dentistry or osteopathic medicine without a license or authorization of the appropriate regulating authority;

(39) fourth or subsequent driving under the influence of intoxicating liquor or drugs;

(40) crimes involving controlled substances, including violations of the Controlled Substances Act;

(41) crimes involving violations of the Drug Precursor Act or the Drug, Device and Cosmetic Act;

(42) crimes involving violations of the New Mexico Subdivision Act or the Mortgage Foreclosure Consultant Prevention Act;

(43) misuse of funds;

(44) intent to defraud uses on a public security or instrument of payment;

(45) crimes involving a violation of the Governmental Conduct Act; or
(46) an attempt, solicitation, or conspiracy involving any of the felonies in this subsection.

B. The board shall not consider the fact of a criminal

conviction as part of an application for licensure unless the conviction in question is one of the disqualifying 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 criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule.

D. Nothing in this rule prevents the board from denying an initial application, denying a renewal application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the 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 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.
- [16.60.5.14 NMAC - N, 12/12/2021; A, 1/13/2026]

REGULATION AND LICENSING DEPARTMENT BARBERS AND COSMETOLOGISTS, BOARD OF

This is an amendment to 16.34.2 NMAC Sections 8, 10, effective 1/13/2026.

16.34.2.8 [RESERVED]

GENERAL LICENSING

PROCEDURES:

A. Application for any license to be issued or renewed by the board shall be made online. Applications are valid for one year from the date of submittal.

B. Applicants for original licensure shall:

- (1) complete an online application; and
- (2) upload a recent headshot only, color photograph, front-view face to their online portal; and
- (3) attach a transcript of hours from a school or a certificate of completion of a barber apprenticeship issued by the state apprenticeship agency showing that the training hours were completed within the preceding 24 months; and
- (4) upload exam results indicating the applicant has successfully passed the national written and practical examinations. The minimum passing scaled scores for all written and practical licensing examinations is 70.

C. Renewal is the responsibility of the licensee:

- (1) Timely renewal of a license(s) is the full and complete responsibility of the licensee. Failure to renew the license by the expiration date will result in late fees or reexaminations as set forth in the act.
- (2) A licensee applying for renewal shall upload a recent head shot only, color photograph, front-view face to their online portal.
- (3) A licensee, with a valid instructor license for the preceding 24 months, may use the instructor license to renew or reinstate their original practitioner license.
- (4) A licensee with an active practitioner license who has taken and passed the instructor theory exam, may submit continuing education as defined in 16.34.9.8 NMAC to renew or reinstate their instructor license.
- (5) Timely

renewal of an establishment, enterprise, electrology clinic and school license is the full and complete responsibility of the licensee. Failure to renew the license within 30 days after its expiration date, will result in payment of renewal and late fees. A license that has expired for more than a year is considered expired non-renewable.

D. Licenses for practitioners will expire at the end of the licensee's birth month not to exceed 24 months.

[16.34.2.8 NMAC - N, 01/13/2026]

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 upload or attach a recent [passport-size] headshot only 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. [Licensee] 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 downloaded, 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, A, 01/13/2026]

**REGULATION
AND LICENSING
DEPARTMENT
BARBERS AND
COSMETOLOGISTS,
BOARD OF**

This is an amendment to 16.34.3 NMAC Sections 8, 9, 14, effective 1/13/2026.

16.34.3.8 NOTICE OF EXAMINATION:

A. The application for examination and applicable fee required by the act or these rules must be received by the board or its designee according to the published schedule. It is the applicant's duty to meet all deadlines. Any arrangement to have a third party (such as a school) transmit the fee and application is made at the applicant's risk. Failure of the third party to transmit the fee in a timely manner will render the applicant being ineligible to take the examination in question.

B. The doors to the examination room will close promptly at the scheduled examination start time. Applicants who do not appear on time or who do not have the required documents will not be permitted to the examination or will not be admitted to the examination. In extreme situations where mitigating circumstances are present, ~~[the board or its]~~ the board's designee will decide whether to allow the applicant to take the examination.

[16.34.3.8 NMAC - Rp 16 NMAC 34.3.8, 6/16/2001; A, 10/4/2007 A, 01/13/2026]

16.34.3.9 EXAMINATION SCORES:

A. The minimum passing scaled score for all written and practical licensing examinations is ~~[seventy five]~~ seventy.

B. Examinations for all licenses except instructor licenses are scored in three individual segments, each requiring a minimum segment scaled score of ~~[seventy five]~~ seventy. The segments are:

(1) national practical;

(2) national theory written; and
(3) state law written.

~~[(C.)]~~ If an applicant fails to attain a scaled score of seventy five on any segment of the examination, he/she will be required to retake the failed segment in its entirety.

~~[(D.)]~~ **C.** Examinations for instructor licenses for all disciplines are scored in two individual segments, each requiring a minimum scaled score of ~~[seventy five]~~ seventy. The segments are:

(1) theory written; and
(2) state law written.

D. If an applicant fails to attain a scaled score of seventy on any segment of the examination, the applicant will be required to retake the failed exam in its entirety. If the applicant fails to pass both the written and practical exam, and obtain licensure within 24 months, the applicant will need to register at a licensed school, submit to a scholastic evaluation to determine his training needs, and complete a minimum of 150 hours of remedial education. Upon completion and proof of the remediation, the applicant may apply for and submit to applicable examination(s). Any passing score is valid for a two-year period from the date of graduation.

[16.34.3.9 NMAC - Rp 16 NMAC 34.3.9, 6/16/2001; A, 7/16/2004; A, 10/4/2007 A, 01/13/2026]

16.34.3.14 EXAMINATION REQUIREMENTS FOR APPLICANTS WITH FULL HOURS, NO OUT-OF-STATE LICENSE:

An applicant, who has completed an equivalent course of study in the United States within the preceding ~~[12]~~ 24 months, but has not obtained a license in another state, will be admitted to the New Mexico board examinations subject to all requirements, which apply to New Mexico applicants to take examination.

[16.34.3.14 NMAC - N, 10/4/2007; A, 7/14/2018 A, 01/13/2026]

**REGULATION
AND LICENSING
DEPARTMENT
BARBERS AND
COSMETOLOGISTS,
BOARD OF**

This is an amendment to 16.34.4 NMAC Sections 9, 11, 13, 14, 15, effective 1/13/2026.

16.34.4.9 BARBER

APPRENTICE LICENSE: The board shall issue a barber apprentice license to an applicant who submits the apprentice license fee, the application form required and provided by the board, and a copy of the apprenticeship agreement between the apprentice and the registered apprenticeship program, issued by the state apprenticeship agency. Applicants for a barber apprenticeship program, must contact the department of workforce solutions to apply. Upon acceptance into a barber apprenticeship program, the applicant shall apply for a barber apprentice license with the board. Upon successful completion of the apprenticeship program, the barber apprentice shall apply for a barber license.

A. A barber apprentice license is valid during the time the apprentice is active in a registered apprenticeship program, but in no case longer than 36 months from the date of issuance. A barber apprentice license will automatically become invalid upon the apprentice's cancellation from a registered apprenticeship program or deregistration of an apprenticeship program by the state apprenticeship agency. The apprentice is responsible for returning the invalid license to the board within 30 days of the apprentice's cancellation or deregistration of the program.

B. The board may recommend to the state apprenticeship agency deregistration of a barber apprenticeship program for any violation of the board's rules or regulations.

C. A barber apprentice may receive related instruction from

a journey worker/licensed barber instructor outside of a licensed establishment; however, barber apprentice services may not be performed on the public and practical application may not be taught outside of a licensed establishment.
[16.34.4.9 NMAC - Rp 16 NMAC 34.4.9, 6/16/2001; Repealed, 10/4/2007; A, 10/29/2016; A, 8/29/2023 A, 01/13/2026]

16.34.4.11 BARBER/ COSMETOLOGY LICENSE

(CROSSOVER): A barber/cosmetology license may be issued to any licensee who has completed a crossover course in either barbering or cosmetology, ~~and~~ has taken and passed the appropriate exams, completes online application, and pays initial licensure fee. Upon completion of the crossover, the licensee must contact the board office and request that their licenses be combined.

[16.34.4.11 NMAC – Rp 16 NMAC 34.4.10, 06/16/2001; Repealed, 04/12/2010; A, 8/29/2023 A, 01/13/2026]

16.34.4.13 QUALIFIED INSTRUCTORS:

A. An eligible applicant may be issued an instructor license provided he or she submits a transcript for a 1000-hour instructor training course or proof of two years of current and consecutive work experience and passes the instructor licensing examination which can be taken only once for multiple licenses.

B. A provisional instructor license will be issued to an eligible applicant who meets the board requirements and has completed three full years of current verified full time work experience as a practitioner in the field in which he/she seeks licensure as an instructor under the following terms and conditions:

(1) The work experience must be current to ensure up-to-date knowledge in the field in which the applicant seeks provisional licensure.

(2) The provisional license will be effective

~~[until the next renewal period of]~~
up to 24 months and will expire on
March ~~[thirty-one]~~ 31st.

(3)

The provisional license will only be renewed ~~[twice]~~ once upon completion of the required continuing education in professional development and the required fee as set forth by board rules.

(4) To obtain

an instructor license, the holder of a provisional instructor license must complete an examination application and pass the instructor licensing examination. Failing any portion of the instructor examination automatically voids the provisional instructor license. The provisional license must then be returned to the board office.

(5) The

holder of a provisional instructor license must sit for the licensing examination prior to the expiration of the provisional license.

(6) No

more than fifty percent of the total instructional staff at any licensed school in the state of New Mexico may be licensed under this category. When determining ratios, more than one part-time provisional instructor may be combined to count as one instructor.

[16.34.4.13 NMAC - Rp 16 NMAC 34.4.13, 6/16/2001; A, 10/4/2007; A, 4/12/2010; A, 12/17/2015 A, 01/13/2026]

16.34.4.14 STUDENT PERMIT:

A. Upon receipt of a complete student registration form and applicable fee, which shall be received in the board office within ~~[15]~~ 30 days of date ~~[of registration]~~ the student starts school, the board will issue a student permit and permit number. The student permit authorizes the holder to practice course related skills in an approved school and perform services on the public only after fifteen percent of the required hours for graduation from the course of study are accrued.

B. Student permits are valid for ~~[90]~~ 120 days

following completion of graduation requirements. The student permit will be issued to the student upon graduation of course of study by a school official and can be used to enter a licensed establishment and provide all services in the applicable course of study under the constant supervision of a licensee of the board, in the applicable course of study. The student permit holder may not assume supervisory or managerial responsibilities of a licensed establishment at any time. The student permit is valid for ~~[90]~~ 120 days while waiting to test. Once the ~~[90]~~ 120 days has expired ~~[the student permit must be turned into the state board office and]~~ the student must terminate working at the licensed establishment. It is the responsibility of the licensed establishment to monitor the expiration of the student permit. ~~[The student permit must be turned into the board with initial licensure application as part of the application process.]~~ No extensions will be given after the ~~[90]~~ 120 days has terminated.

C. Student permits are the property of the board and must be returned to the ~~[board office]~~ school with the notice of termination or official transcript of credit by the school. Additional requirements applicable to student permits are found in Paragraph 7 of Subsection A of 16.34.8.13 NMAC of these rules.

D. Student permits cannot be used outside a school environment without board approval.

E. Student permits are not to be used as a student externship permit as defined in 16.34.8.17 NMAC.

[16.34.4.14 NMAC - Rp 16 NMAC 34.4.14, 6/16/2001; A, 7/16/2004; A, 10/4/2007; A, 4/12/2010; A, 11/14/2010; A, 12/17/2015; A, 7/14/2018 A, 01/13/2026]

**16.34.4.15 DUPLICATE
LICENSES:** ~~[A duplicate license will be issued to any board licensee who submits a written request along with the required fee.]~~

A. A duplicate license will be issued to any board licensee

who submits an online request along with the required fee.

B. A licensee who works at more than one establishment must obtain an official duplicate license for each establishment.

[16.34.4.15 NMAC - Rp 16 NMAC 34.4.15, 6/16/2001; A, 10/4/2007; A, 12/17/2015 A, 01/13/2026]

REGULATION AND LICENSING DEPARTMENT BARBERS AND COSMETOLOGISTS, BOARD OF

This is an amendment to 16.34.5 NMAC Sections 8, 11, 14, 18, effective 1/13/2026.

16.34.5.8 GENERAL LICENSURE REQUIREMENTS:

A. Any person is eligible to be registered as a practitioner and is qualified to receive a license as a registered barber, cosmetologist, hairstylist, manicurist, esthetician, manicurist/esthetician, or electrologist who submits proof that the applicant:

- (1) is at least 17 years of age;
- (2) has completed the course of study for the license in a licensed school within the preceding [12] 24 months; or for a barber license, proof that the applicant has either completed the course of study in a licensed school within the preceding 24 months or has successfully completed a barber apprenticeship program registered by the state apprenticeship agency within the preceding 24 months;
- (3) has paid the required fees as set forth in these rules; and
- (4) has passed the practical and written examination conducted by the board.

B. Any person is eligible for initial registration or re-registration as an instructor and is qualified to receive a license as an instructor who submits proof that

the applicant has met all the above requirements and in addition:

(1) [for barber instructors:] has an education equivalent to the completion of four years of high school; [and].

(2) holds a current license in New Mexico as a practitioner in the field in which the applicant is seeking licensure as an instructor.

(3) submits a transcript showing successful completion of a 500-hour instructor training course or proof of two years of current and consecutive work experience.

(4) passes the instructor licensing examination.

(3) (5) [Applications] applications are valid for one year from date of receipt.

(4) (6) [AH] application fees are non-refundable. [16.34.5.8 NMAC - Rp 16 NMAC 34.5.8, 6/16/2001; A, 7/16/2004; A, 12/17/2015; A, 10/29/2016; A, 7/14/2018, A, 12/27/2022; A, 8/29/2023 A, 1/13/2026]

16.34.5.11 MANICURIST/ PEDICURIST LICENSE [400] 600 HOURS OR EQUIVALENT CREDIT):

A. A manicurist/pedicurist license permits the practitioner to:

- (1) trim the nails of a person, including the trimming of otherwise healthy ingrown toenails;
- (2) reduce corns or callouses by using softening preparations or abrasion in order to beautify the foot;
- (3) use chemical substances on the nails for the purpose of strengthening, repairing, or lengthening the nails using nail tips, wraps, or acrylic nail products. Nail extensions may be applied only after the nails, cuticles and nail plate have been properly prepared for the service and applicable product;
- (4) apply massage and manipulations to the hands, arms and feet for the purpose of stimulating and smoothing;

(5) apply polish, oils or other cosmetic preparations for the purpose of beautifying the hands and feet.

B. A manicurist/pedicurist shall not treat an obviously infected ingrown to a nail or use any technique involving mechanical penetration of the skin beneath a callous or corn.

C. A manicurist/pedicurist shall not perform any type of temporary or permanent hair removal techniques without first obtaining appropriate licensure. [16.34.5.11 NMAC - Rp 16 NMAC 34.5.11, 6/16/2001; A, 12/17/2015 A, 1/13/2026]

16.34.5.14 INSTRUCTOR LICENSE [400] 500 HOURS OR EQUIVALENT CREDIT):

A. An instructor license permits the instructor to teach only those courses or subjects in which he/she has had practical training and received licensure as a practitioner as follows;

(1) a cosmetologist who obtains a cosmetologist instructor license can teach all phases of cosmetology, esthetics, manicuring/pedicuring and salon business, but cannot teach or supervise shaving.

(2) a barber who obtains a barber instructor license can teach barbering, esthetics and salon business, but cannot teach or supervise manicuring/pedicuring.

(3) a manicurist/pedicurist who obtains a license as a manicuring instructor can teach manicuring/pedicuring and salon business, but cannot teach or supervise other cosmetology or barbering services.

(4) an esthetician who obtains a license as an esthetician instructor can teach esthetics and salon business, but cannot teach or supervise other cosmetology, barbering, manicuring/pedicuring or electrology services.

(5) an electrologist who obtains a license as an electrology instructor can teach electrology and salon business,

but cannot teach or supervise, cosmetology, barbering, manicuring or esthetic services.

(6)

a manicurist/esthetician who obtains a license as a manicurist/esthetician instructor can teach manicuring/pedicuring, esthetics and salon business, but cannot teach or supervise other cosmetology, barbering, or electrology services.

(7)

a hairstylist who obtains a license as a hairstylist instructor can teach hairstyling and salon business, but cannot teach or supervise other cosmetology, barbering, manicuring/pedicuring, esthetics or electrology services.

B. Teaching or supervising unauthorized subjects or courses may lead to revocation of the instructor license or other disciplinary action by the board.

[16.34.5.14 NMAC - Rp 16 NMAC 34.5.14, 6/16/2001 A, 1/13/2026]

16.34.5.18 EXEMPTIONS:

The following persons are exempt from the provision of the Barbers and Cosmetologists Act while in the discharge of their professional duties:

A. Persons licensed by the law of this state to practice medicine and surgery or chiropractic;

B. commissioned medical or surgical officers of the United States Army, Navy, Marine or Air force hospital services;

C. registered nurses;

D. funeral service practitioners;

E. persons providing only eyebrow threading services. However, the establishment where services are being provided must have a current establishment license;

F. persons providing only hair braiding services; or

G. persons who are employed as make-up artists or hairstylists for theatrical or cinematic productions only. Services must be provided at production or film locations only.

[16.34.5.18 NMAC - N, 1/13/2026]

REGULATION AND LICENSING DEPARTMENT BARBERS AND COSMETOLOGISTS, BOARD OF

This is an amendment to 16.34.7 NMAC Sections 7, 8, 9, effective 1/13/2026.

16.34.7.7 DEFINITIONS:

The following definitions are recommended infection control standards used for cleaning (sanitizing), disinfecting, and sterilization:

A. ["clean or cleansing" means washing with liquid soap and water, detergent, antiseptics, or other adequate methods to removal all visible debris or residue. Cleansing is not disinfection.]

"attempted inspection" means an inspection was attempted and the establishment or enterprise was not open during the posted hours of operation. If the owner/operator does not contact the board office, the owner/operator is subject to inspection fees.

B. **"clean or cleansing"** means washing with liquid soap and water, detergent, antiseptics, or other adequate methods to removal all visible debris or residue. Cleansing is not disinfection.

[B:] C. **"disinfect or disinfection"** means the use of chemical agents (after cleaning) to destroy potentially dangerous pathogens on non-porous items;

[E:] D. **"disinfectant"** means an EPA-registered bactericidal, fungicidal and virucidal chemical effective against pathogens of concern when used as directed on the manufacturer's label. For purposes of this rule alcohol and UV light boxes are not approved for disinfection.

[D:] E. **"proper use of EPA-registered bactericidal, fungicidal and virucidal disinfectants"** means disinfecting using the following:

(1)

implements and surfaces shall first be thoroughly cleaned of all visible

debris prior to disinfection. EPA-registered bactericidal, fungicidal and virucidal disinfectants become inactivated and ineffective when visibly contaminated with debris, hair, dirt and particulates;

(2) some

disinfectants may be sprayed on instruments, tools, or equipment to be disinfected;

(3)

disinfectants in which implements are to be immersed shall be prepared fresh daily or more often if solution becomes diluted or soiled; and

(4) these

chemicals are harsh and may affect the long term use of scissors and other sharp objects. Leaving items in solution in accordance with manufacturers' recommendation for effective disinfection is recommended.] **"hours of operation"** means the hours an establishment and enterprise are open to provide services to the public. Hours must be posted and visible to the public.

