

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

IN THE MATTER OF:

**DANIEL T. O'BRIEN,
LICENSE # M-05672
RESPONDENT.**

CASE # SW-10-06-09

DEFAULT ORDER

This matter having come before the New Mexico Real Estate Appraisers Board on July 13, 2012 with a quorum present and a majority voting in the affirmative the Board finds as follows:

1. A notice of Contemplated Action (NCA) was served upon Respondent in accordance with the Uniform Licensing Act (ULA), Section 61-1-1 to 61-1-33 NMSA 1978.
2. Respondent did not request a hearing within twenty (20) days of receipt of service of the NCA as set forth in the ULA.
3. Pursuant to the provisions of the ULA, if the Respondent does not request a hearing, the Board may proceed to take action against the license of the Respondent by default.
4. As such, the Board unanimously voted in open session as follows:
 - a. Respondent shall be revoked for a period of five years, until July 13, 2017; and
 - b. Within thirty days of entry of this Order, Respondent shall pay a penalty of \$500.
6. Failure to complete any of the aforementioned shall result in subsequent, independent action against the Respondent.

IT IS THEREFORE ORDERED.

02-27-2013
Date



Alfredo Garcia, Chairman
New Mexico Board of Social Work Examiners

CERTIFIED MAIL NO. 7008 0500 0001 4436 2244
RETURN RECEIPT REQUESTED

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

IN THE MATTER OF:

**DANIEL T. O'BRIEN
LICENSE NO. M-05672**

Respondent.

)
)
)
)
)
)

CASE NO. SW-10-06-09

NOTICE OF CONTEMPLATED ACTION

1. DANIEL T. O'BRIEN (hereafter the "Respondent") is hereby notified that the New Mexico Board of Social Work Examiners (hereafter the "Board") has before it sufficient evidence which, if not rebutted or satisfactorily explained at a formal hearing, will justify the Board in taking action to deny, revoke, suspend or take other disciplinary action against Respondent's license to practice as a social worker in New Mexico pursuant to NMSA 1978 § 61-31-17.

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

61-31-17 LICENSE DENIAL, SUSPENSION OR REVOCATION

A. In accordance with procedures contained in the Uniform Licensing Act, [61-1-1 NMSA 1978], the board may deny, revoke, suspend, any license held or applied for under the Social Work Practice Act, [61-31-1 to 61-31-25 NMSA 1978], upon grounds that the licensee or applicant:

- (4) is guilty of unprofessional or unethical conduct;

16.63.16.8 NMAC - SOCIAL WORKERS' ETHICAL RESPONSIBILITIES TO CLIENTS

G. Conflicts of interest.

- (3) Social workers shall not engage in dual or multiple relationships with clients or former clients in which there is a risk of exploitation or potential harm to the client

16.63.16.11 NMAC - SOCIAL WORKERS' ETHICAL RESPONSIBILITIES AS PROFESSIONALS:

E. Impairment.

- (1) Social workers shall not allow their own personal problems, psychosocial distress, legal problems, substance abuse, or mental health difficulties to interfere with their professional judgment and performance or to jeopardize the best interests of people for whom they have a professional responsibility.
 - (2) Social workers whose personal problems, psychosocial distress, legal problems, substance abuse, or mental health difficulties interfere with their professional judgment and performance shall immediately seek consultation and take appropriate remedial action by seeking professional help, making adjustments in workload, terminating practice, or taking any other steps necessary to protect clients and others.
3. The Board has jurisdiction to hear this matter pursuant to the Social Work Practice Act, NMSA 1978, Sections 61-31-1 through 61-31-25.
 4. The general nature of the allegations is as follows:
 - a. Respondent was issued New Mexico Social Worker License Number M-05672 (hereafter "License"), which authorized Respondent to practice social work in the State of New Mexico.
 - b. Respondent, while engaging in a course of treatment with a patient, also engaged in a dual relationship by house sitting for patient or legal guardian of patient.

- c. Respondent, while engaging in a course of treatment for the patient, allowed personal issues to interfere with his treatment of patient.
 - d. Respondent, failed to immediately seek consultation and take remedial action for personal problems which were affecting those with whom he had professional responsibility.
6. Unless rebutted or explained at a formal hearing, the evidence before the Board is sufficient to justify the Board in taking disciplinary action.
7. The Board shall take the contemplated action by default, unless Respondent “within twenty days after service of the notice deposits in the mail a certified return receipt requested letter address to the Board and containing a request for a hearing. *See* NMSA § 61-1-4(D)(3). If Respondent “does not mail a request for a hearing within the time and in the manner required by this section, the Board may take the action contemplated in the notice and such action shall be final and not subject to judicial review. *See* MMSA § 61-1-4(E). A written request for a hearing should be sent to the following address:

New Mexico Board of Social Work Examiners
ATTN: Laura Romero Halama
Compliance Liaison
New Mexico Boards & Commissions
P.O. Box 25101
Santa Fe, NM 87504

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

A. A person entitled to be heard under the Uniform Licensing Act [61-1-1 NMSA 1978] shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other

evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefore to the board or the hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or hearing officer. All notices issued pursuant to NMSA 1978, § 61-1-4 shall contain a statement of these rights.

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

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

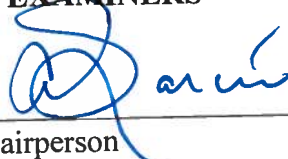
- C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

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

Date:

4/23/12

By:



Chairperson
New Mexico Board Social Work Examiners
Post Office Box 25101
Santa Fe, New Mexico 87504
(505) 476-4642

Administrative Prosecutor:

P. Cholla Khoury
Assistant Attorney General
408 Galisteo St.
Santa Fe, NM 87501
(505) 827-6088 – Telephone
(505) 827-6036 – Facsimile

CERTIFICATE OF SERVICE

A true copy of this Notice of Contemplated Action was mailed to Respondent by certified mail, return receipt requested, on this 26th day of April, 2012.

By: 

CERTIFIED MAIL No.: 7008 0500 0001 4436 1438

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

7008 0500 0001 4436 1438

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	

Postmark
Here

Daniel T. O'Brien
1797 Strawberry Dr. NE
Rio Rancho, NM 87144

Sent To
 Street, Apt. No.,
 or PO Box No.
 City, State, ZIP+4

PS Form 3800, August 2006

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Daniel T. O'Brien
1797 Strawberry Dr. NE
Rio Rancho, NM 87144

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature  Agent
 Addressee

B. Received by (*Printed Name*) C. Date of Delivery
 4-28-12

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (*Extra Fee*) Yes

7008 0500 0001 4436 1438

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540