

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

**IN THE MATTER OF:**

**RICHARD MAESTAS, Lic. M-07794**  
**Respondent.**

**CASE No.: SW-16-17-COM**

**DEFAULT ORDER**

**THIS MATTER** came before the New Mexico Social Work Examiners (the “Board”) on June 8, 2018, for a decision pursuant to provisions of the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 to -33 (1957, as amended through 2017) (“ULA”). After due deliberation, the Board finds that:

1. The Board has complied with all notice and hearing provisions of the ULA and has afforded Respondent Richard Maestas all applicable due process rights.
2. In accordance with Section 61-1-4(D), the Board sent its Notice of Contemplated Action (“NCA”) in the above-captioned matter to Respondent at his last known address of record on February 21, 2018, via United States Postal Service Certified Mail, Return Receipt Requested, Article No. 9171 9690 0935 0076 8828 66. Exhibit 1 (Notice of Contemplated Action, Case No. SW-16-17-COM).
3. Subsequently, the Board received the Return Receipt for Article No. 9171 9690 0935 0076 8828 66, which had been signed by Respondent on or about February 27, 2018. Exhibit 2 (Return Receipt, Article No. 9171 9690 0935 0076 8828 66).
4. The NCA notified Respondent that the Board had before it sufficient evidence which, if not rebutted or satisfactorily explained at a formal hearing, would justify the revocation of his license.

5. The NCA further notified Respondent that unless Respondent requested a hearing within twenty days of service, the Board would take the contemplated action. Exhibit 1.
6. Section 61-1-4(E) authorizes the Board to take the action contemplated in the NCA if a licensee does not mail a request for a hearing within the time and in the manner prescribed by Section 61-1-4. It further provides that such action taken by the Board shall be final and not subject to judicial review. Section 61-1-4(E).
7. Respondent did not request a hearing within the time and in the manner prescribed.
8. On April 4, 2016, Respondent submitted a letter to the Board stating “I am not trying to argue the case against me; I am simply giving an explanation for my behavior.” Exhibit 3. The claimant did not dispute or rebut or the evidence that are the basis of the violations alleged in the NCA.

Based on the above findings, the Board enters the following Default Order:

**IT IS ORDERED** that Respondent pay a civil penalty to the Board in the amount of \$500.00 pursuant to Section 61-1-3.2.

This action is disciplinary action and as such is a public record subject to inspection. Pursuant to Section 61-1-4(E), this action shall be final and not subject to judicial review.

This Decision and Order shall be served upon Respondent in accordance with law.

FOR THE NEW MEXICO BOARD OF SOCIAL WORK  
EXAMINERS

Date: June 25, 2018



Brahma L. Wilczynski, Chair  
*Executed electronic signature via-email  
authorization dated 06/23/2018*

CERTIFICATE OF SERVICE

**Return Receipt Request No: 9171 9690 0935 0076 8827 50**

I hereby certify that a true and correct copy of the foregoing document and attachments were sent via certified mail, return receipt requested to Mr. Richard Maestas, at his last known address of record on June 25, 2018.

Richard Maestas  
30 Kendrick Road  
Belen, NM 87002

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Sheila Harris, Compliance Liaison

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

**IN THE MATTER OF:**

**Richard Maestas  
Lic. M-07794**

**Respondent.**

**Case No.: SW-16-17-COM**

**NOTICE OF CONTEMPLATED ACTION**

YOU ARE HEREBY NOTIFIED that the New Mexico Board of Social Work Examiners ("Board") has before it sufficient evidence that, if not rebutted or explained at a formal hearing, will justify the Board in taking action against your license and in imposing such other penalties as may be permitted by law.

The Board has jurisdiction to hear this matter, and to take action to suspend, revoke, or take other action against your license to practice social work, pursuant to the Social Work Practice Act ("Act"), NMSA 1978 §§ 61-31-1 *et seq.*, and the Rules of the Board ("Rules"), 16.63.1 NMAC *et seq.*

It is alleged that your conduct violated the following provisions of the New Mexico Administrative Code:

**NMAC 16.63.16.10(E) SOCIAL WORKERS' ETHICAL RESPONSIBILITIES IN PRACTICE SETTINGS:**

**E.** Billing. Social workers shall establish and maintain billing practices that accurately reflect the nature and extent of services provided and that identify who provided the service in the practice setting.