F. **"inspections"**

means all establishments and enterprises shall be inspected on a regular basis to ensure all infection control and safety standards are met. Failure to be inspected may lead to additional fees and possible discipline.

[E:] G. **"multi-use"** means non-porous instruments, items, equipment, implements or tools that must be cleaned and disinfected. The items must be disinfected by a complete immersion in an EPA-registered, bactericidal, fungicidal and virucidal (formulated for hospitals) disinfectant that is mixed and used according to the manufacturer's directions. Non-porous items are the only items that can be disinfected;

H. **"proper use of EPA-registered bactericidal, fungicidal and virucidal disinfectants"** means disinfecting using the following:

(1)

implements and surfaces shall first be thoroughly cleaned of all visible debris prior to disinfection. EPA-registered bactericidal, fungicidal and virucidal disinfectants become

inactivated and ineffective when visibly contaminated with debris, hair, dirt and particulates;

(2) some disinfectants may be sprayed on instruments, tools, or equipment to be disinfected;

(3) disinfectants in which implements are to be immersed shall be prepared fresh daily or more often if solution becomes diluted or soiled; and

(4) these chemicals are harsh and may affect the long term use of scissors and other sharp objects. Leaving items in solution in accordance with manufacturers' recommendation for effective disinfection is recommended.

[F.] L. "laundering" means to wash in washing machine with detergent, dried and hot to the touch, kept in enclosed container or cabinet;

[G.] J. "sanitation" means the maintenance of sanitary conditions to promote hygiene and the prevention of disease through the use of chemical agents or products;

[H.] K. "single use items" means tools or supplies that come in contact with the public and are porous (made of anything other than plastic, metal or glass) cannot be disinfected (including, but not limited to: disposable razors, pedi-pads, emery boards, sponges, cotton pads, buffing blocks, toe separators, chamois, sandpaper drill bits, waxing strip, wood sticks, cotton balls, nail wipes, disposable towels, pumice stones, flip flops, and porous files, etc.) shall be disposed of immediately after use;

[I.] L. "sterilize or sterilization" means to eliminate all forms of bacteria or other microorganisms.

[16.34.7.1 NMAC - Rp 16 NMAC 34.7.1, 6/16/2001; A, 12/17/2015, A, 1/13/2026]

16.34.7.8 APPLICATION AND REQUIREMENTS FOR ENTERPRISE OR ESTABLISHMENT LICENSE:

A. A completed official application for an enterprise

or establishment license must be filed with the board at least fifteen days prior to the expected opening of the enterprise or establishment: Applications must ~~[include the required fee in the form of a money order, cashier's check, business check or credit card for on-line transactions, (no personal checks will be accepted).]~~ be completed through the online portal. Applications must include:

(1) a copy of the owner's business license must accompany initial application; ~~[(2) a list of all booth renters working in the establishment (if applicable); (3)]~~ (2) all fees are non-refundable; ~~[(4) incomplete applications will be returned; and (5)]~~ (3) electronic signatures will be acceptable for applications submitted pursuant to 16.34.1 NMAC through 16.34.16 NMAC.

B. The application, if complete, may be administratively approved. A formal inspection of the enterprise, outreach enterprise unit or establishment shall take place after the issuance of the license.

C. When an enterprise or establishment relocates within the state of New Mexico, the owner must complete ~~[a new application and obtain approval, including inspection from the board to operate the business at the new location;]~~ a business change request through the online portal and pay the [administrative] required fee. When changing address location, the department will then place the establishment on an inspection schedule to be determined by the board.

D. If any portion of the establishment is completely segregated from the primary area, a duplicate establishment license must be acquired and posted in the separate area. A duplicate license fee will be assessed.

E. All enterprise and establishment licenses must be renewed each year on the last day of the month of original issue date.

F. Official enterprise or establishment license must be displayed where visible to the public upon entry to the establishment;

G. The most recent inspection report shall be downloaded, printed and posted in each establishment where visible to the public within 72 hours of the inspection. It is the responsibility of the licensee that signed the inspection report and the owner to ensure this requirement is met.

H. The following information shall be kept on file on the premises of an enterprise or establishment and available for inspection by the board:

(1) the full names of all employees in the enterprise or establishment and their exact duties;

(2) the name and address of enterprise or establishment owner;

(3) a complete description of all services performed;

(4) implementation of proper program of identification of products during use and in storage to avoid confusion as to products or their ingredients; such program shall include efforts to ensure that ingredient information provided by manufacturers or distributors remains available with the product for use by licensed professionals and clients.

(5) safety data sheet (SDS) must be current. A file containing pertinent information regarding products. Hard copies MUST be available. Computer based storage or access may only be used when all employees have access at all hours;

(6) a copy or access to the New Mexico board of barbers and cosmetologists statutes and rules;

(7) a site specific OSHA exposure control plan;

(8) if a pedicure tub is maintained on the premises, a log is maintained by the salon showing the legible signature, license number of the person disinfecting pedicure tub as defined in

16.34.7.9 NMAC. The time and date of the disinfection process and the name of the disinfectant used. Log entries must be maintained on the salon premises for 12 months; and

(9) as defined in 16.34.7.9 NMAC a log of each autoclave use must be maintained showing all testing samples and results, and a maintenance log of all maintenance performed according to the manufacturer's directions. The salon must retain the most recent twelve months of the log at the salon for review by the board;

I. Each establishment licensed by the board shall post a sign at the main entrance, which indicates the type of business being performed.

J. Proper signage must indicate the type of services offered.

K. If establishment is attached to a residence, it shall have a separate entrance. Permission from the county or city is required prior to submittal of application.

L. Each mobile outreach unit shall post a sign indicating the type of business being performed. The outreach enterprise license will be maintained at its business address. Each mobile outreach unit shall carry and have posted a duplicate enterprise license assigned to that unit.

M. Any establishment or mobile outreach enterprise unit licensed by the board may not be used for living or sleeping quarters or in any way for residential purposes. If an establishment is located in a private residence, a segregated area must be provided for the licensed activity and maintenance of proper water supply and toilet standards to ensure proper infection control and safety standards. Reasonable access to a restroom must be provided by the establishment or mobile outreach enterprise unit.

N. Except as provided in these rules, no services authorized under this act may be provided away from a licensed establishment. Services authorized under this act may be provided in mobile outreach units only as specified in these rules.

O. Any licensee

performing services in a mobile outreach unit must carry a current duplicate license at all times. The licensee must show the client the license upon request.

P. Each outreach enterprise mobile unit will be equipped with or have available a cellular phone or other communication capability necessary for immediate access or prompt response.

Q. Each outreach enterprise mobile unit must have signage on at least two sides for identification information in letters no smaller than five inches.

R. Outreach enterprise mobile units shall be used for the sole purpose stated in 16.34.1 NMAC of these rules.

[16.34.7.8 NMAC - Rp 16 NMAC 34.7.8, 6/16/2001; A, 12/17/2015; A, 7/14/2018, A, 1/13/2026]

16.34.7.9 INFECTION CONTROL & SAFETY STANDARDS FOR ESTABLISHMENTS AND ENTERPRISES:

A. All licensees who operate enterprise or establishments, including outreach mobile units must comply with the following minimum infection control and safety standards. Failure to comply with these requirements may result in an administrative fine as provided in 16.34.15 NMAC of these rules and other disciplinary action by the board.

(1) maintenance of adequate ventilation to ensure that occupants are not improperly exposed to hazardous products or chemicals;

(2) maintenance of smoking restriction to ensure that products or chemicals used are not inadvertently ignited;

(3) maintenance of spill standards to ensure that occupants are not improperly exposed to any product or chemical;

(4) maintenance of hot and cold running water available in an operable manner to perform professional services in

a safe and sanitary manner while serving the public;

(5) all establishments shall be completely separated by solid partitions, or by walls where food is prepared should be enclosed and away from public areas;

(6) rest rooms of establishments must be in working order and have ceiling high partitions from the rest of the establishment or common area;

(7) hours of operation shall be posted where clearly visible to the public [~~at all times;~~] as defined in 16.34.1 and 16.34.7 NMAC;

(8) each establishment must have signs stating;

(a) only "disinfected tools or new disposable supplies" may be used on clients; and

(b) "single use" instruments, items and supplies must be discarded after each use.

(9) most recent inspection report shall be posted where clearly visible to the public upon entry to the establishment;

(10) each establishment owner/manager must print the inspection report within 72 hours of inspection and post the inspection in a conspicuous place;

(11) maintenance of all equipment in safe working condition;

(12) compliance with local licensing, fire, building, health, ventilation, heating and safety requirements;

(13) floors, walls, and other fixtures must be kept reasonably clean at all times;

(14) floors shall be thoroughly cleaned each day;

(15) hair cuttings must be swept up and deposited in a closed receptacle after each haircut;

(16) trash containers must be emptied daily and kept clean by washing or using plastic liners;

(17) it is the responsibility of all licensees, including the salon owner and the designated licensed salon manager to ensure that all infection control requirements are followed;

(18) implementation of proper component mixing practices to reduce the risk of undesired reactions;

(19) maintenance of safety data sheets containing pertinent facts regarding products;

(20) implementation of proper storage practices to ensure that products are maintained in the manner that prevents any risk of fire or of undesired reactions;

(21) implementation of proper disinfection practices of working tools and implements; all non-porous (multi-use) items must be cleaned and then disinfected per procedure listed in Subsection B. of 16.34.7.9 NMAC;

(22) sharps ready for disposal shall be disposed of in approved sharps containers. Contaminated waste which does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal, approved disposal methods. Storage of filled contaminated waste containers on-site shall not exceed 90 days; containers shall be stored as far away as possible from autoclave/clean instruments. Establishment shall maintain records of waste removal;

(23) use of an autoclave requires monthly spore tests. Autoclaves and autoclave packaging of tools are prohibited unless regular (at least once per month but not more than 30 days between tests) spore tests are performed by a contracted laboratory. If a positive spore test is received, the autoclave may not be used until a negative spore result is received;

(24) each establishment must maintain a log of each autoclave use, all testing samples and results, and a maintenance log of

all maintenance performed according to the manufacturer's directions. The salon must retain the most recent twelve months of the log at the salon for review by the board;

(25) there shall be adequate disinfectants in your place of business to perform all scheduled services for two business days;

(26) adherence to the product manufacturer's directions for safe use that appear on the product labeling; including proper mixing, replacement of solution, contact time and disposal;

(27) disinfectant solutions must be made daily, and disposed of at the end of the day or immediately if visible debris is present;

(28) if concentrated disinfectants must be diluted with water, measuring devices must be readily available and used to ensure an effective solution is made;

(29) all products and chemicals not in the original container must be kept in closed and legibly labeled container with name of product, product description (disinfectant) and manufacturer's name;

(30) disinfected implements must be stored in a disinfected, dry, covered container and be isolated from contaminants. At no time can these items come into contact with used/dirty items;

(31) all multi-use implements must be kept in covered, marked, separate containers (dirty or disinfected);

(32) maintain disinfected combs, brushes and implements in enclosed containers marked as "ready for use";

(33) maintain dirty or used combs, brushes and implements in enclosed containers marked "not ready for use";

(34) towel warmers must be disinfected daily. Salons using hot steamed towels in services must meet the following requirements:

(a) all towels, linens, sheets, robes and other

linens must be laundered after each use, dried and hot to the touch, and be kept in enclosed container or cabinet;

(b) towels must be washed with detergent, (properly diluted), and dried on "hot";

(c) practitioners preparing towels for the warmers must first wash their hands or wear gloves;

(d) wet towels used in services must be prepared fresh each day. At the end of the day, unused steamed towels must be removed and laundered;

(e) clean towels, sheets, robes and other linens must be used for each client;

(f) the use of paper or disposable towels, linens, etc. shall be disposed of after each use; and

(g) a new, disposable neck strip must be used for each client or a freshly laundered unused towel be placed between chair cloth/shampoo cape and person's skin. The chair cloth and shampoo cape must not have direct contact with client's skin.

(35) filters and drains of pedicure basins must be cleaned and disinfected after each use with an EPA hospital grade disinfectant. Immediately after each service, the practitioner must follow steps listed below:

(a) dirty water is drained, and any visible debris is removed;

(b) all removable filter screens, inlet jets, footplates, impeller assemblies, and other parts are removed and debris eliminated before scrubbing with a disinfected brush and detergent and water;

(c) the tub basin is scrubbed with detergent and water, and rinsed with water, and drained;

(d) removable parts are replaced;

(e) the basin or tub is filled with clean water and an EPA-registered hospital level disinfectant is added following the manufacturer's directions;

(f) if the pedicure tub is electrical, the fan or pump must be turned on and the unit operated for the entire contact time; and

(g) after the contact time is complete, the disinfectant must be drained, and the tub rinsed with clean water.

(36) pedicure tub liners are single use items and must be disposed of immediately after use;

(37) pedicure basins shall be disinfected between clients, at the end of the day, and deep disinfection once weekly; and

(38) a log is maintained by the salon showing the legible signature, license number of the person disinfecting the tub, the time and date of the disinfection process and the name of the disinfectant used. Log entries must be maintained on the salon premises for 12 months.

(39) Eyebrow thread is a single use item and must be disposed of immediately after use.

B. Cleaning and disinfection:

(1) all single-use instruments, items, tools or supplies that come in contact with the public and are porous (made of anything other than plastic, metal or glass) cannot be disinfected (including, but not limited to: eyebrow thread, disposable razors, pedi-pads, emery boards, sponges, cotton pads, buffing blocks, toe separators, chamois, sandpaper drill bits, waxing strip, wood sticks, cotton balls, nail wipes, disposable towels, pumice stones, flip flops, toe separators, porous files and porous buffers, etc.) shall be disposed of immediately after use;

(2) prior to use on any client, all multi-use (non-porous) instruments, items, equipment, implements or tools must be cleaned and disinfected. Items must be cleaned with soap and warm water or a chemical cleaner. The items must then be disinfected by a complete immersion in an EPA-registered, bactericidal, fungicidal and

virucidal (formulated for hospitals) disinfectant that is mixed and used according to the manufacturer's directions. Non-porous items are the only items that can be disinfected;

(3) before disinfecting any surface or item, any visible debris and disposable parts must be removed. After cleaning, all surfaces of non-porous, multi-use tool or implement, including handles, must be disinfected by fully submerging the item in disinfectant in a covered container for the full amount of contact time listed on the manufacturer's label;

(4) implements and surfaces shall first be thoroughly cleaned of all visible debris prior to disinfection. EPA-registered bactericidal, fungicidal and virucidal disinfectants become inactivated and ineffective when visibly contaminated with debris, hair, dirt and particulates;

(5) EPA-registered bactericidal, fungicidal and virucidal disinfectants shall be used as follows:

(a) some disinfectants may be sprayed on the instruments, tools, or equipment to be disinfected;

(b) disinfectants in which implements are to be immersed shall be prepared fresh daily or more often if solution becomes diluted or soiled; and

(c) these chemicals are harsh and may affect the long term use of scissors and other sharp objects. Leaving items in solution in accordance with manufacturers' recommendation for effective disinfection is recommended.

(6) head rests, hand rests, pedicure basins, foot rests, manicure tables and other fixtures that come in contact with licensees and the public shall be cleaned and disinfected prior to use for each client;

(7) cups, bowls, basins, and jars must be cleaned and disinfected prior to use on each client;

(8) after each client, the implements shall be wiped with a clean paper or fabric towel and sprayed with either an EPA-registered bactericidal, fungicidal and virucidal disinfectant. Equipment, implements, tools, and materials to be cleaned and disinfected include, but are not limited to: combs and picks, haircutting shears, thinning shears/texturizers, edgers, guards, perm rods;

(9) items MUST stay immersed or visibly moist with disinfectant for the entire contact time listed on the manufacturer's label to be effective;

(10) whether or not disposable, the following must be replaced with clean or new (including, but not limited to) towels, hair caps, headbands, brushes, gowns, makeup brushes, spatulas;

(11) items that may not be immersed can be sprayed or wiped with disinfectant sprays and wipes that are bactericidal, fungicidal and virucidal (EPA-registered disinfectants) and must remain visibly moist for contact time indicate on the product label:

(a) metal guards, clipper blades, drill bits, high frequency wands, and other removable parts must be removed. All product residue, hair skin debris, nail dust, other visible debris must be brushed or wiped off, and the removable part must be disinfected with an EPA-registered, hospital level disinfectant spray or wiped after each use. The surfaces must remain wet with the spray or wipe disinfectant for the contact time listed on the disinfectant label; and

(b) electric clippers, nail drills, flat irons, blow dryers, glass or metal electrodes, esthetic machines, steamers, or other electric or electronic tools must be cleaned and disinfected after each use, including the body and handle.

(12) clipper wash designed as cleaner, not as disinfectant, unless specified as disinfectant on label;

(13) all disinfectant solution must be changed per the manufacturer's label or sooner if contaminated;

(14) all products must be wiped cleaned and the exterior disinfected with a disinfectant wipe at the end of the day;

(15) all fluids, semi-fluids, creams, waxes, and powders must be kept in clean covered containers with a solid cover, and must be dispensed in a manner which prevents contamination of the unused supply;

(16) products in tubs must be removed with disposable or disinfected spatulas, and fingers may never be used;

(17) products removed from container must not be returned to the container and must be used or discarded;

(18) containers must be wiped cleaned and the exterior disinfected with a disinfectant wipe at the end of the day;

(19) wax pots must be kept covered and the exterior cleaned daily;

(a) if debris is found in the wax pot, or if the wax has been contaminated by contact with skin;

(b) unclean applicators, or double dipping, the wax pot must be emptied, the wax discarded, and the pot must be disinfected;

(c) disposable spatulas and wooden sticks may be dipped into the wax only once and then discarded without using the other end;

(d) applicators may be dipped only once into the wax unless the wax is a single-service item and unused wax is discarded after each service; and

(e) any surface touched by a used wax stick must be disinfected immediately after the service.

(20) paraffin warmers must be kept covered, the exterior cleaned daily, and the wax must be debris free. Cannot go back into paraffin tub;

(21) a new waxing stick must be used for each wax application; no double-dipping;

(22) all licensees must provide a suitable place equipped to give adequate service, as advertised to clients, subject to inspection by the board;

(23) practitioners shall wash their hands with liquid soap, or use a liquid hand sanitizer, prior to performing any services on a client. Thoroughly wash hands and the exposed portion of arms with soap and water before providing services to each client after smoking, drinking, eating and using the restroom; and

(24) proper use of protective devices when so indicated by the product manufacturer's direction for safe use or when the nature of the product indicates such protection is necessary.

C. Blood exposure procedure:

(1) If a blood exposure should occur, the following steps must be followed:

(a) when possible injured party should go to a sink and rinse injury with running water and "milk" the injury if possible to remove any bacteria that may have entered the wound;

(b) supply injured party with antiseptic or single use packet of antibacterial ointment and the appropriate dressing to cover the injury; and

(c) bag all blood-soiled (contaminated) porous articles and dispose of in trash. Immediately wash and disinfect all non-porous items (do not continue service with these items). This is the responsibility of the licensee.

(2) If the client is injured, the following steps must be followed:

(a) stop service;

(b) protection - put on gloves;

(c) clean injured area;

(d) apply antiseptic;

(e) cover the injury with the appropriate dressing to prevent further blood exposure;

(f) bag and dispose of all contaminated single use items;

(g) clean and disinfect any implements or surfaces contaminated;

(h) clean hands; and

(i) return to service.

(3) disinfect all non-porous items (do not continue service with these items).

(4) do not allow containers, brushes, nozzles or liquid styptic container to touch the skin or contact the wound. Use a disposable applicator (never use styptic pencil unless specified for single use).

