

DRAFT

Social Work Practice Act 61-31-1..... DRAFT VERSION 10.26.14

EXISTING Short title May be cited as the Social Work Practice Act.

Existing Purpose - The profession of social work profoundly affects the lives of people of the State: therefore to safeguard the public health, safety and welfare of the people of NM against the unregulated practice of social work, the legislature finds it necessary that a proper regulatory authority be established and maintained for persons who seek to engage in the practice of social work. **NEW: Protect the public from the practice of SW by unqualified persons and from unprofessional conduct by persons licensed to practice SW.**

CATEGORIES/LEVELS OF LICENSURE

Practice of Licensed Independent Social Worker/LISW

QUALIFICATION FOR LICENSURE: Applicants for licensure as independent social workers must:

1. Be at least eighteen years of age;
2. Possess at least a master's degree in social work from a graduate program of social work accredited by the Council on Social Work Education;
3. Complete not less than two years of post-graduate social work experience (employed or volunteer) under appropriate supervision as defined in section XX..... 3,000 hours of post graduate social work practice is required under appropriate supervision; applicants and supervisors will engage the process of supervision in accordance with the rules established by the board of social work examiners;
4. Documents completion of the required course/training in New Mexico cultures;
5. Documents completion of jurisprudence exam;
6. Documents completion of supervision course as defined in section xxx (supervision); and
7. Successfully pass the ASWB Advanced Generalist examination.

PARAMETERS OF PRACTICE

The independent level of licensure incorporates definitions and practice of Master's Social Work. The primary focus of practice is advanced generalist practice that may also include some theories, methods and skills also included within definition of Clinical Social Work. The LISW is to function independently and demonstrate specialized knowledge and skills grounded in the generalist context of social work practice at micro, mezzo and macro levels. The LISW must exercise independent judgment and is able to practice ethically and competently. The LISW

should be able to demonstrate skill and interventions directly related to individuals, couples, families, groups, communities or organization. In at least one of these client groups, the LISW shall demonstrate in-depth knowledge and skills. The LISW will be able to employ practice theory and research in all aspects of practice. The LISW may supervise LBSWs; LMSWs, especially those seeking to become LISW; and other LISWs or LCSWs on non-clinical issues. An LISW who maintains current licensing, fulfills continuing education requirements and holds a license in good standing may supervise independently or within agency settings so long as the appropriate supervisory structure has been implemented and contracted. The LISW who has “retired” from an agency or who receives retirement benefits, but who has not retired the license and who remains active and current within the profession may supervise LISWs, LCSWs, LMSWs and LBSWs.

After initial licensure, a LISW may add an LCSW by submitting a request to the board of social work examiners and accompanying documentation of a minimum of one year of additional supervised experience of 1500 hours in Clinical licensure and successful completion of the ASWB Clinical exam.

Any one licensed as an LISW, LCSW or holds a specialty licensed prior to the effect date of this act shall be grand parented at the level of their current license.

Practice of Licensed Clinical Social Worker / LCSW

QUALIFICATION FOR LICENSURE: Applicants for licensure as independent clinical social workers must:

1. Be at least eighteen years of age;
2. Possess at least a master’s degree in social work from a graduate program of social work accredited by the Council on Social Work Education;
3. Complete not less than two years of post-graduate social work experience (employed or volunteer) under appropriate supervision as defined in Sectionxx..... For the purpose of this part, 3,000 hours of post graduate social work practice is required under appropriate supervision; applicants and supervisors will engage the process of supervision in accordance with the guidelines established by the board of social work examiners;
4. Documents completion of the required course/training in New Mexico cultures;
5. Documents completion of jurisprudence exam;
6. Documents completion of supervision course as defined in section xxx (supervision):
and
7. Successfully pass the ASWB Clinical examination.

PARAMETERS OF PRACTICE

The independent level of licensure incorporates definitions and practice of Master’s Social Work. For the LCSW, the primary focus of practice is clinical practice, recognizing that this may also include some theories, methods and skills also included within definition of Advanced Generalist Social Work. The Licensed Independent Clinical Social Worker is to function independently and demonstrate specialized knowledge and skills grounded in the generalist

context of social work practice at micro, mezzo and macro levels. The LCSW must exercise independent judgment and is able to practice ethically and competently. The LCSW should be able to demonstrate skill and interventions directly related to individuals, couples, families, groups, communities or organization. In at least one of these client groups, the LCSW shall demonstrate in-depth knowledge and skills in clinical modalities and practice. The LCSW shall be able to employ practice theory and research in all aspects of practice. The LCSW may supervise LBSWs; LMSWs, especially those seeking to become LCSW; and other LCSWs or LISWs on clinical issues. The LCSW who has “retired” from an agency or who receives retirement benefits, but who has not retired the license and who remains active and current within the profession may supervise LISWs, LCSWs, LMSWs and LBSWs.

The practice of Clinical Social Work requires the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or bio psychosocial functioning of individuals, couples, families, groups, organizations and communities in a culturally responsive manner. The practice of Clinical Social Work requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis and treatment of mental, emotional, and behavioral disorders, conditions and addictions. Treatment methods include the provision of individual, marital, couple, family and group counseling and psychotherapy. The practice of Clinical Social Work may include private practice and the provision of clinical supervision.

After initial licensure, a LCSW may add an LISW by submitting a request to the board of social work examiners and accompanying documentation of a minimum of one year of additional supervised experience of 1500 hours in advanced generalist specialty and successful completion of the ASWB Advanced Generalist examination.

Any one licensed as an LISW, LCSW or holds a specialty license prior to the effect date of this act shall be grand parented at the level of their current license.

Licensed Master of Social Work LMSW

QUALIFICATION FOR LICENSURE:

1. Be at least eighteen years of age;
2. Possess at least a master’s degree in social work from a graduate program of social work accredited by the Council on Social Work Education;
3. Documents completion of the required course/training in New Mexico cultures;
4. Pass jurisprudence exam; and
5. Pass Association Social Work Board examination.

PARAMETERS OF PRACTICE

The LMSW has preparation as an advanced generalist social worker, as found in the LBSW level, or in completing MSW curriculum/degree and/or in providing direct or indirect services. The practice of Master's Social Work means the application of social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or bio psychosocial function of individuals, couples, families, groups, organizations and communities. Master's Social Work practice includes the acquisition and application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, counseling, supervision, consultation, education, research, advocacy, community organization and the development, implementation and administration of policies, programs and activities. The LMSW may not practice independently as a private practitioner, but under supervision as provided in this act, the practice of Master's Social Work may include practices reserved to the LCSW or the LISW. The LMSW has the option to develop specializations as an LISW or as a Licensed Clinical Social Worker (LCSW). The LMSW is able to supervise LBSWs.

