

**BEFORE THE NEW MEXICO BOARD OF BARBERS AND
COSMETOLOGISTS**

IN THE MATTER OF:

**Gregory Wade,
Student License # SPO55621,**

CASE: BC-2015-163

RESPONDENT.

DEFAULT ORDER

This matter having come before the New Mexico Board of Barbers and Cosmetologists on September 11, 2017 with a quorum present and a majority voting in the affirmative, the Board finds as follows:

1. A Notice of Contemplated Action (NCA) was served upon Respondent in accordance with the Uniform Licensing Act (ULA), NMSA 1978, §§ 61-1-4 to -5.
2. Respondent did not request a hearing within twenty (20) days of receipt of service of the NCA as set forth in the ULA, Section 61-1-4, NMSA 1978.
3. Pursuant to Section 61-1-4(E) of the ULA, if the Respondent does not timely request a hearing, the Board may proceed to take action against the license of the Respondent by default.
4. As such, the Board unanimously voted in open session to impose a fine of \$1000.00 against the Respondent pursuant to Section 61-17-A-23(B), NMSA 1978.

IT IS THEREFORE ORDERED.



____10/12/2017_____
Date

Gabriel Garduno, Chair
NM Board of Barbers & Cosmetologists

CERTIFIED MAIL NO.____9171 9690 0935 0079 1804 88_____
RETURN RECEIPT REQUESTED

**BEFORE THE STATE OF NEW MEXICO
BOARD OF BARBERS AND COSMETOLOGISTS**

IN THE MATTER OF:)	
)	
Gregory Wade, (Student License No. SP055621))	Case No. BC-15-163
)	
)	
Respondent.)	
)	

NOTICE OF CONTEMPLATED ACTION

1. GREGORY WADE (hereafter “Respondent”) is hereby notified that the New Mexico Board of Barbers and Cosmetologists (hereafter the “Board”) has before it sufficient evidence which, if not rebutted or satisfactorily explained at a formal hearing, will justify the Board in taking action to issue a fine or penalty, restrict, refuse to issue or renew or suspend or revoke a license or take other disciplinary action against a Respondent’s license issued under the Barbers and Cosmetologists Act pursuant to §§ 61-17A-1 through 61-17A-25, NMSA 1978.

2. Respondent is hereby notified that the Board has before it sufficient evidence which, if not rebutted or satisfactorily explained at a formal hearing, will justify the Board in taking disciplinary action against Respondent including but not limited to assessment of administrative penalties or fines, pursuant to Section 61-17A-23(B) of the Barbers and Cosmetologists Act.

3. Action is contemplated to impose disciplinary measures pursuant to the following statutes and regulations:

NMSA 61-17A-5 License required.

A. Unless licensed pursuant to the Barbers and Cosmetologists Act [61-17A-1 NMSA 1978] or exempted from the provisions of that act, no person shall practice barbering or cosmetology for compensation either directly or indirectly.

B. Unless licensed pursuant to the Barbers and Cosmetologists Act, no person shall operate a school or establishment for compensation.

C. Unless licensed pursuant to the Barbers and Cosmetologists Act or exempted from the provisions of that act, no person shall teach barbering, cosmetology or electrology for compensation.

D. Unless licensed by the board pursuant to the Barbers and Cosmetologists Act, no person shall practice as a manicurist-pedicurist, esthetician or electrologist for compensation.

NMSA 61-1-3.2 (A)-(B) Unlicensed activity; disciplinary proceedings; civil penalty

A. A person who is not licensed to engage in a profession or occupation regulated by a board is subject to disciplinary proceedings by the board.

B. A board may impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000) against a person who, without a license, engages in a profession or occupation regulated by the board. In addition, the board may assess the person for administrative costs, including investigative costs and the costs of conducting a hearing.

16.34.4.14(B) STUDENT PERMIT

B. Student permit are valid for 90 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. 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 days while waiting to test. Once the 90 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 days has terminated. The student must reapply if the course of study goes beyond one year.