D. Prohibitions:

(1) licensees shall not use any product in providing a service authorized under the Act that is banned or deemed to be poisonous or unsafe by the United States food and drug administration (FDA) or other local, state, or federal governmental agencies responsible for making such determination;

(2) possession or storage on licensed premises of any item banned or deemed to be poisonous or unsafe by the FDA or governmental agency shall be considered *prima facie* evidence of its use;

(3) for the purpose of performing services under the Act, no licensee shall buy, sell, or use, or apply to any person liquid monomeric methyl methacrylate (MMA);

(4) the use, storage or dispensing of such beauty service products containing methyl methacrylate (MMA) or other chemicals determined to be hazardous to the health of licensees or consumers by the board of any federal, state or local health agency, shall be prohibited:

(a) fumigants, formalin (formaldehyde) tablets or formalin liquids;

(b) roll on wax is prohibited;

(c) UV light boxes;

(d) autoclaves and autoclave packaging of tools are prohibited unless regular (at least once per month but not more than 30 days between tests) spore tests are performed by a contracted laboratory. If a positive spore test is received, the autoclave may not be used until a negative spore result is received;

(e) practitioners must not use tools or implements provided by customers unless the practitioner first cleans and disinfects the tool or implement;

(f) prohibited tools must not be used even if supplied by the customer;

(g) salons must not store tools or implements in boxes for customers;

(h) licensees may not perform services on the public while under the influence of alcohol or drugs;

(i) ~~[alcohol cannot be served at any establishment without proper license;]~~
alcohol cannot be consumed, distributed or dispensed in an establishment during normal public business hours without appropriate licensing;

(j) ~~alcohol cannot be served at any establishment without proper license;~~

(k) procedures performed by any means, by hand, chemical, mechanical, or electrical apparatus or appliance which comes into contact with or penetrates into the dermal layer of the skin is considered invasive;

(l) the use of any product or preparation that comes into contact with or penetrates the dermis layer of the skin;

(m) no establishment or school shall use of any razor-edged device or tool; to include but not limited to credo blades, callus shavers, rasps, graters or other tools for the purpose of removing skin or calluses that could cause an open flesh wound;

(n) no animals in establishments or

mobile units unless it is a qualified service animal in accordance with the Service Animal Act, Sections 28-11-1.1 to .6 NMSA 1978; and

(o) live fish, leeches, snails, and other living creatures may not be used in any cosmetic service.

[16.34.7.9 NMAC - Rp 16 NMAC 34.7.9, 6/16/2001; A, 7/16/2004; A, 10/4/2007; A, 12/17/2015; A, 7/14/2018, A 1/13/2026]

REGULATION AND LICENSING DEPARTMENT BARBERS AND COSMETOLOGISTS, BOARD OF

**This is an amendment to 16.34.8
NMAC Sections 8, 9, 13, 15, 16, 18,
20, 22, 23, effective 1/13/2026.**

16.34.8.8 APPLICATION FOR OPENING, RELOCATING, CHANGING NAME OF A SCHOOL:

A. A school license is nontransferable.

B. A change of ownership or control is any action by which a person or corporation obtains authority to control the actions of an institution. These actions may include, but are not limited to:

(1) the transfer of the controlling interest of stock of an institution to its parent corporation.

(2) the merger of two or more institutions;

(3) the division of an institution into two or more enterprises or establishments;

(4) the transfer of the assets or liabilities of an institution to its parent corporation;

(5) the acquisition by an individual of the controlling interest of an institution, whether a proprietorship, partnership or corporation;

(6) the sale of an institution; or

(7) the lease of or right to do business as an institution.

C. If ownership or legal control of a licensed school changes, the new owner, lessee or other legally responsible party must submit a new application and secure a new license from the board.

D. If legal control of a school does not change, but the organization of ownership does change (e.g. a sole proprietor becomes the sole stockholder of a corporation which owns the school), the board must receive notarized proof of such change within 30 days of such change.

E. A completed application to open, change ownership or relocate a school authorized under this act must be filed with the board. An application to open a school, change ownership or relocate or change the name of a school filed by a currently licensed school owner must be filed at least 15 days in advance of the expected date of change.

(1) Applications must be on official forms approved by the board and must include the appropriate fee.

(2) Applicants to open, change ownership or relocate a school must demonstrate that the school is financially responsible and the school has sufficient resources to ensure against precipitous closure. Applicants shall provide at least the following information: ~~[evidence of ownership; corporate or business status; identity and address of owners, partners, shareholders, and directors; copies of articles of incorporation and by-laws, if applicable; evidence of financial responsibility, including compiled financial statement and balance sheet indicating assets and liabilities; a corporate surety bond or terminates a program prior to the completion of a student's contract with the school; disclosure of the filing within the last seven years of bankruptcy of owner(s), partner(s), or director(s); and the identity of two business or financial references.]~~

(a) fee;

(b) evidence of ownership;

(c) corporate or business status;

(d)
identity and address of owners,
partners, shareholders or directors;

(e)
copies of articles of incorporation and
by-laws if applicable;

(f)
evidence of financial responsibility,
such as financial statement, balance
sheet indicating assets and liabilities;

(g) a
corporate surety bond

(h)
disclosure of filing within the
last seven years of bankruptcy of
owners(s) if applicable;

(i)
two references, business or financial;

(j)
owner(s), partner(s) or director(s)
must disclose any civil actions
brought against them within ten
years of the date of the application
for or involving nonpayment of debt,
fraud, or misrepresentation and the
disposition of such action;

(m)
course syllabus;

(n)
copy of the school's current or
proposed catalog;

(o)
copy of the school's current or
proposed enrollment agreement;

(p)
a list of all full time instructors
including license numbers, identify
which instructor will be the managing
instructor;

(q) a
complete floor plan of the institution,
including any separate or satellite
classrooms, please include square
footage;

(r)
designate a custodian of records and
process for obtaining transcripts from
the custodian of records in the event
the school closes; and

(r)
complete exemption application with
the department of higher education.

(3) An
owner(s), partner(s), or director(s) of
a school applicant must sign a release
directed to financial institutions
authorizing the disclosure of financial
information and shall disclose loan
history.

(4) An
owner(s), partner(s), or director(s) of
a school applicant will be required to
disclose civil actions brought within
10 years of the date of the application
against an owner(s), partner(s),
or director(s) for or involving
nonpayment of debt, fraud, or
misrepresentation and the disposition
of such action(s).

(5) An
owner(s), partner(s), or director(s) of
a school applicant will be required
to disclose any arrest or conviction
within the 10 years of the date of
the application for fraud, larceny,
embezzlement, or any crime involving
stealing, taking, theft, robbery, or
unlawful appropriation of money
or anything of value that belongs to
another and the disposition of such
action(s).]

(6) (3) A school
is not financially responsible if an
owner(s), partner(s), or director(s) is
not making payments in accordance
with an agreement, judgment, or
debt obligation, or if an owner(s),
partner(s), or director(s) has been
convicted of felony involving a
crime described in Paragraph 5 of
Subsection E of 16.34.8.8 NMAC and
that owner(s), partner(s), or director(s)
is not sufficiently rehabilitated as
provided in the Criminal Offender
Employment Act, Sections 28-2-1
through 28-2-6 NMSA 1978.

(7) (4) In the case
of a change of ownership of a school,
the school establishment license of
the prior owner does not expire for 30
days after the date of sale providing
it is a current and valid license. In
order to ensure continued training for
students, the new owner may operate
under the prior license until the earlier
of the 30-day expiration date of the
prior license or obtaining the new
school establishment license.

(8) (5) In case of
a change of ownership of a school,
the new school shall submit a student
roster of all students enrolled at the
time of the change which lists for
each student the name, the date of
birth, the social security number,
course enrolled, the course beginning
date and the student permit. The

school shall submit the student roster
to the board within 30 days of the
change of ownership.

F. [The application,
if complete, may be administratively
approved.] A formal inspection of
the establishment shall occur within
90 days of opening. Incomplete
applications without proper and
complete supporting documents will
be returned.

G. When a school
relocates within the state of New
Mexico, the owner must complete
[a new] an amendment application
to change the location through the
online portal, [application and obtain
approval, including inspection from
the board to operate the business at
the new location,] and pay the school
relocation fee. When changing address
location, the department will then place
the establishment on an inspection
schedule to be determined by the board.

H. If any portion of
the school is completely segregated
from the primary area, a duplicate
school license must be acquired
and posted in the separate area. A
duplicate license fee will be assessed.
The school must also comply with
16.34.8.12 NMAC, expansion campus
facility requirements.

I. All school licenses
must be renewed on March 31 of each
year.

J. Each school
licensed by the board shall post a
current copy of the statutes and rules
and regulations and the most recent
inspection report in an area where
clearly visible to the public.

K. Each school
licensed by the board shall post an
exterior sign which indicates the
facility houses a school.
[16.34.8.8 NMAC - Rp 16 NMAC
34.8.8, 6/16/2001; A, 12/17/2015; A,
7/14/2018; A, 1/13/2026]

16.34.8.9 GENERAL REQUIREMENTS:

A. Schools may not
permit its students to perform any
laboratory services on the public
under any circumstances until the
student has accrued fifteen percent
of the total hours required within the
course.

B. Schools shall display in a conspicuous place within the reception or clinic area of the school a sign which indicates that all services are performed by supervised students.

C. Schools shall not pay compensation to any of its students, either directly or indirectly, excluding tips from clients.

D. Instructors or student instructors shall not be permitted to perform services on the public other than that part of the practical work which pertains directly to the teaching or demonstration of subjects included in the curriculum.

E. Schools shall provide both theory instruction and practical skills training in all subjects applicable to the course of study according to the curriculum prescribed by the board.

F. Schools shall provide a minimum of 24 hours of infection control and safety standards theory prior to any practical procedures.

G. Instructor approved hands-on procedures in schools shall be completed by students on clients, students or models; training on mannequins is considered hands on training as defined in 16.34.1.7 NMAC.

H. Schools shall maintain the equivalent of at least one full time instructor for every 20 students in attendance or part thereof.

I. Schools must at all times be under the immediate supervision of a licensed instructor.

J. Schools, which advertise services to the public in order to attract clients for its students, must include in each advertisement the statement that all services are performed by supervised students. [16.34.8.9 NMAC - Rp 16 NMAC 34.8.9, 6/16/2001; A, 12/17/2015; A, 1/13/2026]

16.34.8.13 REGULATIONS CONCERNING STUDENTS:

A. Student registration
(1) When a school receives an application from a prospective student, it shall promptly

notify the student of the registration requirements of the board.

(2) It shall constitute a violation of the rules, within the meaning of the act, for a school to engage in failure to transmit student registration documents and fees in a timely fashion to the board pursuant to Subsection G of 16.34.15.8 NMAC, wherein fines will be imposed.

(3) It shall be the responsibility of the prospective student to comply with the registration requirements by the first day the student attends class for credit. Failure to do so may result in loss of hours earned prior to proper registration.

(4) No school shall allow a student to attend class for credit until the student has complied with the registration requirements:

(a) Applicants for the barber, cosmetology, hairstylist, manicure/pedicure, esthetician, electrologist, and manicure/esthetician courses must be at least 16 years of age.

(b) Applicants for the instructor course for barbers must be at least 17 years of age and have successfully completed four years of high school or the equivalent.

(5) Acceptable proof of age and education requirements as follows:

(a) Proof of age includes a copy of a birth certificate, a driver's license or a state issued identification card, or a baptismal certificate.

(b) Proof of two years of secondary education includes a high school diploma, a G.E.D. certificate or transcript of G.E.D. test scores, a sealed letter from the high school attended, a copy of the high school transcript showing all required grades have been passed, a letter from the G.E.D. testing facility stating that the G.E.D. test has been passed, or any other test approved by the United States department of education for the purpose of determining an applicant's

ability to benefit, providing that documentation of grade equivalency is established by the test publisher and the required grade level for the course of study has been achieved.

(c) The board, or its executive director, may accept as proof of secondary education the applicant's notarized statement that the applicant has completed the required secondary education, but has been unable to obtain documentary proof of that from a foreign nation. A notarized statement will not be accepted for students who have completed the secondary education in the United States.

(6) Evidence of compliance with the foregoing requirements shall accompany the application for registration form provided by the board.

(7) Upon receipt of a complete student registration form and applicable fee, which shall be received in the board office within [15] 30 days of the date [of registration] the student starts school, the board office will then issue a student permit and a permit number. The student permit authorizes the holder to practice course related skills in an approved school on the public only after successful completion of fifteen percent of the program. In addition, the student permit also authorizes the student to participate in the student externship program pursuant to 16.34.8.17 NMAC of these rules. A photograph of the student (front view, head only, at least one and one-half inches by one and one-half inches) shall be attached to the permit. The permit shall be displayed in a binder in the school in which the student is enrolled and open to review by the state inspector or other board designee. Student permits are the property of the board and must be returned to [the board by] the school upon termination of the student's enrollment.

(8) If inspection of the student permits and school records determines that students are attending class without being properly registered with the

board, the student may be denied the hours previously accrued and the school will be reported to the board for disciplinary action.

B. Student transfers/re-entries

(1) Any previously registered student desiring to transfer to another school, or re-enter the previous school shall submit a new registration form and required fees to the board. Students transferring schools as a result of a school closure shall submit a new registration form but are not required to pay a re-registration fee. Students attending a school, which undergoes a change of ownership, are not required to re-register with the board.

(2) Any student desiring to re-enter school must submit proof of the successfully completed previous training in order to receive credit for it.

(3) A student enrolled in any course may withdraw and transfer hours or equivalent credit acquired to another course not to exceed the amount of hours or equivalent credit of each subject within the new course curriculum requirements. Appropriate termination notices and course registration documents must be submitted to the board office when a student transfers to another course.

~~[(4) Students enrolled in the cosmetology curriculum may take the examination for one of the specialty courses at which time the school certifies that the student has completed the requirements for the course in which the student seeks licensure. All other requirements for examination must also be met. The student may continue to attend classes in the cosmetology course. However, if licensure is obtained in any specialty course and the student continues attending classes in the cosmetology course, students:]~~

C. Records of student academic progress

(1) Schools shall keep records of academic progress for each student and these records shall be open for inspection

by members of the board or its designees.

(2) Schools will designate in the enrollment contract and other consumer information, all requirements for withdrawal or graduation. When all requirements have been met, the school must ~~[return the student's permit to the board, and submit a sealed]~~ provide the official transcript of training to the board and to the student showing that course requirements for graduation have been met. The board recognizes for transfer, hours or equivalent credits reported on the official transcript of training. Circumstances regarding transfer of or approval of student hours may be brought to the board on an individual basis for special consideration by the board. The board may, in its discretion, recognize hours or equivalent credit or partial hours or partial credit for transfer when an official transcript of training has not been submitted by the school.

~~[(3) If a student terminates his/her enrollment status without meeting all withdrawal or graduation requirements, the school in which the student was enrolled shall notify the board of termination in writing within 30 days of the student's formal termination date using the format prescribed by the board, and return the student's permit.]~~

(3) If a student terminates their enrollment status without meeting all withdrawal or graduation requirements, the school in which student was enrolled shall notify the board of termination in writing within thirty days of the student's formal termination date using the format prescribed by the board. ~~[and return the student's permit.]~~

(4) Schools offering clock hour training shall define its attendance requirements to include one hundred percent attendance for the course length for licensure or may allow excused absences for no more than ten percent of the course length for satisfactory course completion.

(a) student attendance policies are applied uniformly and fairly;

(b) attendance policies give appropriate credit for all hours attended;

(c) schools shall not adjust attendance hours of students whether hours are added, as a reward, or deducted, as a penalty;

(d) the school shall report actual hours attended by the student or shall round the hours to the nearest half hour (i.e. if a student attended 44 minutes past the hour, the school would report the previous half hour; if a student attended 45 minutes past the hour, the school would report the next hour);

(e) the school must maintain attendance records for each student to verify that the minimum attendance standard set forth by the board is being met; and

(f) in cases where schools are authorized to offer training via distance learning methods, the school establish standards for converting competencies achieved to clock or credit hours.

(5) To be considered a graduate, a student must have completed the course scheduled for completion and met the minimum attendance standard (or ninety percent) of the established course of study and all other academic and evaluation factors established by the school. Therefore, in addition to completion of the required hours, the student must have satisfactorily completed the practical and theoretical curriculum requirements set forth by the school. Those requirements must include documentation that the student has satisfactorily completed each unit of study prescribed by the board in the applicable course of study. The excused absences do not allow a student to accelerate in their course of study. Even though they may limit excused absences, they will not be allowed to sit for the state licensing examination until the number of hours, prescribed by the board for the applicable course of study, have elapsed.

(6) If a student is required OR allowed by the school to train more than the scheduled hours in a class day, students must be given credit for the additional time in the appropriate subject. Schools have full discretion in setting forth class schedules for each course offered as long as minimum requirements for graduation meet the board standards.

(7) Students may not be called from a scheduled theory class to perform services on the public.

(8) Schools expressing academic measurement in terms of credit hours shall set forth requirements for each unit of study within a course or program which ensures that required levels of competency or skills ability have been met. Such schools must award appropriate credit for each unit of study completed satisfactorily. Records of the students' academic progress within the course of study must be maintained for all students.

(9) The school shall provide a catalog to prospective students containing enough information to permit an informed choice among training opportunities and institutions. Catalogs which comply with the school's accrediting agency will be deemed to comply with this rule.

(10) Schools must comply with the Family Education Right to Privacy Act and must guarantee the rights of students to have access to their cumulative records and provide for proper supervision and interpretation of student records when reviewed.

(11) Schools and students shall enter into a signed written agreement which fully and accurately reflects the contractual rights and obligations of the parties, particularly with regard to suspension, expulsion, refunds, tuition and fees, withdrawal and graduation requirements. Contracts which comply with the school's accrediting agency will be deemed in compliance with this rule.

D. Records regarding state board examinations: Each

school shall disclose to prospective students its annual statistics regarding the school's state examination pass rate. The board or its designee will send a letter to each school after each examination containing the result information on each student, which will serve as the source documentation for calculating the disclosed statistics.

[16.34.8.13 NMAC - Rp 16 NMAC 34.8.13, 6/16/2001; A, 7/16/2004; A, 10/4/2007; A, 12/17/2015; A, 7/14/2018; A, 12/27/2022; A, 1/13/2026]

16.34.8.15 CURRICULUM:

A. The following minimum curriculum requirements are established for all schools licensed under the act. Schools offering training in clock hours must meet the following minimum hours in each unit of study. Schools offering training in credit hours must offer an equivalent training program as prescribed by the schools accrediting agency clock hour/credit hour conversion formula. In absence of such a formula the state board will prescribe the credit hour/clock hour conversion formula. Schools may offer all or part of the courses set forth herein provided appropriate facility requirements are met and Instructors have appropriate practitioner training to teach the subjects offered. This does not preclude schools from offering non-related courses or advanced courses, which are not prescribed in these rules. Courses are automatically approved if the course units are between one hundred percent and one hundred twenty percent of the minimum. Schools desiring to offer instruction that exceeds one hundred twenty percent of the minimum requirements (i.e. a course that is over twenty five percent of the board's published minimum requirements) must submit to the board the following:

(1) a course outline indicating all course hours or credits offered;

(2) a class schedule for the entire course

indicating how and when each unit of instruction is offered;

(3) justification of why the course should be approved at the extended length.