Licensed Bachelor of Social Work LBSW

QUALIFICATION FOR LICENSURE:

1. Be at least eighteen years of age;
2. Possess at least a master's degree in social work from a graduate program of social work accredited by the Council on Social Work Education;
3. Documents completion of the required course/training in New Mexico cultures;
4. Documents completion of jurisprudence exam; and
5. Pass Association SW Board of BSW examination of Association of Social Work Board examination.

WHAT ELSE HERE

PARAMETERS OF PRACTICE

The baccalaureate social worker (LBSW) is prepared to assume the beginning level profession role in public and private social service agencies. LBSWs are prepared through beginning professional knowledge in human behavior in the social environment, generalist social work practice, knowledge of the history of social policy, knowledge of how to utilize social research findings in their practice and having had supervised field practicum experience. Baccalaureate social work is generalist practice that includes the acquisition and application at the beginning levels of assessment planning, interventions, evaluations, case management, information and referral, non-clinical counseling, principles of supervision, consultation, education, advocacy, community organization, and the development, implementation of policies, programs and

activities. LBSWs may work with individuals, families, communities, groups and organizations at a beginning level, often within the context of case management and accessing social services.

The LBSW utilizes the social work problem-solving process of gathering information, assessing that information at the beginning professional level, developing an intervention plan, implementing the plan and conducts follow up. This process at the LBSW level requires the application of social work theory, knowledge, methods, ethics and the professional use of self to help restore or enhance social, psychosocial, or bio psychosocial functioning. The LBSW has no supervisory authority and the LBSW must not practice independently as a private practitioner.

Definition – NEW AND OLD

As used in the Social Work Practice Act

- A. Advisory committee means an evaluation advisory committee;
- B. Appropriate supervision means two years of supervision by an LCSW or LISW or other approved supervisor by the board.
- C. Approved supervisor means a LISW or LCSW who has met the qualifications in this act and approved by the board.
- D. Approved social work program means a school of social work that has been accredited by the Council of Social Work Education.
- E. BSW means a person duly licensed to practice at a bachelor's level.
- F. Board or board of SW means the board of SW created under this act.
- G. Client means and individual, couple, family, group, organization or community that seeks or receives social work services from an individual SW or an organization.
- H. LCSW means a person duly licensed to practice at a clinical level.
- I. LISW means a person duly licensed to practice at an independent level.
- J. Supervision means an interactional professional relationship between a supervisor and a SW that provides evaluation and direction over the supervisee's practice of LCSW and promotes continued development of the social worker's knowledge, skill, and ability to engage in the practice of LCSW in an ethical and competent manner.
- K. Continuing education means education and training which are oriented to maintain, improve or enhance SW practice.
- L. Consultation means a problem solving process in which expertise is offered to an individual, group or organization or community.
- M. Counseling means a method used by SWs to assist individuals, couple, families, and groups in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial and other interpersonal concerns.
- N. Department means the Regulation & licensing department.

- O. Examination means a standardized test or examination of SW knowledge, skills and abilities approved by the Board.
- P. Licensee means a person duly licensed under this Act.
- Q. Master's Social Worker means a person duly licensed to practice Master's Social Work.
- R. Supervision means the professional relationship between a supervisor and a SW that provides evaluation and direction over the services provided by the SW and promotes continued development o the SW's knowledge, skills and abilities to provide SW services in an ethical an competent manner.

Board Created (from existing statute) with additions

- A. There is created a board of social work examiners.
- B. The board shall be administratively attached to the department.
- C. The board shall consist of seven members who are representative of the geographic and ethnic groups within NM, who are US citizens and who have been NM residents for at least five years prior to their appointment. Of the seven members:
 - 1. 5 members shall be engaged in social work practice for at least five years; AT least one must be a an LISW and one must be a LCSW. And the other three must be a BSW and 1 must be an MSW ; and
 - 2. Two members shall represent the public. The public members shall not have been licensed or have practice as social workers. Public members shall not have any significant financial interest wither direct or indirect in social work practice.
 - 3. All must represent geographic areas of state and political parties.
- D. Members of the board shall be appointed by the governor for staggered terms of three years. Each member shall hold office until a successor is appointed. Vacancies shall be filled for the unexpired term in the same manner a original appointments.
- E. The governor shall request professional associations to submit names and resumes for appointment for the board.
- F. Members of the board shall be reimburse as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.
- G. The board shall elect a chair and other officers as deemed necessary to administer its duties.
- H. A simple majority of the board members currently serving shall constitute a quorum of the board.
- I. The board shall meet at least quarterly and at such other times as it deems necessary..
- J. Allow for electronic participation in board meetings.**
- K. The governor may remove any member from the board for the neglect of any duty required by law, for incompetence, for improper or unprofessional conduct as defined by the Social Work Code of Ethics, Professional standards of Practice, board rule or for**

any reason that would justify the suspension or revocation of that member's' license to practice social work.

- L. A board member shall not serve more than two consecutive terms, and any member failing to attend, after proper notice, three consecutive meetings shall automatically be removed as board members unless excused for reasons set forth in board regulations.
- M. In the event of a vacancy for any reason, the board secretary shall immediately notify the governor of the reason for the vacancy and the need to expedite the appointment of a new board member.
- N. If a board member is named in or involved in a complaint or action being considered by the board, the board member shall not participate in any way in the board's discussion and consideration of the complaint or action and shall not be involved in decision making or vote on the matter.**
- O. If a board member has a personal, professional or familial relationship or other involvement with or interest in an individual, business or organization involved in an action, complaint or other matter being considered by the board, the board member shall declare a conflict of interest and shall not participate in the board's discussion or consideration of the complaint, action or matter and may not be involved in decision making or vote on the matter.**

Board's authority In addition to any authority provided by law, the board shall have the authority to;

- A. Adopt and fine in accordance the State Rules Act, rules necessary to carry out the provisions of the Social Work Practice Act in accordance with the provisions of the Uniform Licensing Act including the procedures for an appeal of an examination failure;
- B. Select, prepare and administer, at least quarterly examinations for licensure;
- C. Adopt the NASW professional code of ethics;
- D. Appoint advisory committees for the impaired SWs' program;
- E. Conduct hearings on an appeal of a denial of a license based on the applicant's failure to meet the minimum qualifications for licensure. The hearing shall be conducted pursuant to the Uniform Licensing Act;
- F. Require continuing education of 30 hours every 2 years 6 of which is cultural and 3 must be on ethics ;
- G. Issue subpoenas, statement of charges, statements of intent to deny licenses and order and delegate in writing to a designee the authority to issue subpoenas, statement of charges and statements of intent to deny licenses and establish procedures for receiving, investigating and conducting hearings on complaints;
- H. NEW-Issue cease and desist orders for anyone who is not a licensed social worker holding themselves out as a SW or practicing SW without a license;**

- I. Approve appropriate supervision for those persons seeking licensure as LISW and LCSW;
- J. Issue provisional licensed, temporary licenses and licensees based on credentials to persons meeting the requirements set forth in the SW Practice Act;
- K. Determine qualification for licensure, including the requirement to demonstrate an awareness and knowledge of NM cultures;
- L. Set fees for licenses and authorize all disbursements necessary to carry out provisions of the SW Practice Act;
- M. **Post agendas as required by law and** keep a record of all proceedings and make an annual report to the governor

Unlawful Practice: Except as otherwise provided in this Act, it shall be unlawful for any individual

- 1. to engage in the practice of social work unless duly licensed as a social worker; or**
- 2. to present her/himself or be presented as a social worker or to use any abbreviation or title that implies or would lead the public to believe that he/she is a social worker or is licensed to practice SW.**

61-31-5. Exemptions. (Repealed effective July 1, 2016.)

