

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 63 SOCIAL WORKERS
PART 13 DISCIPLINARY ACTION

16.63.13.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Social Work Examiners
P.O. Box 25101, Santa Fe, NM 87504.
[16.63.13.1 NMAC - Rp, 16.63.13.1 NMAC, 3/13/2022]

16.63.13.2 SCOPE: All baccalaureate social workers, master social workers, and independent social workers.
[16.63.13.2 NMAC - Rp, 16.63.13.2 NMAC, 3/13/2022]

16.63.13.3 STATUTORY AUTHORITY: These parts are promulgated pursuant to the Social Work Practice Act, Subsection A of Section 61-31-8, 14-2-1, 61-31-19 NMSA 1978.
[16.63.13.3 NMAC - Rp, 16.63.13.3 NMAC, 3/13/2022]

16.63.13.4 DURATION: Permanent
[16.63.13.4 NMAC - Rp, 16.63.13.4 NMAC, 3/13/2022]

16.63.13.5 EFFECTIVE DATE: March 13, 2022, unless a different date is cited at the end of a section.
[16.63.13.5 NMAC – Rp, 16.63.13.5 NMAC, 3/13/2022]

16.63.13.6 OBJECTIVE: To inform the licensees of the complaint procedure.
[16.63.13.6 NMAC - Rp, 16.63.13.6 NMAC, 3/13/2022]

16.63.13.7 DEFINITIONS: “Disqualifying criminal conviction” has the same meaning as defined in Subsection E of Section 61-1-36 NMSA 1978.
[16.63.13.7 NMAC – Rp, 16.63.13.7 NMAC, 3/13/2022]

16.63.13.8 PROCEDURES: Upon receipt of a complaint against any person licensed under the Social Work Practice Act, Sections 61-31-1 to 61-31-24 NMSA 1978 the board may refer the complaint to the complaint committee.

A. The complaint committee shall review and investigate or cause to be investigated all complaints received by the board. Complaints shall remain confidential while investigations are pending and shall not be a matter of public record until the board takes disciplinary action pursuant to N.M. State. Ann. Section 61-31-17 NMSA 1978, as amended, and this part.

B. Upon completion of the investigation initiated pursuant to this part, the complaint committee or the board shall submit to the board those matters it feels justify further disciplinary action.

C. The board may offer the licensee an informal type of discipline such as a letter of reprimand in lieu of initiating formal proceedings. The board shall notify the licensee:

- (1) that a letter of reprimand has been officially proposed;
- (2) that the respondent must accept or reject the offer in writing;
- (3) that if accepted, a copy of the reprimand will remain in the private files of the board; and
- (4) that if rejected, formal disciplinary action pursuant to the Uniform Licensing Act

Sections 61-1-1 to 61-1-31 NMSA 1978 will be initiated.

D. If accepted, the letter of reprimand shall be personally issued to the licensee by the chairperson of the board at the next scheduled board meeting and served on the licensee by certified mail. Copies of the reprimand will be furnished to members of the board and to the board's attorney.

E. If a licensed social worker voluntarily surrenders their license or allows their license to expire in anticipation of, or during the course of an investigation, the complaint committee will complete its investigation and report the findings to the national database. Any publication or notification of action taken by the board of social work examiners will include the fact that the licensee voluntarily surrendered or allowed their license to expire during the investigation.

[16.63.13.8 NMAC - Rp, 16.63.13.8 NMAC, 3/13/2022]

16.63.13.9 DISQUALIFYING CRIMINAL CONVICTIONS:

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

- (1) homicide, manslaughter, great bodily harm, wounding, or maiming;
- (2) trafficking, trafficking in, unlawful distribution of, or possession of controlled substances;
- (3) human trafficking, stalking, kidnapping, false imprisonment, assault, aggravated assault, battery, or aggravated battery;
- (4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, sexual exploitation, or other related felony sexual offenses;
- (5) crimes involving adult abuse, neglect or financial exploitation;
- (6) crimes involving child abuse, neglect, abandonment or solicitation;
- (7) crimes involving robbery, larceny, theft, extortion, burglary, bribery, fraud, forgery, embezzlement, breaking and entering, damage to property, identity theft, arson, perjury, false pretenses, credit card fraud, or receiving stolen property;
- (8) practicing medicine without a license;
- (9) failure to comply with a proclamation of the governor;
- (10) crimes involving the unlawful possession, use, discharge, or sale of a firearm, weapon, or explosives;
- (11) furnishing or bringing contraband or drugs into a prison, jail, or juvenile detention facility;
- (12) driving under the influence of intoxicating liquor, substances or drugs;
- (13) 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 application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Social Work Practice 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.

[16.63.13.9 NMAC – Rp, 16.63.13.9 NMAC, 3/13/2022]

HISTORY OF 16.63.13 NMAC:

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

Rule 13, Letter of Reprimand, 5/22/1992.

Rule 13, Disciplinary Action, 12/5/1994.

History of Repealed Material:

16.63.13 NMAC – Disciplinary Action, filed 5/20/2002 was repealed and replaced by 16.63.13 NMAC Disciplinary Action, effective 3/13/2022.

Other History:

16.63.13 NMAC – Disciplinary Action, (filed 5/20/2002) replaced by 16.63.13 NMAC – Disciplinary Action, effective 3/13/2022.