B. Barber course curriculum - **1200**-course hours or equivalent credit:

(1) THEORY:
[75] **205 hours or equivalent credit**

(a)

limited to orientation;

(b)

state laws and regulations;

(c)

professional image;

(d)

first aid;

(e)

chemistry;

(f)

electricity;

(g)

job seeking; and

(h)

ethics

(2) STERILIZATION, SANITATION, BACTERIOLOGY: **75 hours or equivalent credit**

(a)

related theory and safety;

(b)

preparation, procedures and practice;

(c)

products, materials and implements;

(d)

public sanitation;

(e)

methods of sanitation and sterilization;

(f)

chemical agents;

(g)

types and classifications of bacteria;

(h)

bacterial growth;

(i)

infections; and

(j)

infection control and safety standards

(3) SHAMPOO, RINSES, SCALP TREATMENTS: [75] **45 hours or equivalent credit**

(a)

related theory;

anatomy;	(b)	blow drying;	(i)	physiology;	(c)
physiology;	(c)	finger waving;	(j)	shaving, honing and stropping;	(d)
preparation;	(d)	air waving;	(k)	preparation, procedures, and practice;	(e)
procedures and practice;	(e)	hair pressing;	(l)	use of scissors, shears, razor and clippers;	(f)
products, materials and implements;	(f)	hair extensions;	(m)	products, materials and implements;	(g)
hair analysis <u>analysis</u> ;	(g)	hair weaving;	(n)	client consultation and recommendations; and	(h)
disorders of the hair and scalp;	(h)	braiding;	(o)	client record keeping and safety	(i)
hair and scalp treatments;	(i)	corn rowing;	(p)	(8) FACIALS:	
related chemistry; and	(j)	(q) client consultation and recommendations;		[175] <u>120 hours or equivalent credit</u>	(a)
client record keeping and safety	(k)	client record keeping and safety; and	(r)	related theory;	(b)
(4)		CARE OF WIGS AND HAIR PIECES	(s)	anatomy;	(c)
CHEMICAL REARRANGING - PERMS AND RELAXERS: [200]		(6) HAIR		physiology;	(c)
<u>150 hours or equivalent credit</u>	(a)	COLORING - BLEACHING: [125]		preparation, procedures and practice;	(d)
related theory;	(b)	<u>150 hours or equivalent credit</u>	(a)	products, materials and implements;	(e)
anatomy;	(c)	related theory;	(b)	theory of massage and facial treatments;	(f)
physiology;	(d)	anatomy;	(c)	makeup application;	(g)
preparation, procedures and practice;	(e)	physiology;	(d)	use of electrical appliances, currents and specialized machines for treatments;	(h)
products, materials and implements;	(f)	preparation, procedures and practice;	(e)	artificial eyelashes;	(i)
hair analysis and client consultation;	(g)	products, materials and implements;	(f)	removal of unwanted hair;	(j)
related chemistry; and	(h)	hair analysis and client consultation;	(g)	eyelash and brow tinting;	(l)
client record keeping and safety	(5)	related chemistry;	(h)	light therapy;	(m)
HAIRSTYLING: [150] <u>75 hours or equivalent credit</u>	(a)	temporary, semi-permanent, and permanent applications;	(i)	client consultation and recommendations; and	(n)
related theory;	(b)	bleaching, tinting, toning, frosting, special effects and problems;		client record keeping and safety	(9)
anatomy;	(c)	(j) client consultation and recommendations; and	(k)	REQUIRED HANDS-ON-TRAINING - instructor approved procedures	(a) 40
physiology;	(d)	client record keeping and safety	(7)	facial shave;	(b) 30
preparation, procedures and practice;	(e)	HAIR CUTTING AND BEARD TRIMMING: [250] <u>330 hours or equivalent credit</u>	(a)	shaving around ears and neck;	
products, materials and implements;	(f)	related theory;	(b)		
hair analysis and client consultation;	(g)	anatomy;			
related chemistry;	(h)				
wet styling;					

ladies haircuts;	(c)	25	electricity;	(f)	(4)
mens haircuts;	(d)	75	job seeking; and	(g)	CHEMICAL REARRANGING -
hairstyling;	(e)	25	ethics	(h)	PERMS AND RELAXERS: [200]
chemical texturing:	(f)			(2)	150 hours or equivalent credit
seven permanent waving and	(i)		STERILIZATION, SANITATION,		(a)
seven permanent relaxing	(ii)		BACTERIOLOGY: 75 hours or		(b)
(10) SALON			equivalent credit	(a)	(c)
BUSINESS, RETAIL SALES: 50			related theory and safety;	(b)	(d)
hours or equivalent credit			preparation, procedures and practice;	(c)	(e)
related theory;	(a)		products, materials and implements;	(d)	(f)
opening a salon and business plan;	(b)		public sanitation;		(g)
written agreements;	(c)		(e) methods of sanitation and		(h)
regulations and laws;	(d)		sterilization;	(f)	(5)
salon operation, policies, practices,	(e)		chemical agents;	(g)	HAIRSTYLING: [150] 75 hours or
personnel, compensation, payroll	(f)		types and classifications of bacteria;	(h)	equivalent credit
deductions;	(g)		bacterial growth;	(i)	(a)
use of telephone, advertising,			infections; and	(j)	(b)
retail and salesmanship, client			infection control and safety standards	(3)	(c)
communications, public relations,			SHAMPOO, RINSES, SCALP		(d)
insurance; and	(g)		TREATMENTS: [75] 45 hours or		(e)
salon safety			equivalent credit	(a)	(f)
(11) —			related theory;	(b)	(g)
MISCELLANEOUS: 25 hours or			anatomy;	(c)	(h)
equivalent credit			physiology;	(d)	(i)
(11) —			preparation;	(e)	(j)
to be applied by the Instructor to			procedures and practice;	(f)	(k)
strengthen student performance in			products, materials and implements;	(g)	(l)
curriculum related areas, or			hair analysis;	(h)	(m)
(11) —			disorders of the hair and scalp;	(i)	(n)
for supervised field trips and other			hair and scalp treatments;	(j)	(o)
course related training;]			related chemistry; and	(k)	(p)
C. Cosmetology course			client record keeping and safety		(q)
curriculum - 1600 -course hours or					
equivalent credit					
(1) THEORY:					
[75] 255 hours or equivalent credit					
limited to orientation;	(a)				
state laws and regulations;	(b)				
professional image;	(c)				
first aid;	(d)				
chemistry;	(e)				

(r)	client record keeping and safety; and	(b)	anatomy;	(b)	mens haircuts;	25
(s)	care of wigs and hair pieces	(c)	physiology;	(c)	hairstylings;	25
(6)	HAIR	(d)	preparation, procedures and practice;	(d)	coloring;	30
	COLORING - BLEACHING: [125]	(e)	products, materials and implements;	(e)	chemical texturing;	
	150 hours or equivalent credit	(f)	theory of massage and facial treatments;	(i)	seven permanent waving; and	
(a)	related theory;	(g)	makeup application;	(ii)	seven permanent relaxing	
(b)	anatomy;	(h)	use of electrical appliances, currents and specialized machines for treatments;	(11)	SALON	
(c)	physiology;	(i)	artificial eyelashes;		BUSINESS, RETAIL SALES: 50	
(d)	preparation, procedures and practice;	(j)	removal of unwanted hair;		hours or equivalent credit	
(e)	products, materials and implements;	(k)	eyelash and brow tinting;	(a)	related theory;	
(f)	hair analysis and client consultation;	(l)	light therapy;	(b)	opening a salon and business plan;	
(g)	related chemistry;	(m)	client consultation and recommendations; and	(c)	written agreements;	
(h)	temporary, semi-permanent, and permanent applications;	(n)	client record keeping and safety	(d)	regulations and laws;	
(i)	bleaching, tinting, toning, frosting, special effects and problems;	(9)	MANICURING/PEDICURING:	(e)	salon operation, policies, practices, personnel, compensation, payroll deductions;	
(j)	client consultation and recommendations; and		[175] 300 hours or equivalent credit	(f)	use of telephone, advertising, retail and salesmanship, client communications, public relations, insurance; and	
(k)	client record keeping and safety	(a)	related theory;	(g)	salon safety	
(7)	HAIR	(b)	anatomy;	[(12)]	MISCELLANEOUS: 300 hours or equivalent credit	
	CUTTING: [200] 150 hours or equivalent credit	(c)	physiology;	(a)		
(a)	related theory;	(d)	preparation, procedures and practice;		to be applied by the Instructor to strengthen student performance in curriculum related areas; or	
(b)	anatomy;	(e)	products, materials and implements;	(b)	for supervised field trips and other course related training]	
(c)	physiology;	(f)	theory of massage;		D. Manicurist/	
(d)	preparation, procedures, and practice;	(g)	advanced nail techniques;		pedicurist course curriculum - [400]	
(e)	use of scissors, shears, razor and clippers;	(h)	client consultation and recommendations; and		600 -course hours or equivalent credit	
(f)	products, materials and implements;	(i)	client record keeping and safety	(1)	THEORY:	
(g)	client consultation and recommendations; and	(10)	REQUIRED HANDS-ON	(a)	[75] 175 hours or equivalent credit	
(h)	client recordkeeping and safety		TRAINING: instructor approved	(b)	limited to orientation;	
(8)	FACIALS:		procedures:	(c)	state laws and regulations;	
	[175] 350 hours or equivalent credit	(a)	ladies haircuts;	(d)	professional image;	
(a)	related theory;	75			first aid;	

chemistry;	(e)	manicures;	(a)	45	ethics	(h)
electricity;	(f)	pedicures; and	(b)	45	(2)	
job seeking; and	(g)	acrylic nail sets	(c)	20	STERILIZATION, SANITATION, BACTERIOLOGY: 75 hours or equivalent credit	
ethics	(h)	(5) SALON			(a)	
(2)		BUSINESS, RETAIL SALES: 50 hours or equivalent credit	(a)		related theory and safety;	(b)
STERILIZATION, SANITATION, BACTERIOLOGY: 75 hours or equivalent credit		related theory;	(b)		preparation, procedures and practice;	(c)
(a)		opening a salon and business plan;	(c)		products, materials and implements;	(d)
related theory and safety;	(b)	written agreements;	(d)		public sanitation;	(e)
preparation, procedures and practice;	(c)	regulations and laws;	(e)		methods of sanitation and sterilization;	(f)
products, materials and implements;	(d)	salon operation, policies, practices, personnel, compensation, payroll deductions;	(f)		chemical agents;	(g)
public sanitation;	(e)	use of telephone, advertising, retail and salesmanship, client communications, public relations, insurance; and	(g)		types and classifications of bacteria;	(h)
methods of sanitation and sterilization;	(f)	salon safety			bacterial growth;	(i)
chemical agents;	(g)				infections;	(j)
types and classifications of bacteria;	(h)				infection control and safety standards	(3) FACIALS:
bacterial growth;	(i)	[(6) MISCELLANEOUS: 25 hours or equivalent credit			350 hours or equivalent credit	(a)
infections; and	(j)	to be applied by the instructor to strengthen student performance in curriculum related areas; or			related theory;	(b)
infection control and safety standards	(3)	for supervised field trips and other course related training]			anatomy;	(c)
MANICURING/PEDICURING:		E. Esthetician course			physiology;	(d)
[175] 300 hours or equivalent credit	(a)	curriculum - 600-course hours or equivalent credit	(1)	THEORY:	preparation, procedures and practice;	(e)
related theory;	(b)		(a)		products, materials and implements;	(f)
anatomy;	(c)		(b)		theory of massage;	(g)
physiology;	(d)		(c)		facial treatments and makeup application;	(h)
preparation, procedures and practice;	(e)		(d)		use of electrical appliances, currents and specialized machines for treatments;	(i)
products, materials and implements;	(f)		(e)		artificial eyelashes;	(j)
theory of massage;	(g)		(f)		removal of unwanted hair;	(k)
advanced nail techniques;	(h)		(g)		eyelash and brow tinting;	(l)
client consultation and recommendations; and	(i)				light therapy;	
client record keeping and safety	(4)					
REQUIRED HANDS-ON TRAINING: instructor approved procedures						

(m) client consultation and recommendations; and	(b) state laws and regulations;	and specialized machines for treatments;
(n) client record keeping and safety	(c) professional image;	(i) artificial eyelashes;
(4) SALON BUSINESS, RETAIL SALES: 50 hours or equivalent credit	(d) first aid;	(j) removal of unwanted hair;
(a) related theory;	(e) chemistry;	(k) eyelash and brow tinting;
(b) opening a salon and business plan;	(f) electricity;	(l) light therapy;
(c) written agreements;	(g) job seeking; and	(m) client consultation and recommendations; and
(d) regulations and laws;	(h) ethics	(n) client record keeping and safety
(e) salon operation, policies, practices, personnel, compensation, payroll deductions;	(2) STERILIZATION, SANITATION, BACTERIOLOGY: [150] 75 hours or equivalent credit	(4) MANICURING/PEDICURING: [175] 300 hours or equivalent credit
(f) use of telephone, advertising, retail and salesmanship, client communications, public relations, insurance; and	(a) related theory and safety;	(a) related theory;
(g) salon safety	(b) preparation, procedures and practice;	(b) anatomy;
(5) REQUIRED HANDS-ON TRAINING: instructor approved procedures:	(c) products, materials and implements;	(c) physiology;
(a) 50 basic facial procedures;	(d) public sanitation;	(d) preparation, procedures and practice;
(b) 25 machine facial procedures;	(e) methods of sanitation and sterilization;	(e) products, materials and implements;
(c) 25 waxing procedures; and	(f) chemical agents;	(f) theory of massage;
(d) 10 makeup procedures	(g) types and classifications of bacteria;	(g) advanced nail techniques;
[(6) — MISCELLANEOUS: 50 hours or equivalent credit	(h) bacterial growth;	(h) client consultation and recommendations; and
(a) — to be applied by the Instructor to strengthen student performance in curriculum related areas; or	(i) infections; and	(i) client record keeping and safety
(b) — for supervised field trips and other course related training]	(j) infection control and safety standards	(5) REQUIRED HANDS-ON TRAINING: instructor approved procedures
F. Manicurist/ esthetician course curriculum – [900] 950-course hours or equivalent credit	(3) FACIALS: 350 hours or equivalent credit	(a) 50 basic facial procedures;
(1) THEORY: [100] 175 hours or equivalent credit	(a) related theory;	(b) 25 machine facial procedures;
(a) limited to orientation;	(b) anatomy;	(c) 25 waxing procedures;
	(c) physiology;	(d) 10 makeup;
	(d) preparation, procedures and practice;	(e) 45 manicure;
	(e) products, materials and implements;	(f) 45 pedicure; and
	(f) theory of massage;	(g) 20 acrylic nail sets
	(g) facial treatments and makeup application;	(6) SALON BUSINESS, RETAIL SALES: [75] 50 hours or equivalent credit
	(h) use of electrical appliances, currents	

related theory;	(a)	products, materials and implements;	(c)	personnel, compensation, payroll deductions;	
opening a salon and business plan;	(b)	public sanitation;	(d)	use of telephone, advertising,	(f)
written agreements;	(c)	methods of sanitation and sterilization;	(e)	retail and salesmanship, client communications, public relations, insurance; and	
regulations and laws;	(d)	chemical agents;	(f)	salon safety	(g)
salon operation, policies, practices, personnel, compensation, payroll deductions;	(e)	types and classifications of bacteria;	(g)		(5)
use of telephone, advertising, retail and salesmanship, client communications, public relations, insurance; and	(f)	bacterial growth;	(h)	MISCELLANEOUS: 50 hours or equivalent credit	
salon safety	(g)	infections; and	(i)	to be applied by the Instructor to strengthen student performance in curriculum related areas; or	(a)
	(7) —	infection control and safety standards	(j)	for supervised field trips and other course related training	(b)
MISCELLANEOUS: 50 hours or equivalent credit		(3) ELECTROLYSIS AND THERMOLOGY: 350 hours or equivalent credit		H. Instructor course curriculum – [4000] 500 course hours or equivalent credit	
to be applied by the Instructor to strengthen student performance in curriculum related areas; or	(a)	related theory;	(a)	(1) THEORY: 75 hours or equivalent credit	
for supervised field trips and other course related training]	(b)	anatomy;	(b)	limited to orientation;	(a)
G. Electrology course curriculum - 600-course hours or equivalent credit		physiology;	(c)	state laws and regulations;	(b)
(1) THEORY: 75 hours or equivalent credit		preparation, procedures and practice;	(d)	employment and compensation information;	(c)
limited to orientation;	(a)	products, materials and implements;	(e)	professional ethics and image;	(d)
state laws and regulations;	(b)	use of electrical currents;	(f)	effective communications;	(e)
professional image;	(c)	insertion of needles;	(g)	first aid;	(f)
first aid;	(d)	before and after treatment and care;	(h)	chemistry;	(g)
chemistry;	(e)	destruction of the papilla;	(i)	electricity;	(h)
electricity;	(f)	consultation and recommendations; and	(j)	job seeking;	(i)
job seeking; and	(g)	client record keeping and safety	(k)	ethics;	(j)
ethics	(h)	(4) SALON BUSINESS, RETAIL SALES: 50 hours or equivalent credit		principles of teaching;	(k)
	(2)	related theory;	(a)	teacher maturity;	(l)
STERILIZATION, SANITATION, BACTERIOLOGY: 75 hours or equivalent credit		opening a salon and business plan;	(b)	student learning principles; and	(m)
related theory and safety;	(a)	written agreements;	(c)	academic advising	(n)
preparation, procedures and practice;	(b)	regulations and laws;	(d)	(2) COURSE DEVELOPMENT AND LESSON PLANNING: [400] 75 hours or equivalent credit	
		salon operation, policies, practices,	(e)	planning;	(a)

analysis;	(b)	TEACHING AND CLASSROOM	(b)	to be applied by Instructor to
implementation	(c)	MANAGEMENT: [200] 75 hours	or equivalent credit	strengthen student performance in
benefits;	(d)	(a)	independent classroom instructing;	curriculum areas; or
outline;	(e)	(b)	records and reports;	for supervised field trips and other
examples of lesson plans;	(f)	(c)	safety measures;	course-related training cosmetology
components of effective lesson plans;	(g)	(d)	classroom conditions and	course.]
principles of preparing lesson plans;	(h)	(e)	maintenance;	I. Hairstylist
and	(i)	(f)	class supervision and control;	curriculum - 1200-course hours or
practical course review	(j)	(g)	classroom problems and solutions;	equivalent credit
(3)		(h)	and	(1) THEORY:
TEACHING METHODS: [100] 75		(i)	academic advising	75 hours or equivalent credit
hours or equivalent credit	(a)	(j)	AND STUDENT EVALUATION:	(a)
preparation;	(b)		[50] 25 hours or equivalent credit	limited to orientation;
presentation;	(c)	(a)	measurement of student ability/	state laws and regulations;
application;	(d)	(b)	achievement;	professional image;
testing;	(e)	(c)	diagnosis of student weaknesses;	first aid;
lecture and workbooks;	(f)	(d)	motivation for study;	chemistry;
demonstrations and return	(g)	(e)	oral and written testing; and	electricity;
demonstrations;	(h)	(f)	development and use of testing/	job seeking; and
discussion;	(i)	(g)	measurement Instruments	ethics
question and answer;	(j)	(h)	(7)	(2)
projects; and	(a)	(i)	LABORATORY SUPERVISION:	STERILIZATION, SANITATION,
field trips	(b)	(j)	[3000] 150 hours or equivalent	BACTERIOLOGY: 75 hours or
(4)			credit	equivalent credit
TEACHING AIDS: [50] 25 hours	(a)		independent clinic supervision;	(a)
or equivalent credit	(b)		client communications/reception	related theory and safety;
films or videos;	(c)		desk;	preparation, procedures and practice;
charts;	(d)		inventory control;	products, materials and implements;
mannequins;	(e)		effective dispensary procedures;	public sanitation;
reference materials;	(f)		supervision of clinic sanitation/client	methods of sanitation and
chalkboards; and	(g)		safety; and	sterilization;
overhead projectors and	(h)		technical skills ability	chemical agents;
transparencies	(i)		(8)	types and classifications of bacteria;
(5)			MISCELLANEOUS: 125 hours or	bacterial growth;
			equivalent credit	infections; and
			(a)	infection control and safety standards
			fundamentals of business-	(3)
			management;	SHAMPOO, RINSES, SCALP
				TREATMENTS: 75 hours or
				equivalent credit