- A. Nothing in the Social Work Practice Act [[61-31-1](#) NMSA 1978] shall be construed to prevent qualified members of other recognized professions that are licensed, certified or regulated under New Mexico law or regulation from rendering services within the scope of their license, certification or regulation, provided they do not represent themselves as licensed social workers.
- B. Students completing SW experience requirements may use the title social work intern.

61-31-6. Scope of practice. (Repealed effective July 1, 2016.)

- A. For the purposes of the Social Work Practice Act [[61-31-1](#) NMSA 1978], a person is practicing social work if he advertises, offers himself to practice, is employed in a position described as social work or holds out to the public or represents in any manner that he is licensed to practice social work in this state.
- B. Social work practice means a professional service and emphasizes the use of specialized knowledge of social resources, social systems and human capabilities to effect change in human behavior, emotional responses and social conditions. Services may be rendered through direct assistance to individuals, couples, families, groups and community organizations. Social work

practice focuses on both direct and indirect services to facilitate change on the intrapersonal, interpersonal and systemic levels. Areas of specialization that address these include but are not limited to the following:

- (1) clinical social work practice, which is the professional application of social work theory and methods in the diagnosis, treatment and prevention of psychosocial dysfunction, disability or impairment, including but not limited to emotional and mental disorders. It is based on knowledge of one or more theories of human development within a psychosocial context. Clinical social work includes interventions directed to interpersonal interactions, intrapsychic dynamics or life support and management issues. Clinical social work services consist of assessment, diagnosis and treatment, including psychotherapy and counseling, client-centered advocacy, consultation and evaluation;
- (2) social work research practice, which is the professional study of human capabilities and practice of social work specialties, including direct and indirect practice, through the formal organization and the methodology of data collection and the analysis and evaluation of social work data;
- (3) social work community organization, planning and development practice, which is a conscious process of social interaction and method of social work concerned with the meeting of broad needs and bringing about and maintaining adjustment between needs and resources in a community or other areas; helping people to deal more effectively with their problems and objectives by helping them develop, strengthen and maintain qualities of participation, self-direction and cooperation; and bringing about changes in community and group relationships and in the distribution of decision-making power. The community is the primary client in community organizations. The community may be an organization, neighborhood, city, county, state or national entity;
- (4) social work administration, which is the practice that is concerned primarily with translating laws, technical knowledge and administrative rulings into organizational goals and operational policies to guide organizational behavior; designing organizational structure and procedures or processes through which social work goals can be achieved; and securing resources in the form of material, staff, clients and societal legitimation necessary for goal attainment and organizational survival; and
- (5) university social work faculty, which provides an equal quality of social work education in identified areas of content; prepares graduates to practice in a range of geographic areas with diverse populations; and establishes the foundation for practitioners' professional futures, exposing them to the best of current knowledge and developing in them the ability to continue questioning and learning, as well as an awareness of their responsibility to continue this professional development.

USE OF TECHNOLOGY IN PRACTICE AND SUPERVISION

- a) The practice of Baccalaureate Social Work, Master's Social Work, Advanced Generalist or Clinical Social Work by a practitioner in providing services to a client, or supervisor of a supervisee in this jurisdiction through live video media, telephonic, electronic, or other means, regardless of the location of the practitioner shall constitute the practice of social work and shall be subject to regulation under this Act.

- b) The practice of Baccalaureate Social Work, Master's Social Work, Advanced Generalist or Clinical Social Work by a practitioner in providing services to a client, or supervision of a supervisee in this jurisdiction through live video media, telephonic, electronic, or other means, regardless of the location of the client or supervisee shall constitute the practice of social work and shall be subject to regulation under this Act.
- c) Unless specifically prohibited by the jurisdiction where a client or supervisee resides, electronic practice is allowed with clients and supervisees who are located within this jurisdiction.
- d) Any social worker who utilizes electronic practice must insure that adequate informed consent is provided regarding potential risks of utilizing electronic means in receiving services or supervision.
- e) Social workers' ethical responsibilities to clients and supervisees under this act regarding Ethics and Confidentiality, apply to Electronic Practice, with the additional requirement for informed consent regarding the potential risks involved through the use of live video, telephonic, electronic, or other means.
- f) Social workers and social work supervisors may substitute video teleconferencing communications for face to face communication only when deemed appropriate by the Social Worker or Supervisor and meets the needs of the client or supervisee.

16.63.1.7 SUPERVISION

A. APPROPRIATE SUPERVISION

(1) Supervision, for the purposes of licensure, shall be provided by an individual qualified by the board of social work examiners as a Supervisor.

(2) A Supervisor, for licensure purposes, means an individual who is licensed at an Independent level, who has completed a supervisory training program approved by the Board or has completed a 3 credit hour graduate level course on supervision, who provides supervision to MSW level social workers who are aspiring to achieve licensure at for an advanced level license, LISW/ LCSW, or to add a Specialty to their license.

Existing practicing Supervisors at the time of the effective date of this act, shall not be required to meet this training requirement.

- (i) Requirements for a supervisor shall include a master's degree from an approved social work program, a minimum of 3000 hours of clinical practice, with two years

of experience following LISW/LCSW licensure in the required category, and completion of graduate course work in supervision or a Board approved training in supervision.

(ii) Continuing Education in supervision. Three hours of continuing education in supervision is required per licensure renewal period to maintain registration.

(3) Social Work Supervisors for licensure purposes, social work supervisors for educational purposes and social worker supervisors for employment purposes, shall evaluate and oversee the manner in which the above skills development is reflected in the supervisee's practice. The supervisor's responsibility insures that the supervisee acquires the necessary skills required for continued employment, education or for advanced and professional social work practice.

(4) Supervision for bachelor or master level licensed social workers practicing social work and not aspiring to achieve licensure at the Independent level (LISW/LCSW) and are not providing clinical services, supervision shall be provided by a licensed social worker who is a qualified supervisor approved by their employer or through other supervision approved by the Board. LBSW level social workers shall have no requirement for supervision for licensure at the LMSW level.