16.34.15.8(A)&(E) ADMINISTRATIVE PENALTIES AND FINES

A. 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 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:

E. Working on an expired or invalid license: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

For the alleged violations described in this NCA, Respondent may be subject to penalties including, but not limited to, an administrative fine of up to one thousand dollars (\$1,000) pursuant to NMSA 61-1-3.2, and an administrative fine in the amount of five hundred dollars (\$500) pursuant to NMAC 16.34.15.8(A)&(F)(1).

4. The general nature of the evidence is attached to this Notice of Contemplated Action (hereafter the “NCA”) in Attachment 1 (Complaint).

5. The general nature of the allegations is as follows:

- a. Respondent holds a student license permit but is not otherwise licensed.
- b. On October 7, 2015, State Board Inspector Maria Lopez conducted an inspection of Anthony’s Klean Kutz Barber Shop and Salon, 1201 A San Antonio Blvd, NE, Albuquerque, NM, 87108.
- c. The inspector observed several stations in the establishment that were fully stocked to provide services of Master Barber. One of those stations belonged to Mr. Wade.
- d. The State Board Inspector inspected for active, posted licenses with photos and saw the Respondent’s Student Permit with A Better U Academy #055621.

After speaking with Patrick Jenkins from A Better U Beauty Barber Academy, the State Board Inspector obtained, via email, that academy's current student roster. The Respondent was listed as a student and did not have a Master Barber's license.

e. Respondent did not respond to the Board's request for information related to these allegations.

6. The foregoing statements are general in nature and the evidence adduced or elicited at the hearing will not be limited by this summary.

7. Unless rebutted or explained at a formal hearing, the evidence before the Board is sufficient to justify the Board to deny or take other disciplinary action as permitted under the Barbers and Cosmetologists Act.

8. **The Board shall take the contemplated action by default, unless Respondents within twenty days after service of the notice deposits in the mail a certified return receipt requested letter address to the Board and containing a request for a hearing.** *See* NMSA § 61-1-4(D)(3). If Respondents "does not mail a request for a hearing within the time and in the manner required by this section, the Board may take the action contemplated in the notice and such action shall be final and not subject to judicial review. *See* NMSA § 61-1-4(E). A written request for a hearing should be sent to the following address:

New Mexico Board of Barbers and Cosmetologists
ATTN: ELISA SALAZAR
P.O. Box 25101
Santa Fe, New Mexico 87504-25101

9. If requested, the formal hearing will be conducted in accordance with the New Mexico Uniform Licensing Act, NMSA 1978, § 61-1-4(D)(4). Respondent is advised that NMSA 1978, § 61-1-8 affords the following rights:

A. A person entitled to be heard under the Uniform Licensing Act [61-1-1 NMSA 1978] shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefore to the board or the hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or hearing officer. All notices issued pursuant to NMSA 1978, § 61-1-4 shall contain a statement of these rights.

B. Upon written request to another party, any party is entitled to:


- (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and
- (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No such request shall be made less than fifteen days before the hearing.

C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

**STATE OF NEW MEXICO
BOARD OF BARBERS AND
COSMETOLOGISTS**

Date: 7/11/2017

By: 
Chairperson
New Mexico Board of Barbers &
Cosmetologists
P.O. Box 25101
Santa Fe, New Mexico 87504-25101

Prepared by:

/s/ *Julia White*
Julia White
Assistant Attorney General/Administrative Prosecutor
111 Lomas NW, Ste. 300
Albuquerque, NM 87102
Telephone (505) 490-4060
jwhite@nmag.gov

CERTIFICATE OF SERVICE

A true copy of this Notice of Contemplated Action was mailed to Respondent by certified mail, return receipt requested, on this ____ day of _____ 2017, at the address noted below:

GREGORY WADE

Address: _____

Certified Mail No.: _____

Return Receipt Requested
