

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 63 SOCIAL WORKERS
PART 19 IMPAIRED SOCIAL WORKER

16.63.19.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Social Work Examiners, P.O. Box 25101, Santa Fe, NM 87504.
[9/8/96; 16.63.19.1 NMAC - Rn, 16 NMAC 63.19.1, 06/19/02]

16.63.19.2 SCOPE: All Baccalaureate Social Workers, Master Social Workers, and Independent Social Workers.
[9/8/96; 16.63.19.2 NMAC - Rn, 16 NMAC 63.19.2, 06/19/02]

16.63.19.3 STATUTORY AUTHORITY: These Parts are promulgated pursuant to the Social Work Practice Act, Section 61-31-8A, 14-2-1, 61-31-19 NMSA 1978.
[9/8/96; 16.63.19.3 NMAC - Rn, 16 NMAC 63.19.3, 06/19/02]

16.63.19.4 DURATION: Permanent
[9/8/96; 16.63.19.4 NMAC - Rn, 16 NMAC 63.19.4, 06/19/02]

16.63.19.5 EFFECTIVE DATE: June 22, 1992, unless a different date is cited at the end of a section.
[9/8/96; 16.63.19.5 NMAC – Rn & A, 16 NMAC 63.19.5, 06/19/02]

16.63.19.6 OBJECTIVE: To inform the licensees how impairment is determined, the process involved, what action may be taken, and the reinstatement requirements.
[9/8/96; 16.63.19.6 NMAC - Rn, 16 NMAC 63.19.6, 06/19/02]

16.63.19.7 DEFINITIONS: [Reserved]

16.63.19.8 DETERMINATION OF IMPAIRMENT

A. Complaints will be reviewed in accordance with policies and procedures established by the Board. If the complaint committee or the Board has reasonable cause to believe that a licensed social worker is unable to practice with reasonable skill and safety because of a mental disorder or habitual or excessive use of a controlled substance or alcohol, the committee or the Board shall report those findings and the Board shall cause an examination of the social worker to be made.

B. The Board shall appoint one or more people to evaluate the social worker in accordance with NMSA 1978 Section 61-31-19.

(1) The social worker shall bear all costs of the evaluation.

(2) The social worker shall sign all necessary releases and authorizations for release of medical or psychological records for the evaluator(s) to report to the Board.

(3) The evaluator(s) shall order the social worker to appear before the evaluator(s) for hearing or evaluation and shall give the social worker ten (10) days notice of the time and place of the evaluation/hearing.

(4) If the evaluator(s) determine a mental or physical examination is necessary, the evaluator(s) shall order the social worker to submit to such an examination.

(5) Any social worker who submits to diagnostic mental or physical examinations as ordered by the evaluator(s) shall have a right to designate another evaluator to be present at any examination and to make an independent report to the Board.

(6) Failure of the social worker to comply with any requests of the evaluator(s) including appearing for hearing or submitting to medical or physical evaluations shall be reported directly to the Board and shall be grounds for immediate and summary suspension of the social worker's license by the Board followed by proceedings initiated under the Uniform Licensing Act.

(7) The evaluator(s) shall report findings and recommendations to the Board.

C. The Board shall review the findings and recommendations of the evaluator(s). The Board may accept or reject the recommendations of the evaluation or may refer the matter back to the evaluator(s) for further examination and report.

D. Upon receipt of an evaluation indicating impairment of the social worker, the Board shall appoint an advisory committee. The advisory committee will review the evaluator(s) report and other relevant information

and will develop and submit to the Board recommendation regarding the social worker's amenability to treatment and rehabilitation which will include a written treatment plan. The advisory committee will also consider any voluntarily submitted treatment plan and report it to the Board. In its report the advisory committee shall state its reasons for participation in the approved treatment plan and shall state any conditions for continued treatment or release from the program.

E. Upon receipt of the advisory committee's report and recommendations, the Board may place conditions and stipulations on the social worker's license reflecting the advisory committee's recommendations or any other conditions the Board deems appropriate. The conditions and/or stipulations will be provided in written format.

F. Any social worker who does not agree to the conditions and/or stipulations set forth pursuant to subsection E of 16.63.19.8 NMAC above, shall be entitled to a hearing before the Board in accordance with the Uniform Licensing Act.

G. Any social worker participating in a treatment program shall enter into a contract with the Board as a condition of participation in the Impaired Social Worker Program.

H. The advisory committee shall receive reports from the various treatment providers and shall submit a report to the Board on at least a quarterly basis.

I. The advisory committee shall report all violations of the treatment program rules, regulations and policies to the Board within five (5) days.

J. The advisory committee shall report statistical information to the Board including but not limited to:

- (1) names of social workers in treatment;
- (2) a description of the treatment program;
- (3) progress reports;
- (4) social worker's compliance with financial obligations;
- (5) attendance reports (of Alcoholics Anonymous, counseling sessions, etc.);
- (6) lab reports; and
- (7) any other reports requested by the Board.

[6/22/92; 16.63.19.8 NMAC - Rn, 16 NMAC 63.19.8, 06/19/02]

16.63.19.9 SELF REPORTING: A social worker may request in writing to the Board a restriction of the social worker's license. The Board may grant such requests for restriction and shall have authority if deemed appropriate to attach conditions to the license of the social worker within specified limitations. The Board may waive commencement of any proceedings under this Part.

[6/22/92; 16.63.19.9 NMAC - Rn, 16 NMAC 63.19.9, 06/19/02]

16.63.19.10 REINSTATEMENT: A social worker whose license has been restricted under this Part, voluntarily or by action of the Board shall have the right, at reasonable intervals, to petition for reinstatement of the license and to demonstrate that the social worker can resume the competent practice of social work with reasonable skill and safety to clients. Such petitions shall be in writing to the Board.

A. Action by the Board on such petitions shall be initiated by referral to an evaluator(s) in accordance with subsection B of 16.63.19.8 NMAC.

B. The Board may, upon written recommendation of the advisory committee, request final evaluation of the social worker. Upon receipt of a positive report by the evaluator(s) and agreement of the advisory committee, the social worker may be discharged from the Impaired Social Worker Program.

[6/22/92; 16.63.19.10 NMAC - Rn, 16 NMAC 63.19.10, 06/19/02]

HISTORY OF 16.63.19 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 19, Impaired Social Worker, 5/22/92.

History of Repealed Material: [RESERVED]