(5) Supervision for master level social workers practicing clinical social work who are aspiring to achieve licensure at the independent level (LISW/LCSW), or master level social workers who are aspiring to achieve Independent licensure at the advanced generalist level, supervision shall be provided by an approved Supervisor as defined in the act. (see 16.63.1.7, A. 2.) No more than 30% of supervision hours may be from anyone other than a licensed independent level clinical or advanced generalist social worker (LISW/LCSW) and must be approved by the board. To supervise for specialty designations, supervisors must have the specialty designation they are providing supervision to a LMSW, LISW or LCSW level supervisees.

(6) A list of approved Supervisors will be maintained by the Board, and provided to any LMSW in need of a supervisor for licensure purposes.

(7) Applicant for licensure at the independent level must document 3,000 hours of licensed masters level social work experience which has been accumulated in no less than two years, and no more than a 60 month period. Applicants for licensure must document 90 hours of supervision during this 3,000 hour period. One (1) hour of supervision must be documented for every 40 hours worked. No more than 60% of the 90 hours of supervision may be group supervision. No more than 30% of the 90 hours of supervision may be non face-to-face. The supervised contact may include live video media which will be considered equal to face-face supervision for individual and group supervision if deemed appropriate by the supervisor and supervisee/s to meet the needs of the supervisee/s. Non-face to face supervision means any other form or type of direct communication other than face to face or live video media. Group supervision means supervision rendered to not more than five (5) supervisees at one time.

(8) Group supervision may be composed of no more than five supervisees per group without

approval from The Board. The Board maintains the authority to review extraordinary circumstances relevant to the time parameters of supervised practice.

(9) The clinical supervisor is responsible for supervision within the following content areas:

- (i) Clinical skills.
- (ii) Practice management skills.
- (iii) Skills required for continuing competence.
- (iv) Development of professional identity.
- (v) Ethical practice.
- (vi) Cultural competency

(10) The areas of clinical supervisory accountability shall include:

- (i) Client care.
- (ii) Knowledge of relevant agency policy and procedure.
- (iii) Legal and regulatory requirements.
- (iv) Ethical standards of the profession.
- (v) Professional responsibility for social work services provided by the supervisee.
- (vi) Documented assessment of the supervisee's competence to practice independently.

Need to review existing statutes below to determine if accurate

61-31-9. Requirements for licensure. (Repealed effective July 1, 2016.)

A. The board shall issue a license as a baccalaureate social worker to any person who files a completed application, accompanied by the required fees, and who submits satisfactory evidence that the applicant:

- (1) has reached the age of majority;
- (2) has at least a bachelor's degree in social work from a program accredited by the council on social work education; and
- (3) demonstrates professional competence by satisfactorily passing a examination as prescribed by the board.

B. The board shall issue a license as a master social worker to any person who files a completed application, accompanied by the required fees, and who submits satisfactory evidence that the applicant:

- (1) has reached the age of majority;
- (2) has obtained a master's degree in social work from a graduate school of social work accredited by the council on social work education; and
- (3) demonstrates professional competence by satisfactorily passing an examination as prescribed by the board.

C. The board shall issue a license as an independent social worker or clinical social worker to any person who files a completed application, accompanied by the required fees, and who submits satisfactory evidence that the applicant:

- (1) has reached the age of majority;
- (2) has obtained a master's degree in social work from a graduate school of social work accredited by the council on social work education;
- (3) has the appropriate years of postgraduate social work practice under appropriate supervision; and
- (4) demonstrates professional competence by satisfactorily passing an examination as prescribed by the board.

Licensing

Once all documentation for receiving a license has been submitted to the board and deemed complete, a license must be issued within 5 working days.

61-31-10.Examinations. (Repealed effective July 1, 2016.)

The date and location of the examination shall be established by the board. The board shall establish by rule the examination application deadline and other rules relating to the retaking of the licensure examination.

61-31-11. Provisional licensure. (Repealed effective July 1, 2016.)

Prior to examination, an applicant for licensure may obtain a provisional license to engage in social work practice as long as the applicant meets all the requirements, except examination, as prescribed in Section [61-31-10](#) NMSA 1978 for the level of license sought. The provisional license is valid for a period not to exceed one year.

DELETE THIS SECTION

61-31-12. Licensure without written examination. (Repealed effective July 1, 2016.)

A. An applicant for licensure under [Section 61-31-9](#) NMSA 1978 may be licensed without written examination if the applicant:

- (1) meets all other requirements for licensure as a baccalaureate social worker, independent social worker or master social worker and files his application within one year of the effective date of the Social Work Practice Act [[61-31-1](#) NMSA 1978];
- (2) has a bachelor's degree in a field other than social work, has been employed for one year

immediately preceding the effective date of the Social Work Practice Act in a private agency or public agency other than an executive agency in a position as described in any of the areas of specialization pursuant to Subsection B of [Section 61-31-6](#) NMSA 1978 under the title of social worker or other title under which he is deemed by the board to be practicing social work and has filed his application within one year of the effective date of the Social Work Practice Act; or

(3) has a bachelor's degree or higher in a field other than social work, has been employed in an executive agency under the title of social worker or other title under which he is deemed by the board to be practicing social work and has filed his application within three years of the effective date of the Social Work Practice Act.

B. An applicant for licensure under [Section 61-31-9](#) NMSA 1978 who has a master's or doctoral degree in a closely related field other than social work may be licensed as a master social worker if he has been employed for one year immediately preceding the effective date of the Social Work Practice Act in a private agency or public agency other than an executive agency in a position as described in any of the areas of specialization pursuant to Subsection B of [Section 61-31-6](#) NMSA 1978, under the title of social worker or other title under which he is deemed by the board to be practicing social work, has filed his application within one year of the effective date of that act and passes a written examination as prescribed by the board in accordance with Paragraph (3) of Subsection B of [Section 61-31-9](#) NMSA 1978. **DELETE**

Anyone licensed under this section shall be automatically grand parented at the level of their current license on the effective date of this act.

61-31-13. Licensure by credentials; reciprocity. (Repealed effective July 1,2016.)

A. The board may license an applicant for the licensure level sought, provided the applicant:

(1) possesses a valid social worker license issued by the appropriate examining board under the laws of any other state or territory of the United States, the District of Columbia or any foreign nation;

(2) is in good standing with no disciplinary action pending or brought against the applicant within the past five years;

(3) possesses a bachelor's or master's degree in social work from a program of social work approved by the board;

(4) verifies that the applicant has taken and passed the national examination as defined by rule; and

(5) demonstrates an awareness and knowledge of New Mexico cultures as determined by the board.

B. The applicant will not have to further verify the applicant's experience, schooling or degrees if the criteria pursuant to Subsection A of this section are met.