related theory;	(a)	related chemistry;	(g)	related theory;	(a)
anatomy;	(b)	wet styling;	(h)	anatomy;	(b)
physiology;	(c)	blow drying;	(i)	physiology;	(c)
preparation;	(d)	finger waving;	(j)	preparation, procedures, and practice;	(d)
procedures and practice;	(e)	air waving;	(k)	use of scissors, shears, razor and clippers;	(e)
products, materials and implements;	(f)	hair pressing;	(l)	products, materials and implements;	(f)
hair analysis;	(g)	hair extensions;	(m)	client consultation and recommendations; and	(g)
disorders of the hair and scalp;	(h)	hair weaving;	(n)	client recordkeeping and safety	(h)
hair and scalp treatments;	(i)	braiding;	(o)	REQUIRED HANDS-ON TRAINING: instructor approved procedures:	(8)
related chemistry; and	(j)	corn rowing;	(p)	ladies haircuts;	(a) 75
client record keeping and safety	(k)	client consultation and recommendations;	(q)	mens haircuts;	(b) 25
(4) CHEMICAL REARRANGING - PERMS AND RELAXERS: 250 hours or equivalent credit		client record keeping and safety; and	(r)	hairstylings;	(c) 25
related theory;	(a)	care of wigs and hair pieces	(s)	coloring;	(d) 30
anatomy;	(b)	(6) HAIR COLORING - BLEACHING: 225 hours or equivalent credit		chemical texturing:	(e)
physiology;	(c)	related theory;	(a)	seven permanent waving; and	(i)
preparation, procedures and practice;	(d)	anatomy;	(b)	seven permanent relaxing	(ii)
products, materials and implements;	(e)	physiology;	(c)	(9) SALON BUSINESS, RETAIL SALES: 50 hours or equivalent credit	
hair analysis and client consultation;	(f)	preparation, procedures and practice;	(d)	related theory;	(a)
related chemistry; and	(g)	products, materials and implements;	(e)	opening a salon and business plan;	(b)
client record keeping and safety	(h)	hair analysis and client consultation;	(f)	written agreements;	(c)
(5) HAIRSTYLING: 150 hours or equivalent credit		related chemistry;	(g)	regulations and laws;	(d)
related theory;	(a)	temporary, semi-permanent, and permanent applications;	(h)	salon operation, policies, practices, personnel, compensation, payroll deductions;	(e)
anatomy;	(b)	bleaching, tinting, toning, frosting, special effects and problems;	(i)	use of telephone, advertising, retail and salesmanship, client communications, public relations, insurance; and	(f)
physiology;	(c)	client consultation and recommendations; and	(j)	salon safety	(g)
preparation, procedures and practice;	(d)	client record keeping and safety	(k)		
products, materials and implements;	(e)	(7) HAIR CUTTING: 225 hours or equivalent credit			
hair analysis and client consultation;	(f)				

(10)

MISCELLANEOUS: **75 hours or equivalent credit**

(a)

to be applied by the instructor to strengthen student performance in curriculum related areas; or

(b)

for supervised field trips and other course related training

J. Field trips:

Students enrolled in an approved course of study are allowed to supplement their training through supervised field trips. Such trips and hours or equivalent credit accrued must be supervised and verified by a school official. Field trips, which include curriculum activities such as providing services to residents of nursing homes, must be supervised by a licensed instructor. Hours or equivalent credit accrued through field trips are recorded in the miscellaneous category. If a student is actually participating in a technical skills competition, the hours may be recorded in the applicable curriculum category.

[16.34.8.15 NMAC - Rp 16 NMAC 34.8.15, 6/16/2001; A, 12/17/2015; A, 7/14/2018; A, 1/13/2026]

16.34.8.16 CROSSOVER CREDITS:

A. Individuals who are licensed as barbers and who wish to become licensed as cosmetologists must ~~[have at least one year of full-time, verified work experience in a licensed establishment and]~~ complete [475] **580** course hours or applicable credit hours in a licensed school, unless otherwise approved by the board, as follows:

B. MANICURING/ PEDICURING: [475] 580 hours or equivalent credit

(1) related

theory;

(2) anatomy;

(3)

physiology;

(4)

preparation, procedures and practice;

(5) products,

materials and implements;

(6) theory of

massage;

(7) advanced

nail techniques;

(8) client

consultation and recommendations; and

(9) client

record keeping and safety

C. Individuals who are licensed as cosmetologists and who wish to become licensed as barbers must complete [450] **180** course hours or applicable credit hours in a school, unless otherwise approved by the board, as follows:

D. BEARD TRIMMING AND SHAVING: [450] 180 hours or equivalent credit

(1) related

theory;

(2) anatomy;

(3)

physiology;

(4)

preparation, procedures and practice;

(5) products,

materials and implements; and

(6) beard

trimming, shaving, honing and stropping

E. To obtain a license with the crossover credits listed above, the applicant must submit to and pass a practical examination in the applicable subject(s) only.

F. The board will consider, on a case-by-case basis, approval of crossover credits for training in other disciplines that may directly or indirectly relate to courses approved in these rules. The applicant shall furnish copies of all applicable transcripts by subject and clock or credit hours previously earned. The board may approve such hours or equivalent credits not to exceed fifty percent of the requirements for regular applicants for licensure under these rules. Credit for work experience completed in other disciplines will not be credited toward course requirements under these rules.

[16.34.8.16 NMAC - Rp 16 NMAC 34.8.16, 6/16/2001; A, 12/17/2015; A, 1/13/2026]

16.34.8.18 REFRESHER COURSES:

A. Schools may offer a customized refresher course for individuals who have been out of school for [12] **24** months or longer and not yet obtained licensure and to licensees who wish to re-enter school and update their professional skills. The following requirements must be met for those students enrolled in a refresher course who are not already licensed. The student shall re-enter a licensed school, submit to a scholastic evaluation to determine training needs, and complete a minimum of 150 hours of remedial education.

(1) The

student must be re-registered with the board and all other matriculation requirements met as required for regular students;

(2) The

earned hours or equivalent credit will be added to the student's existing transcript even though the requirements for licensure may have already been met.

~~[(a)]~~

~~Successfully completed training must be reported on the official transcript of training [accompanied by the student permit must be sent to the board office upon completion.~~

~~[(b)]~~

~~A notice of termination and student permit must be sent to the board office upon termination from enrollment for unsuccessful completion of training.]~~

B. ~~[Individuals who are already licensed who enroll in a refresher course must meet the following requirements:]~~ Successfully completed training must be reported on the official transcript of training, uploaded to licensing portal.

~~[C.] The student file must contain a copy of the individual's current license, which may be reviewed by the inspector.]~~

[16.34.8.18 NMAC - Rp 16 NMAC 34.8.18, 6/16/2001; A, 10/4/2007; A, 12/17/2015; A, 1/13/2026]

16.34.8.20 SPECIAL EVENTS PERMIT: A school or establishment desiring to [sponsor] provide services at a special event,

such as a fund-raiser, [~~garage sale~~], wedding, telethon, etc. that will not be conducted at the licensed establishments, must first obtain approval from the board office. The purpose of prior approval is to ensure professional integrity and that sanitation and safety requirements are met. An application on the form provided by the board office must be submitted at least ten days prior to the event. Applications for special events may be approved administratively. Special events for charities shall submit an application, no fees are required, as long as the money collected is donated to the charity specified on the application.

[16.34.8.20 NMAC - Rp 16 NMAC 34.8.22, 6/16/2001; A, 12/17/2015; A, 1/13/2026]

16.34.8.22 DISTANCE EDUCATION: It is recognized that delivery of relevant course content can be achieved in a variety of methods including online learning and distance education. Programs such as Instructor training may be completely accomplished via distance learning. Practitioner programs are limited to no more than ~~[twenty-five]~~ fifty percent of the program content online for theory only. The following standards should apply when schools choose to use distance learning methods.

A. The school must notify the board and obtain approval before offering any distance learning courses.

B. The school must determine if the student has the requisite skills and competencies to succeed in a distance learning environment prior to enrollment.

C. The school must make available to students the necessary textbooks, supplementary educational materials and equipment needed to fulfill the program requirements.

D. The school must establish measurable and achievable performance outcomes that shall be compared to similar subject matter and objectives whether offered through traditional or distance methods.

E. The school must specify the expected knowledge, skills, and competency levels that students will achieve in a distance learning course.

F. The school shall effectively oversee the distance learning course and ensure it meets the objectives and mission of the school.

G. The school is responsible for the quality of courses of study offered through distance learning and the achievement of expected acceptable outcomes for each student irrespective of any contractual arrangements, partnerships, or consortia entered into with third parties for provision of components of a distance learning course.

[16.34.8.22 NMAC - N, 7/16/2004; A, 1/13/2026]

16.34.8.23 ADVANCED TRAINING: Educational programs provided for the purpose of continuing education or advanced education in a specific field of licensure that are more than one 150 hours in length must be conducted in a licensed school and supervised by a licensed instructor whether or not the program leads to licensure. Programs for advanced or continuing education of 150 hours or less will be considered seminars or workshops. They ~~[may or may not]~~ must be conducted in a licensed establishment ~~[but]~~ and must be supervised by ~~[a New Mexico licensee]~~ an instructor licensed by the New Mexico board of barbers and cosmetologists. Advanced training must be specific to the field of licensure.

[16.34.8.23 NMAC - N, 8/29/2023; A, 1/13/2026]

REGULATION AND LICENSING DEPARTMENT BARBERS AND COSMETOLOGISTS, BOARD OF

This is an amendment to 16.34.9 NMAC Sections 8, 9, 10, effective 1/13/2026.

16.34.9.8 CONTINUING EDUCATION REQUIREMENTS:

A. Instructors licensed to teach any course authorized under this act shall provide proof of attendance at a seminar of 24 contact hours or more per year for professional development or improvement of professional proficiency. Instructor licenses are renewed every two years and expire on March 31st. For initial instructor licenses, the continuing education requirement will not apply until after the first full year of licensure.

(1) Each instructor must obtain 24 hours of continuing education (12 hours per year), prior to renewal of Instructor License.

(2) Continuing education hours do not carry over and must be completed before the expiration of the license.

(3) Excess hours cannot be carried over to future renewals.

(4) Each instructor will maintain documentation of all completed continuing education, including contact information for the provider of each course.

(5) If all continuing education requirements are not met by the expiration date of the license, the licensee must contact the board office and request to have their practitioner license reinstated.

(6) Each practitioner can request to have their instructor license reinstated upon completion of continuing education earned between April 1st and March 31st of the following two years.

~~[A.]~~ **B.** The licensee must provide proof of attendance with license renewal. Educational programs provided for the purpose of continuing or advanced education must be specific to the field of licensure.

(1) cosmetology educators of America

(CEA) seminars and workshops conducted in any state;

(2) adult continuing education association programs in professional development, education, counseling, instructing or related programs;

(3) continuing education units (CEU's) recognized by four year institutions in any state in professional development, education, counseling, teaching or related programs;

(4) all schools licensed by the New Mexico state board of barbers and cosmetologists;

(5) credits recognized for teacher certification in any state according to the following conversion table:

(a) theory (cognitive/lecture): 1 credit hour = 30 clock hours;

(b) practice/demonstration: 1 credit hour = 45 clock hours.

(6) attendance at accreditation and team training workshops and instructor continuing education programs offered by nationally recognized accrediting agencies;

(7) certification of completion of Dale Carnegie professional development and business courses;

(8) the pivot point instructor symposium classes;

(9) educational classes or conferences sponsored by the Aveda institute;

(10) conferences sponsored by the American aesthetics education association;

(11) classes sponsored by Milady/Thomson learning's career institute;

(12) classes sponsored by Vidal Sassoon; or

(13) local, state, regional, or national industry trade shows with credit not to exceed fifty percent of the annual requirement for continuing education, or [six hours] 12 hours; in addition, no more than fifty percent of the hours scheduled at such a trade show can contribute to

the six hour maximum; the licensee must provide verifiable proof of attendance including an agenda of the event, a receipt for payment of attendance, or other such reasonable evidence of attendance;

(14) online faculty and professional development programs.

[B:] C Licensee may also submit, subsequent to their attendance, copies of other programs and seminars that are not automatically approved. The board will consider such programs at the next regularly scheduled meeting and determine if credit is approved or denied. Detailed documentation of the program length and content must be submitted for the board to make a determination. Notification of approval or denial will be sent to the licensee within thirty days after the board meeting. Licensees can renew 45 days prior to the expiration of the license. There may not be a board meeting prior to the expiration of the license.

[16.34.9.8 NMAC - Rp 16 NMAC 34.9.8, 6/16/2001; A, 10/4/2007; A, 12/17/2015; A, 8/29/2023 A, 1/13/2026]

16.34.9.9 [RESERVED] AUDIT PROCESS FOR CONTINUING EDUCATION

Audit process: The board will audit continuing education to verify compliance, pursuant to the board's rules or act.

(1) Renewing licenses will be randomly selected for audit; the board may audit continuing education records at any time before the next scheduled license renewal or when deemed appropriate by the board.

(2) The licensee will be notified by email when selected for audit and will be given a deadline to submit the continuing education proof of completion.

(3) Failure to respond to request by the board may be subject to a fine and other penalties determined by the board.

(4) The board

may, at its discretion, accept a sworn affidavit as evidence of certificate/ license holder compliance with continuing education requirements in support of renewal applications in lieu of documented evidence of such. Reciprocity and reinstatement applications shall require documented evidence of compliance with continuing education provisions.

(5) An individual who submits records or a sworn affidavit on their renewal application to demonstrate compliance with continuing education requirements but is found to be non-compliant during a random audit will be subject to fines and other penalties determined appropriate by the board.

(6) An individual who submits records of completion, or a sworn affidavit on their renewal application as evidence of compliance with continuing education requirements and is found, as a result of a random audit, not to be in compliance will be subject to a fine and other penalties deemed appropriate by the board as permitted by Subsection B of Section 61-17A-7 NMSA 1978 of the Barbers and Cosmetologists Act.

[16.34.9.10 NMAC - Rp 16 NMAC 34.9.10, 6/16/2001; A, 7/16/2004; A, 12/17/2015; Repealed, 8/29/2023; A, 1/13/2026]

16.34.9.10 [RESERVED] DISCIPLINARY ACTION

If all continuing education requirements are not met by the expiration date of the license or granted extensions date, the licensee shall be subject to disciplinary action. [16.34.9.10 NMAC - Rp 16 NMAC 34.9.10, 6/16/2001; A, 7/16/2004; A, 12/17/2015; Repealed, 8/29/2023; A, 1/13/2026]

**REGULATION
AND LICENSING
DEPARTMENT
BARBERS AND
COSMETOLOGISTS,
BOARD OF**

This is an amendment to 16.34.11 NMAC Section 10, effective 1/13/2026.

16.34.11.10 FAILURE TO RESPOND TO ANY BOARD REQUEST

Failure of a licensee to furnish the board, its investigators, or representatives with information that has been requested within 10 business days of the request is a violation, subject to discipline, including:

A. Failure to appear before the board when requested by the board in any disciplinary proceeding; or

B. Failure to be in compliance with the Parental Responsibility Act Section 40-5A-3 NMSA 1978 seq.; or

C. Fraudulent record keeping; or

D. Failure to comply with Continuing Education Audit as defined in 16.34.9.8 NMAC.

[16.34.11.10 NMAC – N, 1/13/2026]

**REGULATION
AND LICENSING
DEPARTMENT
BARBERS AND
COSMETOLOGISTS,
BOARD OF**

This is an amendment to 16.34.14 NMAC Section 8, effective 1/13/2026.

16.34.14.8 FEES: ~~[The board or department, where applicable, may charge the following fees] The fees are listed below and are non-refundable:~~

A. Enterprise or establishment license (original): \$200.00

B. Enterprise or establishment license (annual renewal): \$50.00

~~**C.** Booth establishment license (original): \$200.00~~

~~**D.** Booth establishment license (renewal): \$50.00~~

~~**E.] C.** School license (original and annual renewal): \$500.00~~

~~**F.] D.** Relocation of a school: \$185.00~~

~~**G.] E.** Barber license (original and two-year renewal): \$100.00~~

~~**H.] F.** Barber/cosmetologist license (original and two-year renewal): \$100.00~~

~~**I.] G.** Cosmetologist license (original and two-year renewal): \$100.00~~

~~**J.] H.** Hairstylist license (original and two-year renewal): ~~[\$50.00]~~ \$100.00~~

~~**K.] I.** Manicurist/pedicurist license (original and two-year renewal) \$100.00~~

~~**L.] J.** Manicurist/esthetician license (original and two-year renewal): \$100.00~~

~~**M.] K.** Electrologist license (original and two-year renewal): \$100.00~~

~~**N.] L.** Esthetician license (original and two-year renewal): \$100.00~~

~~**O.] M.** Instructor license (original and two-year renewal): \$100.00~~

~~**P.] N.** Expedited license (original): \$150.00~~

~~**Q.] O.** Administrative fee (other examination administrative costs): a maximum of \$100.00~~

~~**R.] P.** ~~[Administrative fee (lists on disks): \$95.00]~~~~

~~**Administrative fee (returned check fee): \$35.00**~~

~~**S.] Q.** Administrative fee (relocation of establishments, etc.): \$25.00~~

~~**T.]** ~~Examinations and re-examinations all licenses except instructor: a maximum of \$100.00~~~~

~~**U.]** ~~Instructor examination and re-examination: a maximum of \$100.00~~~~

~~**V.] R.** Duplicate licenses: \$25.00~~

~~**W.] S.** Student permit license: \$25.00~~

~~**X.] T.** Barber apprentice license: \$25.00~~

~~**Y.] U.** Late fee: \$40.00~~

~~**Z.]** ~~Provider approval, initial and renewal: \$50.00~~~~

~~**AA.] V.** Re-inspection fee: up to \$200.00.~~

~~**W.** Administrative (electronic processing) fee per year: \$10.00~~

~~[16.34.14.8 NMAC - Rp 16 NMAC 34.14.8, 6/16/2001; A, 7/16/2004; A, 10/04/2007; A, 4/12/2010; A, 10/29/2016; A, 7/14/2018; A, 4/15/2022; A, 12/27/2022; A, 8/29/2023; A, 1/13/2026]~~

**REGULATION
AND LICENSING
DEPARTMENT
BARBERS AND
COSMETOLOGISTS,
BOARD OF**

This is an amendment to 16.34.15 NMAC Section 8, effective 1/13/2026.

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 NMAC.

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"]~~ two hundred dollars (\$200);

(2) second offense: ~~[two hundred dollars (\$200)]~~ 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.

D. Failure to post required licenses:

(1) first offense: ~~[one hundred fifty dollars (\$150)]~~ 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.

