

**BEFORE THE STATE OF NEW MEXICO  
BOARD OF SOCIAL WORK EXAMINERS**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>JOSEPH S. DUNCAN,</b>	)	<b>CASE NO. SW 09-12-22 APP</b>
<b>APPLICANT</b>	)	
	)	
<b>Respondent.</b>	)	
	)	

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**DECISION AND ORDER**

**THIS MATTER** came before a quorum of the Board of Social Work Examiners ("Board") during a special meeting on September 17, 2010 for a decision in the above referenced case.

**FINDINGS OF FACT**

The Board, having familiarized themselves with the record of the proceedings, including the Hearing Officer's Report, hereby makes the following findings of fact:

The Hearing Officer's Recommended Findings of Fact, numbered 1-8, are adopted in their entirety by unanimous vote. A copy of the Hearing Officer's Report is attached hereto.

**CONCLUSIONS OF LAW**

Based on the findings of fact, the Hearing Officer's Recommended Conclusions of Law, numbered 1-3, are adopted in their entirety by unanimous vote.

As such, the Board finds that Respondent's New Mexico application may be denied on the grounds that he has had a license to practice social work revoked, suspended or denied in the State of Minnesota.

**ORDER**

Based on the Findings of Fact and Conclusions of Law, the Board unanimously votes in the affirmative and renders this Decision and Order:

**IT IS ORDERED** that Respondent's application to practice as a social worker in the State of New Mexico is hereby denied.

**FOR THE NEW MEXICO  
BOARD OF SOCIAL WORK EXAMINERS**

DATE: 9-30-10

  
\_\_\_\_\_  
Board Member

FILED

AUG 27 2010

BEFORE THE STATE OF NEW MEXICO  
BOARD OF SOCIAL WORK EXAMINERS

OFFICE OF THE HEARING OFFICER  
REGULATION & LICENSING DEPARTMENT

IN THE MATTER OF:

JOSEPH S. DUNCAN,  
APPLICANT

Respondent.

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CASE NO. SW 09-12-22 APP

HEARING OFFICER'S REPORT

COMES NOW the New Mexico Board of Social Work Examiners' duly appointed Hearing Officer, LeeAnn Werbelow, who convened a hearing in this matter on July 29, 2010 in Santa Fe, New Mexico and hereby timely submits this Hearing Officer's Report.

Gloria I. Lucero, Assistant Attorney General represented the Board of Social Work Examiners ("Board"). Respondent, Joseph Duncan appeared in person *pro se*.

The following exhibits were admitted through stipulation:

- 1) Exhibit 2A - Copy of Respondent's application for a New Mexico Social Worker License.
- 2) Exhibit 2B - Respondent's explanation to "yes" answer on Exhibit 2A's application.
- 3) Notice of Hearing.

The following exhibits were admitted over Respondent's objection:

- 1) Exhibit 2C - Certified copy of Respondent's Minnesota licensure file.
- 2) Exhibit 2 - Notice of Contemplated Action.

The Board in its case in chief presented testimony from Board Administrator, Vadra Baca and the Respondent. The Respondent in his case in chief testified on his own behalf.

FINDINGS OF FACT

Based upon either stipulation by the parties or facts entered through testimony at hearing, the Hearing Officer hereby submits the following findings of fact:

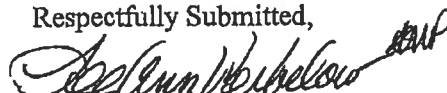
1. On December 29, 2009, Respondent submitted an application for a New Mexico Social Worker License.
2. In paragraph 5 of the Application, Respondent affirmatively marked "Yes" to the question, "Has any disciplinary action ever been taken regarding your practice of Social work or any license you hold or have held to practice Social Work? Disciplinary actions include, but are not limited to, suspension, probation, practice limitations, reprimand, letter of admonition, censure, and any allegations currently pending."
3. Respondent submitted a supplementary explanation with his application.
4. Within said explanation, Respondent stated that his license was currently suspended in the state of Minnesota for his failure to comply with a directive of the Minnesota Board of Social Work.
5. The documents provided from the Minnesota Board of Social Work indicate that they found sufficient grounds to request that Respondent submit to a mental health evaluation.
6. Respondent failed to comply with the Order for Physical or Mental Evaluation issued by the Minnesota Board of Social Work on February 9, 2009.
7. As such, it was Ordered that Respondent surrender his license to practice as an Independent Clinical Social Worker in the state of Minnesota.
8. Respondent testified that he refused to comply with the Minnesota Order because he would not be allowed to audio or visually record the evaluation and because he was not allowed to take a witness with him to the exam.

## CONCLUSIONS OF LAW

Based on the findings of fact, the Hearing Officer hereby reaches the following conclusions of law:

1. Respondent is subject to the jurisdiction of the Board pursuant to the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to -33; the Social Work Practice Act, NMSA 1978, Sections 61-31-1 to -25; and the New Mexico Board of Social Work Examiners Rules and Regulations, Title 16, Chapter 63, NMAC.
2. Section 61-31-17(A)(9) of the Social Work Practice Act provides in relevant part that in accordance with procedures contained in the Uniform Licensing Act [ §§ 61-1-1 to -31, NMSA 1978], the board may deny, revoke or suspend any license held or applied for under the Social Work Practice Act upon grounds that the licensee or applicant "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."
3. The certified copy of the State of Minnesota Board of Social Work Order for Suspension is conclusive evidence that License No. 16319, which authorized Respondent to practice as an Independent Clinical Social Worker in the State of Minnesota was suspended.

Respectfully Submitted,

  
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LEEANN WERBELOW, ESQ.  
Hearing Officer

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Hearing Officer's Report was mailed to the following parties of record on this 2nd day of September, 2010.

Gloria Lucero, Administrative Prosecutor  
111 Lomas Blvd., NW, Suite 300  
Albuquerque, NM 87102

Joseph Duncan, Respondent  
1764 Inglehart Ave.  
St. Paul, MN 55104

  
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RLD Paralegal