Need to add military in statute

61-31-13.1. Temporary licensure. (Repealed effective July 1, 2016.)

An applicant for licensure pursuant to the Social Work Practice Act [[61-31-1](#) NMSA 1978] may be issued a temporary license for a period not to exceed six months or for a period of time necessary for the board to ensure that the applicant has met the licensure requirements set out in that act.

61-31-14. License renewal. (Repealed effective July 1, 2016.)

- A. Each licensee shall renew the licensee's license biennially by submitting a renewal application on a form provided by the board. At the time of license renewal, the board shall require a licensee to produce evidence of continuing education, as prescribed by the board. The board may establish a method to provide for staggered biennial terms of licensure. The board may authorize license renewal for one year to establish the renewal cycle.
- B. A thirty-day grace period shall be allowed each licensee after each annual licensing period, during which time licenses may be renewed upon payment of the renewal fee and providing evidence of continuing education as prescribed by the board.
- C. Any licensee who allows the licensee's license to lapse for longer than three months shall have the license automatically revoked and may be required to take a written examination.
- D. A late penalty fee shall be assessed after the thirty-day grace period has expired for anyone attempting to renew a license to practice social work

61-31-15. License fees. (Repealed effective July 1, 2016.)

Applicants for licensure shall pay fees set by the board, not to exceed:

- A. for examination for any level of licensure other than initial licensure, two hundred dollars (\$200);
- B. for initial licensure following a examination as a baccalaureate social worker, two hundred dollars (\$200);
- C. for initial licensure following a examination as a master social worker, three hundred dollars (\$300);
- D. for initial licensure following a examination as an independent social worker, three hundred dollars (\$300);
- E. for licensure by credentials at any level, three hundred dollars (\$300);
- F. for licensure without examination, including a provisional license, as a baccalaureate social worker, one hundred fifty dollars (\$150);

- G. for licensure without examination, including a provisional license, as a master social worker, two hundred fifty dollars (\$250);
- H. for licensure without examination, including a provisional license, as an independent social worker, three hundred dollars (\$300);
- I. for renewal of a license as a baccalaureate social worker, one hundred dollars (\$100);
- J. for renewal of a license as a master social worker, two hundred dollars (\$200);
- K. for renewal of a license as an independent social worker or clinical social worker, three hundred dollars (\$300);
- L. for a late fee for failure to renew within the allotted grace period, one hundred dollars (\$100); and
- M. for a duplicate license, twenty-five dollars (\$25.00).

61-31-16. Fund established. (Repealed effective July 1, 2016.)

- A. There is created in the state treasury the "board of social work examiners fund".
- B. All money received by the board under the Social Work Practice Act [[61-31-1](#) NMSA 1978] shall be deposited with the state treasurer for credit to the fund. The state treasurer shall invest the fund as other state funds are invested, and all income derived from investment of the fund shall be credited to the fund. All balances in the fund shall remain in the fund and shall not revert to the general fund.
- C. Money in the fund is appropriated to the board and shall be used only for the purpose of meeting the necessary expenses incurred in carrying out the provisions of the Social Work Practice Act.

61-31-17. License denial, suspension or revocation. (Repealed effective July 1, 2016.)

- A. In accordance with procedures contained in the Uniform Licensing Act [[61-1-1](#) NMSA 1978], the board may deny, revoke or suspend any license held or applied for under the Social Work Practice Act [[61-31-1](#) NMSA 1978], upon grounds that the licensee or applicant:
 - (1) is guilty of fraud, deceit or misrepresentation in procuring or attempting to procure any license or certification provided for in the Social Work Practice Act;
 - (2) has been adjudicated as mentally incompetent by regularly constituted authorities;
 - (3) has been convicted of a felony;
 - (4) is guilty of unprofessional or unethical conduct;
 - (5) is habitually or excessively using controlled substances or alcohol;
 - (6) has repeatedly and persistently violated any of the provisions of the Social Work Practice Act or regulations of New Mexico or any other state or territory and has been convicted thereof;
 - (7) has been convicted of the commission of any illegal operation;

- (8) is grossly negligent or incompetent in the practice of social work; or
 - (9) has had a license to practice social work revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another country for acts of the licensee similar to acts described in this subsection. A certified copy of the record of the jurisdiction, territory or possession of the United States or another country making such revocation, suspension or denial shall be conclusive evidence thereof.
- B. Disciplinary proceedings may be instituted by sworn complaint of any person, including members of the board, and shall conform with the provisions of the Uniform Licensing Act. Any party to a hearing may obtain a copy of the hearing record upon payment of costs for such copy.

61-31-19. Impaired social workers' program. (Repealed effective July 1, 2016.)

- A. The board shall establish a process by which social workers who may be impaired because of a mental disability or habitual or excessive use of controlled substances or alcohol may seek rehabilitation. The intent of the process is to provide impaired social workers the opportunity to voluntarily enter a treatment program as an alternative to disciplinary action, while providing adequate safeguards to the public.
- B. The board shall appoint evaluation advisory committees as appropriate to the specific disability of a social worker. Each advisory committee shall be composed of at least three members. One member of an advisory committee shall be a licensed physician, one a licensed psychologist or a licensed psychiatrist and one licensed social work all practicing in New Mexico. No member of an advisory committee shall be a member of the board.
- C. An advisory committee shall function under the direction of the board and in accordance with regulations of the board. The regulations shall include directions to the advisory committee to:
- (1) develop criteria for admission to and continuance in a treatment program for board approval;
 - (2) review complaints against a licensed social worker involving habitual or excessive use of controlled substances or alcohol;
 - (3) review voluntary requests of each social worker seeking admission to a treatment program as an alternative to disciplinary action;
 - (4) develop and submit to the board for approval a written treatment agreement setting forth the requirements that shall be met by the social worker and the conditions under which the treatment program may be successfully completed or terminated;
 - (5) recommend to the board in favor of or against an individual social worker's admission into or release from a treatment program;
 - (6) receive and review all reports regarding an individual social worker's progress in treatment

and recovery;

- (7) report violations to the board; and
- (8) submit statistical reports to the board.

D. Files of social workers referred to an advisory committee and admitted to a treatment program shall be maintained in the office of the board and shall be confidential. Files are not confidential if they contain reports to the board concerning social workers who have not cooperated or complied with treatment agreements, or who have refused to participate in a program after having been accepted for admission into the program or reports used as evidence in a disciplinary proceeding. Such files may be made available to other states' social worker boards or law enforcement agencies upon request to the board if the social worker leaves the state prior to successful completion of the program and shall be subject to discovery by subpoena.

E. Any person who makes a report to the board regarding a social worker suspected of practicing while mentally disabled or under the influence of alcohol or controlled substances or who makes a report of a social worker's progress or lack of progress in a treatment program shall be immune from civil action for defamation or other causes of action resulting from such reports, provided that such reports are made in good faith and with some reasonable basis in fact.