E. Working on an expired or invalid license:

(1) first offense: ~~[one hundred fifty dollars (\$150)]~~ one thousand dollars (\$1,000);

(2) second offense: ~~[four hundred dollars (\$400)]~~ five thousand dollars (\$5,000);

(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)]~~ \$10,000 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, 6/16/2001; A, 4/12/2010; A, 7/14/2018 A,1/13/2026]

REGULATION AND LICENSING DEPARTMENT BARBERS AND COSMETOLOGISTS, BOARD OF

This is an amendment to 16.34.16 NMAC Sections 9, 10, 11, effective 1/13/2026.

16.34.16.9 CERTIFIED

LIST: Upon receipt of the health care authority's (HCA's) [HSD's] certified list of obligors not in compliance with a judgment and order for support, the board shall match the certified list against the current list of board licensees and applicants. Upon the later receipt of an application for license or renewal, the board shall match the applicant against the current certified list. By the end of the month in which the certified list is received, the board shall report to [HSD] HCA the names of board applicants and licensees who are on the certified list and the action board has taken in connection with such applicants and licensees.

[16.34.16.9 NMAC - Rp 16 NMAC 34.16.9, 6/16/2001; A, 1/13/2026]

16.34.16.10 INITIAL

ACTION: Upon determination that an applicant or licensee appears on the certified list, the board shall:

A. commence a formal proceeding under 16.34.16.11 NMAC to take the appropriate action under 16.34.16.8 NMAC; or

B. for current licensees only, informally notify the licensee that the licensee's name is on the certified list, and that the licensee must provide the board with a subsequent statement of compliance from [HSD] HCA or any other governing agency by the earlier of the application for license renewal or a specified date not to exceed [sixty] 60 days; if the licensee fails to provide this statement, the board shall commence a formal proceeding under 16.34.16.11 NMAC.

[16.34.16.10 NMAC - Rp 16 NMAC 34.16.10, 6/16/2001; A,1/13/2026]

16.34.16.11 NOTICE OF CONTEMPLATED ACTION:

Prior to taking any action specified in 16.34.16.8 NMAC, the board shall serve upon the applicant or licensee a written notice stating that:

A. the board has grounds to take such action, and that the board shall take such action unless the licensee or applicant;

(1) mails a letter (certified mail return receipt requested) within [twenty] 20 days after service of the notice requesting a hearing; or

(2) provides the board, within [thirty] 30 days of the date of the notice, with a statement of compliance from HSD or any other governing agency; and

B. if the applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should contact the HSD child support enforcement division.

[16.34.16.11 NMAC - Rp 16 NMAC 34.16.11, 6/16/2001; A,1/13/2026]

REGULATION AND LICENSING DEPARTMENT FUNERAL SERVICES BOARD

The Funeral Services Board approved the repeal of 16.64.2 NMAC - Fees, filed January 1/22/1999 and replaced it with 16.64.2 NMAC – Fees, adopted on 12/24/2025 and effective 1/13/2026.

REGULATION AND LICENSING DEPARTMENT FUNERAL SERVICES BOARD

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 64 FUNERAL HOMES AND DISPOSERS PART 2 FEES

16.64.2.1 ISSUING AGENCY: New Mexico Board of Funeral Services.
[16.64.2.1 NMAC – Rp, 16.64.2.1 NMAC, 1/13/2026]

16.64.2.2 SCOPE: 16.64.2 NMAC applies to licensees, applicants for licensure, and the general public.
[16.64.2.2 NMAC – Rp, 16.64.2.2 NMAC, 1/13/2026]

16.64.2.3 STATUTORY AUTHORITY: 16.64.2 NMAC is adopted pursuant to the Funeral Services Act, Section 61-32-2, 61-32-6, 61-32-7, 61-32-9, 61-32-11, 61-32-21, 61-32-22 and 61-32-23, NMSA 1978.
[16.64.2.3 NMAC – Rp, 16.64.2.3 NMAC, 1/13/2026]

16.64.2.4 DURATION: Permanent.
[16.64.2.4 NMAC – Rp, 16.64.2.4 NMAC, 1/13/2026]

16.64.2.5 EFFECTIVE DATE: January 13, 2026, unless a later date is cited at the end of a section.
[16.64.2.5 NMAC – Rp, 16.64.2.5 NMAC, 1/13/2026]

16.64.2.6 OBJECTIVE: 16.64.2 NMAC is to establish the fee

schedule needed to generate sufficient revenues required to carry out the board's administrative functions.
[16.64.2.6 NMAC – Rp, 16.64.2.6 NMAC, 1/13/2026]

16.64.2.7 DEFINITIONS: [RESERVED]

[16.64.2.7 NMAC – Rp, 16.64.2.7 NMAC, 1/13/2026]

16.64.2.8 FEE SCHEDULE: The following schedule shall be applicable for fees collected by the board under the Funeral Services Act:

A. Funeral service practitioner license:

(1) application

\$50.00

(2) licensure

\$150.00

(3) renewal

\$150.00

(4) penalty for late renewal

\$75.00

B. Embalmer:

(1) application

\$50.00

(2) licensure

\$150.00

(3) renewal

\$150.00

(4) penalty for late renewal

\$75.00

C. Funeral Arranger:

(1) application

\$50.00

(2) licensure

\$150.00

(3) renewal

\$150.00

(4) penalty for late renewal

\$75.00

D. Funeral service intern license - direct supervision:

(1) Directing and arranging category: application	(a)		F. license:	Direct disposer	addition to the renewal fee) \$175.00
	(b)	\$50.00		(1) application	(3) Duplicate/ replacement
	(c)	\$150.00		(2) licensure	\$25.00
	(d)	\$150.00		(3) renewal	(4) Electronic processing fee (per year)
	(d)	\$150.00		(4) penalty for	\$10.00
(2) Preparation/embalming category: application	(a)	\$50.00	late renewal	\$75.00	(5) other (at the discretion of the board or its designee)
	(b)	\$150.00	G. Establishment		K. Criminal background fee
	(c)	\$150.00	license:	(1) application	fees as currently charged by department of public safety.
	(d)	\$150.00		(2) licensure	L. The only fee that may be refunded is the licensure fee, as subscribed in each subsection of 16.64.2 NMAC, only if a temporary license, if applicable, has not been issued. The board office will refund any amount due through the state of New Mexico refund process.
	(d)	\$150.00	late renewal	(3) renewal	[16.64.2.8 NMAC – Rp, 16.64.2.8 NMAC, 1/13/2026]
E. Funeral service intern license - general supervision: (1) Directing and arranging category: application	(a)	\$50.00		(4) penalty for	History of 16.64.2 NMAC: Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives: Regulation No. 12, Thanatopractice Fees, 8/7/1989. Regulation No. 12, Fee Schedule, 8/28/1990. Regulation No. 12, Fee Schedule, 4/15/1991. Reg. 4, Fee Schedule, 8/27/1993.
	(b)	\$150.00		(1) Crematory license:	
	(c)	\$150.00		(2) licensure	
	(d)	\$150.00		(3) renewal	
	(d)	\$150.00	late renewal.	(4) penalty for	
(2) Preparation/embalming category: application	(a)	\$50.00		\$75.00	History of Repealed Material: 16.64.2 NMAC-Fees, filed 1/22/1999 was repealed and replaced by 16.64.2 NMAC-Fees, effective 1/13/2026.
	(b)	\$150.00		I. Establishments and crematories - re-inspection: Second non-compliance penalty (resulting from the first non-compliance. Third non-compliance, resulting from the second non-compliance, will be referred to the board with a recommendation for the issuance of a notice of contemplated action)	
	(c)	\$150.00		\$500.00	
	(d)	\$150.00		J. Administrative fees: (non-refundable)	
	(d)	\$150.00		(1) return	
penalty for late renewal	(a)	\$50.00		check (or e-check)	
	(b)	\$150.00		(2)	
	(c)	\$150.00		\$35	
	(d)	\$150.00		reinstatement from inactive status (in	
	(d)	\$150.00			

**REGULATION
AND LICENSING
DEPARTMENT
NUTRITION AND DIETETIC
PRACTICE BOARD**

**This is an amendment to 16.14.2
NMAC, Section 8, effective
1/13/2026.**

16.14.2.8 FEES:
A. All fees are non-
refundable.

B. Initial application fee of fifty dollars (\$50.00).

C. Initial license fee of one hundred and fifty dollars (\$150.00) for each license must be paid after application approval and before license issuance, pursuant to Paragraph (1) of Subsection A of 16.4.3.11 NMAC.

D. A license renewal fee of seventy-five dollars (\$75.00).

E. A reinstatement fee of fifty dollars (\$50.00) must be paid in addition to any other fees due at the time of reinstatement.

F. A duplicate license fee of twenty dollars (\$20.00).

G. Insufficient fee (check or electronic payment) thirty-five dollars (35.00).

H. Electronic processing fee for initial licensure and renewal of licensure ten dollars (\$10.00) per year.

[16.14.2.8 NMAC - Rp, 16 NMAC 14.2.8, 09/09/2025, A, 01/13/2026]

REGULATION AND LICENSING DEPARTMENT PRIVATE INVESTIGATIONS ADVISORY BOARD

This is an amendment to 16.48.1 NMAC, Section 7, effective 1/13/2026.

16.48.1.7 DEFINITIONS:

As used in these regulations, the following words and phrases have the following meanings, unless the context or intent clearly indicates a different meaning:

A. “**act**” means the New Mexico Private Investigations Act;

B. “**advisory board**” means the New Mexico private investigations advisory board;

C. “**alarm company**” means a company that installs burglar or security alarms in a facility and responds with guards when the alarm is sounded;

D. “**applicant**” means any natural person who is applying

for registration or licensure pursuant to the private investigations act;

E. “**armored car company**” has the same meaning as defined in Subsection A of Section 61-27B-2 NMSA 1978;

F. “**bodyguard**” has the same meaning as defined in Subsection B of Section 61-27B-2 NMSA 1978;

G. “**branch office**” has the same meaning as defined in Subsection C of Section 61-27B-2 NMSA 1978;

H. “**charts**” means a continuous recording of the physiological changes in human respiration, cardiovascular activity and skin resistance or conductance;

I. “**client**” has the same meaning as defined in Subsection D of Section 61-27B-2 NMSA 1978;

J. “**conviction**” has the same meaning as defined in Subsection E of Section 61-27B-2 NMSA 1978;

K. “**department**” has the same meaning as defined in Subsection F of Section 61-27B-2 NMSA 1978;

L. “**good moral character**” means a personal history characterized by honesty, fairness and respect for the rights of others and for state and federal law;

M. “**individual**” has the same meaning as defined in Subsection G of Section 61-27B-2 NMSA 1978;

N. “**legal business entity**” has the same meaning as defined in Subsection H of Section 61-27B-2 NMSA 1978;

O. “**licensee**” has the same meaning as defined in Subsection I of Section 61-27B-2 NMSA 1978;

P. “**polygraph examiner**” has the same meaning as defined in Subsection J of Section 61-27B-2 NMSA 1978;

Q. “**polygraph examination**” also referred to as a psychophysiological detection of deception (PDD) means a test or series of tests designed to assess the truthfulness of an examinee to

an issue or issues of concern and includes all charts, reports, allied documents and recordings generated or received regarding the testing procedures;

R. “**polygraph instrument**” means a mechanical or digital computer instrument that, at a minimum, records simultaneously physiological changes in human respiration, skin resistance or conductance, and cardiovascular activity including relative blood pressure or volume;

S. “**polygraphy**” has the same meaning as defined in Subsection K of Section 61-27B-2 NMSA 1978 NMSA 1978;

T. “**private investigation company**” has the same meaning as defined in Subsection L of Section 61-27B-2 NMSA 1978;

U. “**private investigator**” has the same meaning as defined in Subsection M of Section 61-27B-2 NMSA 1978;

V. “**private investigations employee**” has the same meaning as defined in Subsection N of Section 61-27B-2 NMSA 1978;

W. “**private investigations manager**” has the same meaning as defined in Subsection O of Section 61-27B-2 NMSA 1978;

X. “**private patrol company**” has the same meaning as defined in Subsection P of Section 61-27B-2 NMSA 1978;

Y. “**private patrol employee**” has the same meaning as defined in Subsection Q of Section 61-27B-2 NMSA 1978;

Z. “**private patrol operations manager**” has the same meaning as defined in Subsection R of Section 61-27B-2 NMSA 1978;

AA. “**private patrol operator**” has the same meaning as defined in Subsection S of Section 61-27B-2 NMSA 1978;

BB. “**proprietary commercial organization**” has the same meaning as defined in Subsection T of Section 61-27B-2 NMSA 1978;

CC. “provisional license” means a license to practice polygraphy for the probationary period that is required to determine operational competency;

DD. “psychologist” means an individual in good standing and licensed by the New Mexico Board of Psychologist Examiners or another United States jurisdiction to engage in the practice of psychology;

EE. “registered agent” means ~~[Registered agent means]~~ a business or individual designated to receive service of process or subpoena on behalf of a private investigations company or private patrol company licensed and doing business in New Mexico, located out of the state. The registered agent must also be available to receive any informational notices or other documents on behalf of the licensee.

FF. “registrant” has the same meaning as defined in Subsection U of Section 61-27B-2 NMSA 1978;

GG. “screening examination” means any examination that is non-specific and deals with general background information;

HH. “security dog handler” has the same meaning as defined in Subsection V of Section 61-27B-2 NMSA 1978;

II. “security guard” has the same meaning as defined in Subsection W of Section 61-27B-2 NMSA 1978;

JJ. “sponsor” means a licensed polygraph examiner;

KK. “special event” has the same meaning as defined in Subsection X of Section 61-27B-2 NMSA 1978;

LL. “specific event examination” means any examination that deals with a specific issue, crime or incident, criminal or otherwise;

MM. “superintendent” means the superintendent of the regulation and licensing department;

NN. “test data” means the psychological or physiological data recorded or collected during a

psychological evaluation or polygraph examination;

OO. “test data analysis” means the quantitative application of standardized scoring rules to the psychological or physiological test data and includes the use of computerized scoring programs and interpretation of collateral and clinical information collected during the evaluation. [16.48.1.7 NMAC - Re-pr, 16.48.1.7 NMAC, 9/24/2008; A, 1/15/2019; A, 2/23/2021; A, 1/13/2026]

REGULATION AND LICENSING DEPARTMENT PRIVATE INVESTIGATIONS ADVISORY BOARD

This is an amendment to 16.48.2 NMAC, Sections 8, 18, 19, and 20, effective 1/13/2026.

16.48.2.8 GENERAL LIABILITY INSURANCE, BIOMETRIC CRIMINAL HISTORY REPORT AND GENERAL APPLICATION INFORMATION:

A. General liability insurance:

(1) A private investigation company or a private patrol company seeking to obtain or retain a license under the provisions of the Private Investigations Act shall maintain a general liability certificate of insurance in the amount of not less than one million dollars (\$1,000,000);

(2) Any failure to furnish and maintain licensee’s general liability certificate of insurance shall be grounds for denial or revocation of a license issued under the provisions of the Private Investigations Act;

(3) In the event a general liability certificate of insurance is offered which varies from the department requirements the department shall determine whether the insurance is in substantial conformance with the Private Investigations Act and department rules;

(4) The duration of each general liability certificate of insurance shall, unless sooner terminated in accordance with law, be for the term of the license issued as set forth on the face thereof and 30 days thereafter; and

(5) Such general liability certificate of insurance shall also be filed and maintained for each period of renewal of license and the duration thereof shall be for the renewal period specified on the face of the license and 30 days thereafter.

B. Biometric criminal history report:

(1) Pursuant to Section 61-27B-34, NMSA 1978, applicants must submit to a biometric federal criminal history background check.

(2) Unless otherwise posted on the regulation and licensing department website, applicants must register [at www.aps.gemalto.com/nm/index prior to going to an electronic fingerprint location] with the New Mexico department of public safety’s fingerprinting vendor, pay the fingerprint processing fee, and provide fingerprints in accordance with the vendor’s established process.

(3) Background check results will be sent directly to the regulation and licensing department electronically.

(4) Additional information is published on the regulation and licensing department website under the private investigations advisory board.

C. General application information:

(1) Information provided to the department for as part of the application or renewal process is subject to the Inspection of Public Records Act.

(2) All applicants, which includes each owner, director and officer of a business, for licensure must submit the following information:

(a) full name and if applicable, other names the applicant has used;

<p>(b) mailing address;</p> <p>(c) contact phone number;</p> <p>(d) email address;</p> <p>(e) date of birth;</p> <p>(f) social security number;</p> <p>(g) release of information form;</p> <p>(h) name of jurisdiction, license number, and license status for other jurisdictions in which the applicant is or has been licensed;</p> <p>(i) proof of military service member or veteran;</p> <p>(j) fingerprint cards or other biometric data for federal criminal history report submission; and</p> <p>(k) non-refundable license fee as set forth in Section 16.48.5 NMAC. [16.48.2.8 NMAC - Re-pr & A, 16.48.2.8 NMAC, 9/24/2008; A, 1/15/2019; A, 10/26/2021; A, 7/18/2023, A, 1/13/2026]</p>	<p>(4) certificate of completing a department approved level two training program;</p> <p>(5) certificate of completing a department approved weapon training program;</p> <p>(6) biometric criminal history background check; and</p> <p>(7) non-refundable registration fee as defined in 16.48.5 NMAC.</p> <p>B. Level two training certificate: Training and examination must be conducted pursuant to the curriculum provided by the department and must be taught by an in-person department approved instructor. A twenty-hour curriculum is the minimum training required and must be completed within twelve months prior to application for security guard level two registration.</p> <p>C. Level two weapons training certificate: An applicant must successfully complete training for the specific weapon to be armed with while on duty. Electronic non-lethal device training shall be done in accordance with manufacturer requirements for any device carried or utilized by the registrant.</p> <p>D. Federal criminal history report: Pursuant to Section 61-27B-34, NMSA 1978, all owners, director and officers of a private investigation company must submit to a biometric federal criminal background check, as set forth in Subsection H of 16.48.2.8 NMAC. [16.48.2.18 NMAC - Re-pr & A, 16.48.2.18 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2015; A, 1/15/2019; A, 10/26/2021; A, 7/18/2023; A, 1/13/2026]</p>	<p>(1) general application information as listed in Subsection C of 16.48.2.8 NMAC;</p> <p>(2) license number of current registration in good standing as a level two security guard [or] and certificate of completing department approved level one and level two security guard training;</p> <p>(3) successfully pass a jurisprudence examination to be administered by the department;</p> <p>(4) certificate of completing a department approved level three training program;</p> <p>(5) certificate of completing a department approved weapon training program;</p> <p>(6) psychological examination;</p> <p>(7) biometric criminal history background check; and</p> <p>(8) non-refundable registration fee as defined in 16.48.5 NMAC.</p> <p>B. Level three training certification: Training and examination must be conducted pursuant to the curriculum provided by the department and must be taught by an in-person department approved instructor. A 16 hour curriculum is the minimum training required, to include the laws pertaining to firearms and deadly physical force and must be completed within 12 months prior to application for security guard level three registration.</p> <p>C. Level three weapons training certificate: An applicant for weapon endorsement must successfully complete training, as defined in Subsection E of 16.48.2.18 NMAC, for the specific weapon endorsement. The following endorsement for level two applicants for electronic non-lethal device training shall be done in accordance with manufacturer requirements for any device carried or utilized by the registrant.</p> <p>D. Firearm certification: Pursuant to Section 61-27B-31 NMSA 1978, if applicant elects to be firearm certified, the applicant must provide the following:</p>
<p>16.48.2.18 LEVEL TWO SECURITY GUARD APPLICANT QUALIFICATIONS AND EXPERIENCE REQUIREMENTS:</p> <p>A. Application requirements: Applicants for licensure as a level two security guard must meet the qualifications and requirements described in Section 61-27B-17 NMSA 1978, and submit a completed application, which includes:</p> <p>(1) general application information as listed in Subsection C of 16.48.2.8 NMAC;</p> <p>(2) license number of current registration in good standing as a level one security guard [or] and proof of completing department approved level one security guard training;</p> <p>(3) successfully pass a jurisprudence examination to be administered by the department;</p>	<p>16.48.2.19 LEVEL THREE SECURITY GUARD APPLICANT QUALIFICATIONS AND EXPERIENCE REQUIREMENTS:</p> <p>A. Application requirements: Applicants for licensure as a level three security guard must meet the qualifications and requirements described in Section 61-27B-18 NMSA 1978, and submit a completed application, which includes:</p>	

(1) proof of successfully completing mandatory firearms training required by 16.48.4.8 NMAC, including a copy of applicant's firearms qualification score sheet and the registration number for the department approved instructor; and

(2) results of a psychological evaluation as set forth in Section 16.48.2.21 NMAC.