F. After an appropriate treatment period, to be approved by the board, the advisory committee shall refer to the board for formal disciplinary action, including suspension or removal of license, a social worker who fails to respond to treatment. The board may on its own initiative or at the recommendation of the advisory committee immediately proceed with disciplinary actions against any social worker previously admitted to and released from a treatment program who has subsequently relapsed into a mental disability or abuse of alcohol or a controlled substance.

61-31-20. Provision for hearing. (Repealed effective July 1, 2016.)

The board shall, before taking any disciplinary action, set any matter for a hearing pursuant to the provisions of the Uniform Licensing Act [[61-1-1](#) NMSA 1978].

61-31-21. Criminal offender's character evaluation. (Repealed effective July 1, 2016.)

The provisions of the Criminal Offender Employment Act [[28-2-1](#) NMSA 1978] shall govern any consideration of criminal records required or permitted by the Social Work Practice Act [[61-31-1](#) NMSA 1978].

61-31-22. Penalties. (Repealed effective July 1, 2016.)

Any person who violates any provision of the Social Work Practice Act [[61-31-1](#) NMSA 1978] is guilty of a misdemeanor.

Cease and Desist order – The Board may Issue cease and desist orders for anyone who is not a licensed social worker holding themselves out as a SW or practicing SW without a license;

61-31-23. Injunctive proceedings. (Repealed effective July 1, 2016.)

The board may apply for an injunction in the district court of the first judicial district to enjoin any person from committing any act prohibited by the Social Work Practice Act [[61-31-1 NMSA 1978](#)].

. Confidentiality

. Privileged Communications and Exceptions.

(a) No social worker shall disclose any information acquired provided by a client or from persons consulting the social worker in a professional capacity, except that which may be voluntarily disclosed under the following circumstances:

(1) In the course of formally reporting, conferring or consulting with administrative superiors, colleagues or consultants who share professional responsibility, in which instance all recipients of such information are similarly bound to regard the communication as privileged;

(2) With the written consent of the person who provided the information;

(3) In case of death or disability, with the written consent of a personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health or physical condition;

(4) When a communication reveals the intended commission of a crime or harmful act and such disclosure is judged necessary by the social worker to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety; or

(5) When the person waives the privilege by bringing any public charges against the licensee.

(b) When the person is a minor under the laws of the _____ of _____ and the information acquired by the social worker indicates the minor was the victim of or witness to a crime, the social worker may be required to testify in any judicial proceedings in which the commission of that crime is the subject of inquiry and when the court determines that the interests of the minor in having the information held privileged are outweighed by the requirements of justice, the need to protect the public safety or the need to protect the minor.

(c) Any person having access to records or anyone who participates in providing social work services or who, in providing any human services, is supervised by a social worker, is similarly bound to regard all information and communications as privileged in accord with the section.

(d) Nothing shall be construed to prohibit a social worker from voluntarily testifying in court hearings concerning matters of adoption, child abuse, child neglect or other matters pertaining to children, elderly, and physically and mentally impaired adults, except as prohibited under the applicable state and federal laws.

(e) The _____, as now or hereafter amended, is incorporated herein as if all of its provisions were included in this Act.

Part 6. Client Confidentiality.

Subpart 1. General. A social worker shall protect all information provided by or obtained about a client. “Client information” includes the social worker’s personal knowledge of the client and client records. Except as provided herein, client information may be disclosed or released only with the client’s written informed consent. The written informed consent shall explain to whom the client information will be disclosed or released and the purpose and time frame for the release of information.

Subpart 2. Release of client information without written consent. A social worker shall disclose client information without the client’s written consent only under the following circumstances:

- A. Where mandated by federal or state law, including mandatory reporting laws, requiring release of client information;
- B. The social worker determines that there is a clear and imminent risk that the client will inflict serious harm on either the client or another identified individual. The social worker shall release only the information that is necessary to avoid the infliction of serious harm. The social worker may release this information to the appropriate authorities and the potential victim;
- C. The Board duly issues a valid subpoena to the social worker, as permitted by law.

Subpart 3. Release of client records without written consent. A social worker shall release client records without the client’s written consent under the following circumstances:

- A. A client’s authorized representative consents in writing to the release;
- B. As mandated by federal or jurisdiction law requiring release of the records;
- C. The Board duly issues a valid subpoena for the records, as permitted by law.

Subpart 4. Limits of confidentiality. The social worker shall inform the client of the limits of confidentiality as provided under applicable law.

Subpart 5. Minor clients. In addition to the general directive in Part 6, Subpart 4, a social worker must inform a minor client, at the beginning of a professional relationship, of any laws which impose a limit on the right of privacy of a minor.

Subpart 6. Third party billing. A social worker shall provide client information to a third party for the purpose of payment for services rendered only with the client's written informed consent. The social worker shall inform the client of the nature of the client information to be disclosed or released to the third party payor.

Subpart 7. Client information to remain private. A social worker shall continue to maintain confidentiality of client information upon termination of the professional relationship including upon the death of the client, except as provided under applicable law.

Subpart 8. Recording / Observation. A social worker shall obtain the client's written informed consent before the taping or recording of a session or a meeting with the client, or before a third party is allowed to observe the session or meeting. The written informed consent shall explain to the client the purpose of the taping or recording and how the taping or recording will be used, how it will be stored and when it will be destroyed.

. Standards of Practice/Code of Conduct.

Part 1. Standards of Practice.

Subpart 1. Scope & Applicability. The standards of practice apply to all applicants and licensees. The use of the term social worker within these standards of practice includes all applicants and licensees.

Subpart 2. Purpose. The standards of practice constitute the standards by which the professional conduct of an applicant or licensee is measured.

Subpart 3. Violations. A violation of the standards of practice constitutes unprofessional or unethical conduct and constitutes grounds for disciplinary action or denial of licensure.

Part 2. General Practice Parameters.

Subpart 1. Client welfare. Within the context of the specific standards of practice prescribed herein, a social worker shall make reasonable efforts to advance the welfare and best interests of a client.

Subpart 2. Self-determination. Within the context of the specific standards of practice prescribed herein, a social worker shall respect a client's right to self-determination.

Subpart 3. Nondiscrimination. A social worker shall not discriminate against a client, student, or supervisee on the basis of age, gender, sexual orientation, gender identity, race, color, national

origin, language spoken, religion, diagnosis, disability, political affiliation, or social or economic status. If the social worker is unable to offer services because of a concern about potential discrimination against a client, student, or supervisee, the social worker shall make an appropriate and timely referral. When a referral is not possible, the social worker shall obtain supervision or consultation to address the concern.

Subpart 4. Professional Disclosure Statement. A social worker shall effectively communicate through handout or other means as appropriate for all clients and may display at the social worker's primary place of practice a statement that the client has the right to the following:

- A. To expect that the social worker has met the minimal qualifications of education, training, and experience required by the law in that jurisdiction;
- B. To examine public records maintained by the Board which contain the social worker's qualifications and credentials;
- C. To be given a copy of the standards of practice upon request;
- D. To report a complaint about the social worker's practice to the Board;
- E. To be informed of the cost of professional services before receiving the services;
- F. To privacy as allowed by law, and to be informed of the limits of confidentiality;
- G. Limited access to client information. A social worker shall make reasonable efforts to limit access to client information in a social worker's agency to appropriate agency staff whose duties require access.
- H. Supervision or Consultation. A social worker receiving supervision related to practice shall inform the client that the social worker may be reviewing the client's case with the social worker's supervisor or consultant. Upon request, the social worker shall provide the name of the supervisor and the supervisor's contact information.
- I. To be free from being the object of discrimination while receiving social work services; and
- J. To have access to records as allowed by law.

Part 3. Competence.

Subpart 1. Continued competence. A social worker shall take all necessary and reasonable steps to maintain continued competence in the practice of social work.

Subpart 2. Limits on practice. A social worker shall limit practice only to the competency areas for which the social worker is qualified by licensure and training, experience, or supervised practice.

Subpart 3. Referrals. A social worker shall make a referral to other professionals when the services required are beyond the social worker's competence.

Subpart 4. Delegation. A social worker shall not assign, oversee or supervise the performance of a task by another individual when the social worker knows that the other individual is not licensed to perform the task or has not developed the competence to perform such task.

Part 4. Practice Requirements.

Subpart 1. Assessment or diagnosis. A social worker shall base services on an assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the assessment or diagnosis needs to be reviewed or revised.

Subpart 2. Assessment or diagnosis instruments. A social worker shall follow standard and accepted procedures for deciding when and how to use an assessment or diagnostic instrument. A social worker shall inform a client of its purpose before administering the instrument and, when available, of the results derived therefrom.

Subpart 3. Plan. A social worker shall develop a plan for services which includes goals based on the assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the plan needs to be reviewed or revised.

Subpart 4. Supervision or consultation. A social worker shall obtain supervision or engage in consultation when necessary to serve the best interests of a client.

Subpart 5. Informed consent.

A. Social workers shall provide services to clients only in the context of a professional relationship based, when appropriate, on valid informed consent. Social workers should use clear and understandable language to inform clients of the plan of the services, risks related to the plan, limits to services, relevant costs, reasonable alternatives, client's right to refuse or withdraw consent, and the time frame covered by the

consent. Social workers shall provide clients with an opportunity to ask questions.

B. If the client does not have the capacity to provide consent, the social worker shall obtain consent for the services from the client's legal guardian or other authorized representative.

C. If the client, the legal guardian, or other authorized representative does not consent, the social worker shall discuss with the client that a referral to other resources may be in the client's best interests.

Subpart 6. Records.

A. A social worker shall make and maintain records of services provided to a client. At a minimum, the records shall contain documentation verifying the identity of the client; documentation of the assessment or diagnosis; documentation of a plan, documentation of any revision of the assessment or diagnosis or of a plan; any fees charged and other billing information; copies of all client authorization for release of information and any other legal forms pertaining to the client. These records shall be maintained by the licensee or agency employing the licensee under secure conditions and for time periods in compliance with applicable federal or state law, but in no case for fewer than seven years after the last date of service.

B. Where a social worker or social work practice ceases operations as a result of a suspension, retirement or death of the owner, sale or other cause, including insolvency, the licensee, or other individual responsible for supervising the disposition of the practice, shall make every effort to notify the clients of their right to retrieve current records for a period of six (6) months using all of the following methods:

1. Notification in writing to the board;
2. Publication, at least weekly for one month, in a newspaper whose circulation encompasses the major area of a practitioner's former practice, of a notice advising clients of the right to retrieve their records for a six (6) month period; and
3. If applicable, a sign placed at the practice location informing clients of the right and procedures to retrieve their records.

Subpart 7. Reports. A social worker shall complete and submit reports as required by law in a timely manner.

Subpart 8. Exploitation. A social worker shall not exploit in any manner the professional relationship with a client, student, or supervisee for the social worker's emotional, financial, sexual or personal advantage or benefit, nor shall the social worker use the professional relationship with a client, student, or supervisee to further personal, religious, political or business interests.

Subpart 9. Termination of services. A social worker shall terminate a professional relationship with a client when the client is not likely to benefit from continued services or the services are no

longer needed. The social worker who anticipates the termination of services shall give reasonable notice to the client. The social worker shall take reasonable steps to inform the client of the termination of professional relationship. The social worker shall provide referrals as needed or upon the request of the client. A social worker shall not terminate a professional relationship for the purpose of beginning a personal or business relationship with a client.

Part 5. Relationships with Clients and Former Clients.

Subpart 1. Personal relationships with clients. A social worker shall not engage in dual relationships with clients that compromise the well-being of the client, impair the objectivity and professional judgment of the social worker or increase the risk of client exploitation. When a social worker may not avoid a personal relationship with a client, the social worker shall take appropriate precautions, such as informed consent, consultation, or supervision to ensure that the social worker's objectivity and professional judgment are not impaired.

Subpart 2. Personal relationships with former clients. A social worker may engage in a personal relationship, except as prohibited by Part 5, Subpart 4, with a former client, if the former client was notified of the termination of the professional relationship. The social worker shall continue to consider the best interests of the former client, and shall not engage in a personal relationship with a former client if a reasonable social worker would conclude that the former client continues to relate to the social worker in the social worker's professional capacity.

Subpart 3. Sexual contact with a client. A social worker shall not engage in or request sexual contact as defined in Part 5, Subpart 5, with a client under any circumstances. A social worker shall not engage in any verbal or physical behavior which a reasonable person would find to be sexually seductive or sexually demeaning. A social worker shall not sexually harass a client.

Subpart 4. Sexual contact with a former client. A social worker who has provided clinical social work services to a client shall not engage in or request sexual contact as defined in Part 5, Subpart 5, with the former client under any circumstances. A social worker who has provided other social work services to a client shall not engage in or request sexual contact as defined in Part 5, Subpart 5, with the former client at any time if a reasonable social worker would determine that engaging in sexual contact with the client would be exploitative, abusive, or detrimental to the client's welfare. It is the responsibility of the social worker to assume the full burden of demonstrating that the former client has not been exploited or abused either intentionally or unintentionally.

Subpart 5. Sexual contact defined. Sexual contact includes but is not limited to sexual intercourse, either genital or anal, cunnilingus, fellatio, or the handling of the breasts, genital areas, buttocks, or thighs, whether clothed or unclothed, by either the social worker or the client.