E. Psychological evaluation: Prior to certification as a level three security guard, each applicant must be evaluated by a licensed psychologist regarding the individual's mental suitability to carry a firearm within the individual's scope of duty as a licensed level three security guard. Any psychologist licensed and in good standing in the state of New Mexico or other United States jurisdiction, may administer the evaluation.

(1) All psychological evaluations shall be on a form provided by the department and must state if the applicant is recommended or not recommended to carry a firearm. If an applicant is not recommended to carry a firearm, the psychologist shall specify the reason(s) the applicant is not recommended to carry a firearm.

(2) Evaluations cannot be more than one year old for certification purposes.

(3) The original evaluation form must be signed and transmitted directly to the department within thirty days by the psychologist that performed the psychological evaluation

(4) An applicant knowingly providing false information or knowingly failing to disclose information shall be grounds for denial of licensure.

(5) Any applicant who fails the psychological evaluation shall not complete another psychological evaluation for at least ninety days from the date indicated on the original evaluation form signed and transmitted directly to the department by the psychologist that performed the psychological evaluation. If an applicant fails the

evaluation, the department will make an electronic annotation in the candidate's file to ensure compliance with this rule.

(6) The psychological evaluation shall consist of at least one of the following psychological assessments to include the Minnesota multi-phasic inventory-2 restructured form, the Minnesota Multi-Phasic Inventory 2, or the Personality Assessment Inventory, as well as two additional measures of emotional functioning (Beck Depression Inventory-II, Beck Anxiety Inventory, PTSD Checklist-C).

F. Federal criminal history report: Pursuant to Section 61-27B-34, NMSA 1978, all applicants for licensure as a security guard level three must submit to a biometric federal criminal background check, as set forth in Subsection H of 16.48.2.8.

[16.48.2.19 NMAC - Re-pr & A, 16.48.2.19 NMAC, 9/24/2008; A, 11/28/2009; A, 5/1/2010; A, 1/15/2015; A, 1/15/2019; A, 10/26/2021; A, 7/18/2023; A, 1/13/2026]

16.48.2.20 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR SECURITY GUARD INSTRUCTOR REGISTRATION:

An individual seeking to be a registered instructor shall complete an application on a form provided by the department. The department shall review applications, register instructors, and maintain a list of current instructors authorized to teach the department's approved curriculum.

A. Proof of professional certification and requirements specific to each level of instruction.

(1) Level One Instructor: instructor certification related to the level one training curriculum topics, issued by a law enforcement academy (LEA), an accredited higher education institution, United States military branch, or the federal law

enforcement training center (FLETC). The certification submitted must have been issued within four years preceding the date the application is submitted;

(2) Level Two Instructor: approval as a level one instructor and, specific weapon instructor certification related to the level two training curriculum, issued by the respective weapon manufacturer. Weapon certification must have been issued within four years preceding the date the application is submitted;

(3) Level Three Instructor: firearms instructor certification issued by a law enforcement academy (LEA), a recognized federal government entity, United States military branch, the federal law enforcement training center (FLETC), or the national rifle association law enforcement activities division. Firearms certification must have been issued within four years preceding the date the application is submitted.

B. biometric criminal history background check.

~~[B.]~~ **C.** Every four years from the registration date or as requested by the department, the instructors must resubmit certification that takes place within four years preceding the renewal request in order to remain registered.

~~[C.]~~ **D.** A registered instructor must complete a minimum of four hours of continuing education specific to instructor development and case law specific to security every four years from the date of registration. Continuing education may be provided by the department and subject to periodic review. Continuing education for instructors shall not count toward continuing education credit required for renewal of an individual licensure or certification pursuant to 16.48.6.8 NMAC.

[16.48.2.20 NMAC - N, 1/15/2019; A, 10/26/2021; A, 2/8/2022; A, 7/18/2023; A, 1/13/2026]

**REGULATION AND LICENSING DEPARTMENT
PRIVATE INVESTIGATIONS ADVISORY BOARD**

This is an amendment to 16.48.5 NMAC, Section 8, effective 1/13/2026.

16.48.5.8 FEE SCHEDULE:

- A.** All fees payable to the department are non-refundable.
- B.** Application fees:
- | | | |
|-----|-----------------------------------|-------|
| (1) | private investigator | \$100 |
| (2) | private investigations manager | \$100 |
| (3) | private patrol operator | \$100 |
| (4) | private patrol operations manager | \$100 |
| (5) | polygraph examiner | \$100 |
| (6) | instructor | \$100 |
- C.** Initial registration (three year term) and renewal fees:
- | | | |
|-----|---------------------------------|-------|
| (1) | security guard level one | \$50 |
| (2) | security guard level two | \$50 |
| (3) | security guard level three | \$75 |
| (4) | private investigations employee | \$100 |
| (5) | private patrol employees | \$100 |
| (6) | instructor | \$100 |
- D.** Initial license (three year term) and renewal fees:
- | | | |
|-----|-----------------------------------|-------|
| (1) | private investigator | \$300 |
| (2) | private investigations manager | \$200 |
| (3) | private patrol operator | \$300 |
| (4) | private patrol operations manager | \$200 |
| (5) | polygraph examiner | \$300 |
| (6) | private investigations company | \$300 |
| (7) | private patrol company | \$300 |
- E.** Other fees applying to private investigators, private patrol operators and polygraph examiners:
- | | | |
|-----|--|-------|
| (1) | change in license | \$200 |
| (2) | late fee on license or registration renewals | \$100 |
| (3) | special event permit | \$100 |
| (4) | private patrol company special event license | \$50 |
| (5) | polygraph examination | \$100 |
| (6) | security guard card | \$10 |
| (7) | returned check or e-check | \$35 |
| (8) | administration fee | \$10 |

F. Background fees shall be the amount established by the department of public safety for the processing of criminal history background checks.

[16.48.5.8 NMAC - Re-pr & A, 16.48.5.8 NMAC, 9/24/2008; A, 5/1/2010; A, 5/12/2016; A, 5/25/2021; A, 2/8/2022; A, 7/18/2023; A, 1/13/2026]

**REGULATION AND LICENSING DEPARTMENT
PRIVATE INVESTIGATIONS ADVISORY BOARD**

This is an amendment to 16.48.7 NMAC, Section 8, effective 1/13/2026.

16.48.7.8 LICENSE AND REGISTRATION RENEWAL: To align with three-year initial terms and transition current licenses and registrations to a three-year renewal cycle, until December 31, 2023, each expiring license and registration ending in an even number (2, 4, 6, 8, 0) will renew for a final two-year term and pay a pro-rated renewal fee, and each expiring license and registration ending in an odd number (1, 3, 5, 7, 9) will renew for a three-year term. Beginning January 1, 2024, all expiring licenses and registrations will renew for three year terms. Licensees and registrants shall renew their licenses issued pursuant to the Private Investigations Act by submitting the renewal application and all forms required by the department as described in the application.

A. The completed application shall include applicant's:

- (1) full name;
- (2) current mailing address;
- (3) current electronic mail address, if any;
- (4) current license or registration number, and any expired license or registration numbers issued to the applicant by the department;

~~[(5) two, 2X2-inch recent photographs or an upload of a recent electronic headshot photograph;]~~

~~[(6)] (5)~~ proof of the required continuing education required for each type of licensure pursuant to 16.48.6.8 NMAC;

~~[(7)] (6)~~ firearms qualification, if required;

~~[(8)] (7)~~ documentation showing submission of background check form to the department of public safety no less than 30 days prior to the expiration of the renewal term (documentation may include certified mail return receipt, mailing or delivery confirmation) required to be submitted only by individuals who currently hold and wish to maintain a firearm certification as a private investigator, private patrol operator, private investigations employee, a private patrol operations employee or level three security guard pursuant to 16.48.4 NMAC;

~~[(9)] (8)~~ any required fees;

~~[(10)] (9)~~ general liability insurance, if required; and

~~[(11)] (10)~~ surety bond, if required.

B. Renewal applications must be postmarked or submitted online no later than the expiration date of the license or registration or a late fee will be assessed without exception. Continuing education credits shall be documented as described in 16.48.6 NMAC.

C. The department may require renewal applications be submitted electronically.

The board does not maintain a list of continuing education providers. The licensee must determine where to obtain the required continuing education.

D. As a condition for license renewal, each applicant must complete the required hours of continuing education for each license type;

(1) continuing education must be completed within the renewal date

(2) excess hours cannot be carried over to future renewals;

(3) continuing education taken prior to the renewal period will not be accepted;

(4) each licensee will maintain documentation of all completed continuing education, including contact information for the provider of each course.

(5) if all continuing education requirements are not met by the expiration date of the license or granted extensions date, the license shall be subject to disciplinary action.

E. Audit process: The board will audit continuing education to verify compliance, pursuant to the board's rules or act.

(1) renewing licensees will be randomly selected for audit; the board may audit continuing education records at any time before the next scheduled license renewal or when deemed appropriate by the board;

(2) The licensee will be notified by email when selected for audit and will be given a deadline to submit the continuing education proof of completion;

(3) Failure to respond to request by the board may be subject to a fines and other penalties determined appropriate by the board;

(4) The board may, at its discretion, accept a sworn affidavit as evidence of certificate/ license holder compliance with continuing education requirements in support of renewal applications

in lieu of documented evidence of such. Reciprocity and reinstatement applications shall require documented evidence of compliance with continuing education provisions.

(5) An individual who submits records or a sworn affidavit on their renewal application to demonstrate compliance with continuing education requirements but is found to be non-compliant during a random audit will be subject to fines and other penalties determined appropriate by the board.

(6) Failure to comply with continuing education audit as defined in Section 61-27B-5, NMSA 1978.

[16.48.7.8 NMAC - N, 9/24/2008; A, 1/15/2019; A, 10/26/2021; A, 2/8/2022; A, 1/13/2026]

REGULATION AND LICENSING DEPARTMENT PRIVATE INVESTIGATIONS ADVISORY BOARD

This is an amendment to 16.48.8 NMAC, Sections 8, effective 1/13/2026.

16.48.8.8 APPLICATION REQUIREMENTS:

A. Applications for registration shall be completed on a form provided by the department.

B. The applicant shall provide a completed application that includes the following information:

- (1) applicant's full name;
- (2) current mailing address;
- (3) current electronic mail address, if any;
- (4) date of birth;

~~[(5) two, 2X2-inch recent photographs or upload of a recent electronic headshot photograph;]~~

~~[(6)] (5)~~ copy of completion of polygraph school diploma, if required;

~~[(7)] (6)~~ completed jurisprudence examination

for the license or registration, if required;

~~[(8)] (7)~~

firearms qualification, if required;

~~[(9)] (8)~~

information on any past disciplinary action;

~~[(10)] (9)~~

fingerprinting receipt to establish positive identification for a federal criminal history background check;

~~[(11)] (10)~~

any required fees; and

~~[(12)] (11)~~

proof as described in Subsection C below.

C. The applicant shall provide the following satisfactory evidence as follows:

(1) applicant is currently licensed and in good standing in another jurisdiction, including a branch of the United States armed forces;

(2) applicant has met the minimal licensing requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to the licensing requirements for New Mexico; and

(3) the following documentation:

(a) for military service member: copy of military orders;

(b) for spouse of military service members: copy of military service member's military orders and copy of marriage license;

(c) for spouses of deceased military services members: copy of decedent's DD214 and copy of marriage license;

(d) for dependent children of military service members: copy of military orders listing dependent child, or a copy of military orders and one of the following: copy of birth certificate, military service member's federal tax return or other governmental or judicial documentation establishing dependency;

(e) for veterans (retired or separated): copy of DD214 showing proof of honorable discharge.

D. The license or registration shall be issued by the department as soon as practicable but no later than thirty days after a qualified military service member, spouse, dependent child, or veteran files a complete application and provides a background check if required for a license, and any required fees.

E. Military service members and veterans shall not pay and the department shall not charge a licensing fee for the first three years for a license or registration issued pursuant to this rule.

F. A license or registration issued pursuant to this section shall be valid for the time period that is specified in the Private Investigations Act.

G. Electronic signatures will be acceptable for applications submitted pursuant to section 14-16-1 through section 14-16-19 NMSA 1978. [16.48.8.8 NMAC - N, 1/15/2015; A, 10/26/2021; A, 1/13/2026]

REGULATION AND LICENSING DEPARTMENT RESPIRATORY CARE ADVISORY BOARD

This is an amendment to 16.23.2 NMAC, Section 8, effective January 13, 2026.

16.23.2.8

ADMINISTRATIVE FEES: In accordance with Subsection A of Section 61-12B-11 NMSA 1978, of the New Mexico Respiratory Care Act, the respiratory care advisory board establishes the following nonrefundable fees.

A. Application fees:
(1) initial application and practitioner license [fee] \$150.00;

(2) initial application temporary student extern permit \$50.00;

(3) initial application and graduate permit \$100.00;

(4) practitioner reactivation from inactive status \$15.00;

(5) practitioner reactivation from expired status \$250.00;

(6) credential upgrade from certified respiratory therapist (CRT) to registered respiratory therapist (RRT) \$25.00.

B. Renewal fees:

(1) active respiratory care practitioner license \$150.00;

(2) inactive respiratory care practitioner license \$30.00;

(3) temporary student extern permit \$50.00.

C. miscellaneous fees:

(1) photocopying \$0.25;

(2) written license verifications \$15.00;

(3) list of licensees ~~[fifty dollars (\$50.00)]~~ \$50.00;

(4) duplicate licenses/permit ~~[twenty-five dollars (\$25.00)]~~ \$25.00;

(5) Returned check or e-check \$35.00;

(6) Electronic processing fee for initial application and each renewal year \$10.00.

[16.23.2.8 NMAC - Rp, 16.23.2.8 NMAC, 7/15/2017; A, 4/21/2022; A, 06/27/2023; A, 01/13/2026]

REGULATION AND LICENSING DEPARTMENT RESPIRATORY CARE ADVISORY BOARD

This is an amendment to 16.23.12 NMAC, Section 14, effective January 13, 2026.

16.23.12.14 CONTINUING EDUCATION AUDIT:

The department, in consultation with the board, may elect to use an audit system for verifying continuing educational activities at the time of renewal.

A. In this case, the department will randomly select a minimum of ten percent of the currently licensed respiratory care practitioners to provide, with their renewal applications, hard-copy proof of having met the continuing education requirement.

B. Audit requests ~~with~~ may be included in the renewal notice or requested after a renewal application is submitted. Licensees selected for audit will be notified by email.

C. Licensees not selected for audit will be required only to list the continuing education activities completed on their renewal applications. The department shall still have the option to audit these individuals' continuing education records at any time before the next scheduled license renewal.

D. An individual who submits a sworn affidavit on their renewal application to demonstrate compliance with continuing education requirements but is found to be non-compliant during an audit will be subject to fines and other penalties determined appropriate by the board. [16.23.12.14 NMAC - Rp, 16.23.12.14 NMAC, 04/21/2022; A, 01/13/2026]

**REGULATION
AND LICENSING
DEPARTMENT
SOCIAL WORK EXAMINERS,
BOARD OF**

**This an amendment to 16.63.8,
Section 23, effective 01/13/2026.**

16.63.8.23 Electronic
Processing fee: For initial licensure
and renewal of licensure ten dollars
(\$10.00) per year.
[16.63.8.23 NMAC – N, 01/13/2026]

RACING COMMISSION

**This is an amendment to 15.2.5
NMAC section 12 and 13, effective
01/13/2026.**

**15.2.5.12 HORSES
INELIGIBLE:**

A. A horse shall be ineligible to enter in a race when:

(1) it is wholly or partially owned by a disqualified person or a horse is under the direct or indirect training or management of a disqualified person;

(2) it is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted;

(3) its name appears on starter's list, stewards' list, veterinarian's list or paddock judge's list of any recognized regulatory organization unless the horse has qualified in a trial race for a final but either died or was injured and placed on the veterinarian's list prior to the running of the final race;

(4) it is a first-time starter and has not been approved to start by the starter;

(5) it is owned in whole or in part by an undisclosed person or interest;

(6) it lacks sufficient official published workouts or race past performance(s);

(7) it is subject to a lien which has not been approved by the stewards and filed with the horsemen's bookkeeper;

(8) it is subject to a lease not filed with the stewards;

(9) it is not in sound racing condition;

(10) it has had a surgical neurectomy performed on a heel nerve, which has not been approved by the official veterinarian;

(11) it has been trachea tubed to artificially assist breathing;

(12) it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;

(13) it has impaired eyesight in both eyes;

(14) it is barred or suspended in any recognized jurisdiction;

(15) it does not meet the eligibility conditions of the race;

(16) its owner or lessor is in arrears for any stakes fees, except with approval of the racing secretary;

(17) it is by an unknown sire or out of an unknown mare.

B. A horse shall be ineligible to start when:

(1) it is the subject of a positive test for a prohibited substance in an official sample based on a final certificate of analysis received from the official laboratory during the period in which the adjudication process involving the violation is ongoing.

(a) In the event the horse is claimed in the race in which the horse allegedly ran with the prohibited substance, the new owner may enter the horse, unless the horse is ordered to go on the stewards' list pursuant to Subparagraphs (a-e) of Paragraph (8) of Subsection C of 15.2.6.9 NMAC.

(b) Should the horse be claimed thereafter by the owner of the horse in the race in which there was a positive test for a prohibited substance, the horse shall not be allowed to enter unless the adjudication process involving the prior violation is complete.

(2) It is not stabled on the grounds of the association or present by the time established by the commission;

(3) its breed registration certificate is not on file with the racing secretary or horse identifier; unless the racing secretary has submitted the certificate to the appropriate breed registry for correction or in the case of thoroughbred horses foaled in 2018

or thereafter or quarter horses foaled in 2022 or thereafter, the horse does not have a digital tattoo; the stewards may waive this requirement if the information contained on the registration certificate is otherwise available; and the horse is otherwise correctly identified to the horse identifier's satisfaction;

(4) a quarter horse foaled before 2022 or a thoroughbred foaled before 2018, is not fully identified and tattooed on the inside of the upper lip, freeze brand or identified by any other method approved by the breed registry and commission; however, there may be extenuating circumstances where a horse will be eligible to start in a race without the tattoo as referenced above, as long as the horse identifier has written verification that the tattooing process has been initiated; if a thoroughbred foaled in 2018 or thereafter or a quarter horse foaled in 2022 or thereafter, is not microchipped with a unique microchip (ISO11784/11785), freeze brand or identified by any other method approved by the breed registry and commission;

(5) it has been fraudulently entered or raced in any jurisdiction under a different name, with an altered registration certificate, no lip tattoo, altered lip tattoo, altered or manipulated microchip (ISO11784/11785), or freeze brand;

(6) the stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;

(7) it has been entered in a stakes race and has subsequently been transferred with its engagements, unless the racing secretary has been notified of such prior to the start;

(8) it is not in sound racing condition;

(9) it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;

(10) it does not meet the eligibility conditions of the race;

(11) its owner(s), lessor(s) or trainer have not completed the licensing procedures required by the commission; or

(12) there is no current negative test certificate for equine infectious anemia on file with the racing office, as required by the commission.
[15.2.5.12 NMAC - Rp, 15 NMAC 2.5.12, 3/15/2001; A, 7/15/2002; A, 8/30/2007; A, 6/15/2009; A, 1/1/2014; A, 9/15/2016; A, 12/19/2019; A, 4/9/2024; A, 4/8/2025; A, 01/13/2026]

15.2.5.13 RUNNING OF THE RACE:

A. Equipment:

(1) All riding crops are subject to inspection and approval by the stewards and the clerk of scales. This rule will become effective December 10, 2010.