Subpart 6. Business relationship with a client. A social worker shall not engage in any type of a business relationship with a client. Business relationships do not include purchases made by the

social worker from the client when the client is providing necessary goods or services to the general public, and the social worker determines that it is not possible or reasonable to obtain the necessary goods or services from another provider.

Subpart 7. Business relationship with a former client. A social worker may engage in a business relationship with a former client, if the former client was notified of the termination of the professional relationship. The social worker shall continue to consider the best interests of the former client, and shall not engage in a business relationship with a former client if a reasonable social worker would conclude that the former client continues to relate to the social worker in the social worker's professional capacity.

Subpart 8. Prior Personal or Business Relationships. A social worker may engage in a professional relationship with an individual with whom the social worker had a previous personal or business relationship only if a reasonable social worker would conclude that the social worker's objectivity and professional judgment will not be impaired by reason of the previous personal or business relationship.

Subpart 9. Social worker responsibility. A social worker shall be solely responsible for acting appropriately in regard to relationships with clients or former clients. A client or a former client's initiation of a personal, sexual, or business relationship shall not be a defense by the social worker for a violation of Part 5, Subparts 1 through 8.

Subpart 10. Others. Part 5, Subparts 1 through 9 also apply to a social worker's relationship with students, supervisees, employees of the social worker, family members or significant others of a client.

Part 6. Conduct.

Subpart 1. Impairment. A social worker shall not practice while impaired by medication, alcohol, drugs, or other chemicals. A social worker shall not practice under a mental or physical condition that impairs the ability to safely practice.

Subpart 2. Giving drugs to a client. Unless permissible by state law, a social worker shall not offer medication or controlled substances to a client, or accept these substances from a client for personal use or gain. The social worker may accept medication or controlled substances from a client for purposes of disposal or to monitor use. Under no circumstances shall a social worker offer alcoholic beverages to a client or accept such from a client.

Subpart 3. Investigation. A social worker shall comply with and not interfere with Board investigations.

Part 7. Representation to the Public. Advertising.

Subpart 1. Required use of license designation. A social worker shall use the license designation of LBSW, LMSW, LISW, and LCSW, which corresponds to the social worker's license, after the social worker's name in all written communications related to social work practice, including any advertising, correspondence, and entries to client records.

Subpart 2. Information to clients or potential clients. A social worker shall provide accurate and factual information concerning the social worker's credentials, education, training, and experience upon request from a client or potential client. A social worker shall not misrepresent directly or by implication the social worker's license level, degree, professional certifications, affiliations, or other professional qualifications in any oral or written communication or permit or continue to permit any misrepresentations by others. A social worker shall not misrepresent, directly or by implication, affiliations, purposes, and characteristics of institutions and organizations with which the social worker is associated.

Subpart 3. Licensure status. Licensure status shall not be used as a claim, promise, or guarantee of successful service, nor shall the license be used to imply that the licensee has competence in another service. Public statements or advertisements may describe fees, professional qualifications, and services provided, but they may not advertise services as to their quality or uniqueness and may not contain testimonials by quotation or implication.

Subpart 4. Display of license. A social worker shall conspicuously display a current license issued by the Board at the social worker's primary place of practice.

Part 8. Fees and Billing Practices.

Subpart 1. Fees and payments. A social worker who provides a service for a fee shall inform a client of the fee at the initial session or meeting with the client. Payment must be arranged at the beginning of the professional relationship, and the payment arrangement must be provided to a client in writing. A social worker shall provide, upon request from a client, a client's legal guardian, or other authorized representative, a written explanation of the charges for any services rendered.

Subpart 2. Necessary services. A social worker shall bill only for services which have been provided. A social worker shall provide only services which are necessary.

Subpart 3. Bartering. A social worker may not accept goods or services from the client or a third party in exchange for the social worker's services, except when such arrangement is initiated by the client and is an accepted practice in the social worker's community or within the client's culture. It is the responsibility of the social worker to assume the full burden of demonstrating that this arrangement will not be detrimental or exploitative to the client or the professional relationship.

Subpart 4. No payment for referrals. A social worker shall neither accept nor give a commission, rebate, fee split, or other form of remuneration for the referral of a client.

Part 9. SOCIAL WORKERS' ETHICAL RESPONSIBILITIES TO THE SOCIAL WORK PROFESSION.

Subpart 1. Social Workers are expected to follow the NASW Code of Ethics in regard to relationships with colleagues, within practice settings, with other professionals, and within the profession of Social Work.

Part 11. Research.

Subpart 1. Informed consent. When undertaking research activities, the social worker shall abide by accepted protocols for protection of human subjects. A social worker must obtain a client's or a client's legal guardian's written informed consent for the client to participate in a study or research project and explain in writing the purpose of the study or research as well as the activities to be undertaken by the client should the client agree to participate in the study or research project. The social worker must inform the client of the client's right to withdraw from the project at any time.

61-31-24. Privileged communications. (Repealed effective July 1, 2016.)

A. A licensed social worker shall not be examined without the consent of his client concerning any communication made by the client to him or any advice given to the client in the course of professional employment; nor shall the secretary, stenographer or clerk of a social worker be examined without the consent of his employer concerning any fact, the knowledge of which he has acquired in that capacity; nor shall any person who has participated in any social work practice conducted under the supervision of a person authorized by law to conduct such practice, including group therapy sessions, be examined concerning any knowledge gained during the course of the practice without the consent of the person to whom the testimony sought relates.

B. No licensed social worker may disclose any information he has acquired from a person consulting him in his professional capacity, unless:

- (1) he has the written consent of the client or, in the case of death or disability, of his personal representative, any other person authorized to sue or the beneficiary of any insurance policy on his life, health or physical condition;
- (2) such communication reveals the contemplation of a crime or harmful act;
- (3) the client is under the age of eighteen years or an adult who is mentally fragile and the information acquired indicates that the child or adult was the victim or subject of a crime, in which case the social worker may be required to testify fully in relation to the crime in any examination, trial or other proceeding in which the commission of the crime is a subject of inquiry; or
- (4) the person waives the privilege by bringing charges against the social worker.

C. Nothing in this section shall be construed to prohibit a licensed social worker from

disclosing information in court hearings concerning matters of adoption, child abuse, child neglect or other matters pertaining to the welfare of children as stipulated in the Children's Code [[32A-1-1](#) NMSA 1978] or to those matters pertaining to citizens protected under the Adult Protective Services Act [[27-7-14](#) NMSA 1978].

61-31-25. Termination of agency life; delayed repeal. (Repealed effective July 1, 2016.)

The board of social work examiners is terminated on July 1, 2015 pursuant to the Sunset Act [[12-9-11](#) NMSA 1978]. The board shall continue to operate according to the provisions of the Social Work Practice Act [[61-31-1](#) NMSA 1978] until July 1, 2016. Effective July 1, 2016, the Social Work Practice Act is repealed.