(a) All riding crops shall have a shaft and a flap and will be allowed in flat racing including training. No riding crop shall weigh more than eight ounces nor exceed 30 inches in length, including the flap. No riding crop shall be used unless the shaft is a minimum of three-eighths inch in diameter; and the shaft contact area must be smooth, with no protrusions or raised surface and covered by shock absorbing material that gives a compression factor of at least one-millimeter throughout its circumference.

(b) The flap is the only allowable attachment to the shaft and must meet the following specifications. The length beyond the end of the shaft shall be a maximum of one inch with a ~~minimum~~ minimum width of eight-one hundredths inch and a maximum of one and six-tenths inches. There shall be no reinforcements or additions beyond the end of the shaft. There shall be no binding within seven inches of the end of the shaft and the flap must include shock absorbing characteristics similar to those of the contact area of the shaft.

(2) No bridle shall exceed two pounds.

(3) Reins. No jockey, apprentice jockey, exercise person or any person mounted on a horse shall ride, breeze, exercise, gallop or workout a horse on the grounds of a facility under the jurisdiction of the commission unless the horse is equipped with a nylon rein or a safety rein. A safety rein is a rein with a wire or nylon cord stitched into the traditional leather rein during the manufacturing process and the safety cord is attached to the bit with a metal clasp.

(4) Toe grabs with a height greater than two millimeters worn on the front shoes of thoroughbred horses while racing are prohibited. The horse shall be scratched and the trainer may be subject to fine.

(5) A horse's tongue may be tied down with clean bandages, gauze or tongue strap.

(6) No licensee may add blinkers to a horse's equipment or discontinue their use without the prior approval of the starter, the paddock judge, and the stewards.

(7) No licensee may change any equipment used on a horse in its last race without approval of the paddock judge or stewards.

(8) Any licensed assistant starter and any licensee mounted on a horse or stable pony on the association grounds must wear a properly fastened New Mexico racing commission approved protective helmet and safety vest.

(a) The approved protective helmet and safety vest shall be worn when:

(i) racing, parading or warming up a horse prior to racing; or

(ii) jogging, training or exercising a horse at any time.

(b) The helmet worn must comply with one of the following minimum safety standards or later revisions:

(i) American society for testing materials (ASTM 1163); or

(ii) UK standards (EN-1384 and PAS-015); or

(iii) Australian/New Zealand standard (AS/NZ 3838).

(c) The safety vest worn by a jockey shall weigh no more than two pounds and must comply with one of the following minimum standards or later revisions:

(i) British equestrian trade association (BETA):2000 level 1; or

(ii) euro norm (EN) 13158:2000 1; or

(iii) American society for testing and materials (ASTM) F2681-08 or F1937; or

(iv) shoe and allied trade research association (SATRA) jockey vests document M6 Issue 3; or

(v) Australian racing board (ARB) standard 1.1998.

(d) A safety helmet or safety vest shall not be altered in any manner nor shall the product marking be removed or defaced.

B. Racing numbers:

(1) Each horse shall carry a conspicuous saddle cloth number corresponding to the official number given that horse on the official program.

(2) In the case of a coupled entry that includes more than one horse, each horse in the entry shall carry the same number, with a different distinguishing letter following the number. As an example, two horses in the same entry shall appear in the official program as 1 and 1A.

(3) Each horse in the mutual field shall carry a separate number or may carry the same number with a distinguishing letter following the number.

C. Jockey requirements:

(1) Jockeys shall report to the jockeys' quarters at the time designated by the

association. Jockeys shall report their engagements and any overweight to the clerk of scales. Jockeys shall not leave the jockeys' quarters, except to ride in scheduled races, until all of their riding engagements of the day have been fulfilled except as approved by the stewards.

(2) A jockey who has not fulfilled all riding engagements, who desires to leave the jockeys' quarters, must first receive the permission of the stewards and must be accompanied by an association security guard.

(3) Except as otherwise provided by this subsection, a jockey engaged for a certain race or for a specified time may not fail or refuse to abide by the engagement agreement, unless excused by the stewards. Failure to fulfill riding engagements may result in disciplinary action.

(4) A jockey may be excused by the stewards from fulfilling the jockey's riding engagement if the jockey believes the horse he or she is to ride is unsafe, or the racecourse he or she is to ride on is unsafe, or the jockey is ill or injured, or other extenuating circumstances. No jockey may take off a mount for reasons of safety without first mounting and taking that horse to the track and/or commission veterinarian unless that horse is unruly in the paddock. In that event a jockey's fee is not earned.

(5) Any jockey unseated or thrown from their mount in the saddling paddock, during the parade to post, while being loaded in the starting gate, during the race, or after the race, may be required by the stewards to be examined by the paramedic, doctor or registered nurse before being allowed to ride. Refusal to be examined or receive medical treatment may be grounds for the stewards to take the rider off their mount for that race and any other races on that day. In the event the jockey is injured or unable to ride they shall be required to provide a doctor's medical release before they are allowed to resume participation in racing or training.

(6) The stewards may require a jockey who is excused from fulfilling a riding engagement, because of illness or injury, to pass a physical examination conducted by a licensed physician not employed by the association before resuming race riding.

(7) While in the jockeys' quarters, jockeys shall have no contact or communication with any person outside the jockeys' quarters other than commission personnel and officials, an owner or trainer for whom the jockey is riding or a representative of the regular news media, except with the permission of the stewards. Any communication permitted by the stewards may be conducted only in the presence of the clerk of scales or other person designated by the stewards.

(8) Jockeys shall be weighed out for their respective mounts by the clerk of scales not more than 30 minutes before post time for each race.

(9) A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. In the event an owner or trainer elects to remove a jockey from his or her mount after naming a rider at the time of draw, the stewards may require a double jockey fee to be paid. The fee to be paid is equal to that earned by the jockey who rode the horse. The fee shall not be considered earned when a jockey(s), of their own free will, take themselves off their mounts, where injury to the horse or rider is not involved. Any conditions or considerations not covered by the above rule shall be at the discretion of the stewards. All jockey protests must be filed prior to the race.

(10) A jockey's fee shall include any extra monies added to the purse.

(11) Only valets employed by the association shall assist jockeys in weighing out.

(12) A jockey's weight shall include their clothing, boots, saddle and its attachments and any other equipment except the whip, bridle, bit or reins, safety helmet, safety vest, blinkers, goggles and

number cloth. Upon the stewards' approval, jockeys may be allowed up to three pounds more than published and announced weights to account for inclement weather clothing and equipment when weighing in.

(13) Five pounds is the limit of overweight any horse is permitted to carry.

(14) Once jockeys have fulfilled their riding engagements for the day and have left the jockeys' quarters, they shall not be re-admitted to the jockeys' quarters until after the entire racing program for that day has been completed, except with permission of the stewards.

D. Paddock to post:

(1) Each horse shall carry the full weight assigned for that race from the paddock to the starting post, and shall parade past the stewards' stand, unless excused by the stewards. The post parade shall not exceed 12 minutes, unless otherwise ordered by the stewards. It shall be the duty of the stewards to ensure that the horses arrive at the starting gate as near to post time as possible.

(2) In the post parade, all pony persons, or trainers who pony horses, must wear upper body apparel in accordance with the policy of the commission.

(3) After the horses enter the track, no jockey may dismount nor entrust his horse to the care of an attendant unless, because of accident occurring to the jockey, the horse or the equipment, and with the prior consent of the starter. During any delay during which a jockey is permitted to dismount, all other jockeys may dismount and their horses may be attended by others. After the horses enter the track, only the jockey, an assistant starter, the official veterinarian, the racing veterinarian or an outrider or pony rider may touch the horse before the start of the race.

(4) If a jockey is seriously injured on the way to the post, the horse may be returned to the paddock and a replacement jockey obtained.

(5) After passing the stewards' stand in parade,

the horses may break formation and proceed to the post in any manner unless otherwise directed by the stewards. Once at the post, the horses shall be started without unnecessary delay.

(6) In case of accident to a jockey or their mount or equipment, the stewards or the starter may permit the jockey to dismount and the horse to be cared for during the delay, and may permit all jockeys to dismount and all horses to be attended to during the delay.

(7) If a jockey is thrown on the way from the paddock to the post, the horse must be remounted, returned to the point where the jockey was thrown and then proceed over the route of the parade to the post. The horse must carry its assigned weight from paddock to post and from post to finish.

(8) If a horse leaves the course while moving from paddock to post, the horse shall be returned to the course at the nearest practical point to that at which it left the course, and shall complete its parade to the post from the point at which it left the course unless ordered scratched by the stewards.

(9) No person shall willfully delay the arrival of a horse at the post.

(10) The starter shall load horses into the starting gate in any order deemed necessary to ensure a safe and fair start. An appointed representative may tail the horse with the starter's consent. In case of an emergency, the starter may grant approval for a horse to be tailed. In any case, the stewards shall be notified of who is tailing horses.

E. Post to finish:

(1) The start.
(a) The starter is responsible for assuring that each participant receives a fair start.

(b) If, when the starter dispatches the field, any door at the front of the starting gate stalls should not open properly due to a mechanical failure or malfunction or should any action by any starting personnel directly cause

a horse to receive an unfair start, the stewards may declare such a horse a non-starter.

(c) Should a horse, not scratched prior to the start, not be in the starting gate stall thereby causing it to be left when the field is dispatched by the starter, the horse shall be declared a non-starter by the stewards.

(d) Should an accident or malfunction of the starting gate, or other unforeseeable event compromise the fairness of the race or the safety of race participants, the stewards may declare individual horses to be non-starters, excluding individual horses from all pari-mutuel pools or declare a "no contest" and refund all wagers except as otherwise provided in the rules involving multi-race wagers.

(2) Interference, jostling or striking.

(a) A jockey shall not ride carelessly or willfully so as to permit their mount to interfere with, impede or intimidate any other horse in the race.

(b) No jockey shall carelessly or willfully jostle, strike or touch another jockey or another jockey's horse or equipment. It shall be the discretion of the stewards to determine if the jostle, strike or touch had an effect on the outcome of the race and warrants a disqualification.

(c) No jockey shall unnecessarily cause their horse to shorten its stride so as to give the appearance of having suffered a foul.

(3) Maintaining a straight course.

(a) When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul.

(b) The offending horse may be disqualified, if in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding.

(c)

If the stewards determine the foul was intentional, or due to careless riding, they may fine or suspend the guilty jockey.

(d)

In a straightaway race, every horse must maintain position as nearly as possible in the lane in which it starts. If a horse is ridden, drifts or swerves out of its lane in such a manner that it interferes with, impedes or intimidates another horse, it is a foul and may result in the disqualification of the offending horse.

(4)

Disqualification.

(a)

When the stewards determine that a horse shall be disqualified for interference, they may place the offending horse behind such horse as in their judgment it interfered with, or they may place it last.

(b)

If a horse is disqualified for a foul, any horse or horses with which it is coupled as an entry may also be disqualified.

(c)

When a horse is disqualified for interference in a time trial race, it shall receive the time of the horse it is placed behind plus one-hundredth of a second penalty or more exact measurement if photo finish equipment permits, and shall be eligible to qualify for the finals or consolations of the race on the basis of the assigned time.

(d)

The stewards may determine that a horse shall be unplaced for the purpose of purse distribution and trial qualification.

(e)

In determining the extent of disqualification, the stewards in their discretion may: declare null and void a track record set or equaled by a disqualified horse, or any horses coupled with it as an entry; affirm the placing judges' order of finish and suspend or fine a jockey if, in the stewards' opinion, the foul riding did not affect the order of finish; disqualify the offending horse and not penalize a jockey if in the stewards'

opinion the interference to another horse in a race was not the result of an intentional foul or careless riding on the part of a jockey.

(5) Horses

shall be ridden out: All horses shall be ridden out in every race. A jockey shall not ease up or coast to the finish, without adequate cause, even if the horse has no apparent chance to win prize money.

(6) No

electrical, mechanical or other expedient object or device utilized to increase or retard the speed of a horse, other than the riding crop approved by the stewards, shall be possessed by anyone or applied by anyone to the horse at any time on the grounds of the association during the meet, whether in a race or otherwise.

(7) Use of

riding crops.

(a)

Although the use of a riding crop is not required, any jockey who uses a riding crop during a race shall do so only in a manner consistent with exerting his or her best efforts to win.

(b)

In all races where a jockey will ride without a riding crop, an announcement of such fact shall be made over the public address system.

(c)

Riding crops shall not be used on two-year-old horses before March 1 of each year.

(d)

The position of the riding crop should always be at or below helmet level of the jockey.

(e)

The riding crop shall only be used for safety, correction and encouragement.

(8)

Indiscriminate use of the whip is prohibited including whipping a horse: on the head, flanks or on any other part of its body other than the shoulders or hind quarters except when necessary to control a horse; during the post parade or after the finish of the race except when necessary to control the horse; excessively or brutally causing welts or breaks in the skin; when the horse is clearly out of the race or

has obtained its maximum placing; persistently even though the horse is showing no response under the riding crop; or striking another rider or horse.

(a)

After the race, the horses will be subject to inspection by a racing or official veterinarian looking for cuts, welts or bruises in the skin. Any adverse findings shall be reported to the stewards.

(9) Excessive

use of the crop includes:

(a)

Riders cannot use the riding crop more than three times in succession during a race, excluding showing or waiving the crop.

(b)

Riders cannot use the crop more than three times in succession without giving the horse a chance to respond before using the crop again.

(c)

The horse has cuts, welts or breaks in the skin.

(d)

The giving of instructions by any licensee that if obeyed would lead to a violation of this rule may result in disciplinary action also being taken against the licensee who gave such instructions.

(10) Returning

after the finish.

(a)

After a race has been run, the jockey shall ride promptly to the finish line, dismount and report to the clerk of scales to be weighed in. Jockeys shall weigh in with all pieces of equipment with which they weighed out.

(b)

If a jockey is prevented from riding to the finish line because of an accident or illness to the jockey or the horse, the jockey may walk or be transported to the scales, or may be excused from weighing in by the stewards.

(11)

Unsaddling. No person shall assist a jockey with unsaddling except with permission of the stewards and no one shall place a covering over a horse before it is unsaddled.

(12) Weighing

in.

(a)

A jockey shall weigh in at no less than the same weight at which he or she weighed out, and if under that weight by more than two pounds and after consideration of mitigating circumstances by the board of stewards, his or her mount may be disqualified from any portion of the purse money.

(b)

In the event of such disqualification, all monies wagered on the horse shall be refunded unless the race has been declared official.

(c)

If any jockey weighs in at more than three pounds over the proper or declared weight, the jockey may be fined, suspended or ruled off by the stewards, having due regard for any excess weight caused by rain or mud. The case shall be reported to the commission for such action, as it may deem proper.

(d)

Upon approval of the stewards, the jockeys may be allowed up to three pounds more than published and announced weights to account for inclement weather clothing and equipment when weighing in.

(e)

The post-race weight of jockeys includes any sweat, dirt and mud that have accumulated on the jockey, jockey's clothing and jockey's safety equipment. This accounts for additional weight, depending on specific equipment, as well as weather, track and racing conditions.

(13) Dead

heats.

(a)

When a race results in a dead heat, the dead heat shall not be run off, owners shall divide except where division would conflict with the conditions of the races.

(b)

When two horses run a dead heat for first place, all purses or prizes to which first and second horses would have been entitled shall be divided equally between them; and this applies in dividing all purses or prizes whatever the number of horses

running a dead heat and whatever places for which the dead heat is run.

(c)

In a dead heat for first place, each horse involved shall be deemed a winner and liable to penalty for the amount it shall receive.

(d)

When a dead heat is run for second place and an objection is made to the winner of the race, and sustained, the horses, which ran a dead heat, shall be deemed to have run a dead heat for first place.

(e)

If the dividing owners cannot agree as to which of them is to have a cup or other prize, which cannot be divided, the question shall be determined by lot by the stewards.

(f)

On a dead heat for a match, the match is off for pari-mutuel payoffs and mutuels are refunded.

[15.2.5.13 NMAC - Rp, 15 NMAC 2.5.13, 3/15/2001; A, 8/30/2007; A, 12/1/2008; A, 6/30/2009; A, 9/15/2009; A, 8/16/2010; A, 9/1/2010; A, 10/15/2014; A, 6/1/2016; A, 12/16/2016; A, 12/19/2019; A, 4/9/2024; A, 4/8/2025; A, 01/13/2026]

End of Adopted Rules

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Other Material Related to Administrative Law

**FINANCE AND
ADMINISTRATION,
DEPARTMENT OF**
**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Department of Finance and Administration gives Notice of a Minor, Non-substantive Correction to 10.6.2 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule, as follows:

Section 7: For subsection O, there is a paragraph (1) without a paragraph (2). The incorrect paragraph numbering was corrected to conform to correct legislative style.

A copy of this Notification will be filed with the official version of the above amendment.

NURSING BOARD
**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Board of Nursing gives Notice of a Minor, Non-substantive Correction to 16.12.17 NMAC and 16.12.4 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule, as follows:

16.12.17 NMAC:

Section 12: There was a subsection A without a subsection B. The text was correct to change paragraphs (1), (2), & (3) to subsections A, B & C.

Section 14: For subsection E, paragraph (2), an incomplete rule citation was corrected to include "16.12.17.14" before "NMAC".

16.12.4 NMAC:

Section 12: The incorrect subsection D is changed to subsection C and, within subsection C, the second paragraph (2) is changed to (3) and paragraph (3) is changed to (4).

A copy of this Notification will be filed with the official version of the above amendment.

**REGULATION
AND LICENSING
DEPARTMENT
BODY ART PRACTITIONERS**
**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Regulation and Licensing Department, Board of Body Art Practitioners gives Notice of a Minor, Non-substantive Correction to 16.36.8 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule, as follows:

Incorrect rule and statutory citations were caught and corrected in Sections 7 and 11.

Section 12: For subsection A, paragraph (6), there was incorrect numbering for subparagraphs ((i)

through (v)). The subparagraph numbering was corrected to (a) through (e).

A copy of this Notification will be filed with the official version of the above amendment.

**End of Other Material
Related to Administrative
Law**

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Issue 3	January 29	February 10
Issue 4	February 12	February 24
Issue 5	February 26	March 10
Issue 6	March 12	March 24
Issue 7	March 26	April 7
Issue 8	April 9	April 21
Issue 9	April 23	May 5
Issue 10	May 7	May 19
Issue 11	May 21	June 10
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Issue 20	October 8	October 20
Issue 21	October 22	November 3
Issue 22	November 5	November 17
Issue 23	November 19	December 8
Issue 24	December 10	December 22

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