**NMAC 16.63.16.11(D)&(E) SOCIAL WORKERS' ETHICAL RESPONSIBILITIES AS PROFESSIONALS:**

**D.** Dishonesty, fraud, and deception. Social workers shall not participate in, condone, or be associated with dishonesty, fraud, or deception.

**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.

**NMSA 1978 Section 61-31-22. Penalties.**

Any person who violates any provision of the Social Work Practice Act is guilty of a misdemeanor.

**NMSA 1978 Section 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 or suspend any license held or applied for under the Social Work Practice Act, 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

## **NATURE OF EVIDENCE AGAINST RESPONDENT**

1. On or about March 24, 2016, A complaint was filed with by Board, against Respondent, by Small Steps Child Counseling.

2. The Complaint states that Complainant became aware that Respondent had attempted to bill for appointments he had not kept. The complaint states that on 3/25/16, Complainant was on the phone with Richard Maestas from 10:19 A.M. for approximately 20 minutes. During this call, he stated he was at home. During this call and immediately afterward, Complainant checked Respondent's schedule. Respondent's schedule had two appointments on it. One appointment was for 9 AM of that morning, and the other was for 10 AM on the same morning. On the evening of 3/15/16, Complainant noticed that these appointments had been marked as services completed, and notes had been completed as well.

3. Clinical Director, Courtney Lewis, followed up by requesting that the office managed follow up with the families Respondent claimed to have treated. The office manager reported to the Clinical Director that both families reported no contact with Respondent on the 3/15/16, the date for which Respondent recorded the services.

4. Respondent provided a written response to this Complaint on April 4, 2016, in which he states: "I am not trying to argue the case against me; [ am simply giving an explanation for my behavior." Respondent then stated that he was "very distressed", his "emotional and physical state was not well" and he was "very burned out from work as had not taken much time off."

## RESPONDENT'S RIGHT TO A HEARING

The hearing, if requested, will be conducted in accordance with the Uniform Licensing Act ("ULA"). The ULA provides as follows regarding a licensee's opportunity for a hearing:

Every licensee or applicant shall be afforded notice and an opportunity to be heard, before the board has authority to take any action, which would result in:

- A. denial of permission to take an examination for licensing for which application has been properly made as required by board rule;
- B. denial of a license after examination for any cause other than failure to pass an examination;
- C. denial of a license for which application has been properly made as required by board rule on the basis of reciprocity or endorsement or acceptance of a national certificate of qualification;
- D. withholding the renewal of a license for any cause other than:
  - (1) failure to pay the required renewal fee;
  - (2) failure to meet continuing education requirements; or
  - (3) issuance of a temporary license extension if authorized by statute;
- E. suspension of license;
- F. revocation of a license;
- G. restrictions or limitations on the scope of a practice;
- H. the requirement that the applicant complete a program of remedial education or treatment;
- I. monitoring of the practice by a supervisor approved by the board;
- J. the censure or reprimand of the licensee or applicant;
- K. compliance with conditions of probation or suspension for a specific period of time;
- L. payment of a fine for a violation not to exceed one thousand dollars (\$1,000) for each violation, unless a greater amount is provided by law;
- M. corrective action, as specified by the board; or
- N. a refund to the consumer of fees that were billed to and collected from the consumer by the licensee.

NMSA 1978, § 61-1-3.

The ULA further provides as follows regarding the rights of persons entitled to a hearing:

- A. A person entitled to be heard under the Uniform Licensing Act [61-1-1 to 61-1-31 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 therefor to the board or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 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 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.

NMSA 1978, § 61-1-8.



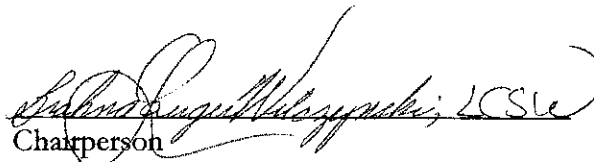
RECEIVED  
FEB 20 2018

CONCLUSION

BY: .....

The evidence before the Board, summarized above, if not rebutted or explained at a formal hearing, is sufficient to justify the Board suspending, revoking, or taking other action against your license and imposition of such other penalties as may be permitted by law. **The Board will take the contemplated action unless, within twenty (20) days after service of this Notice, the Respondent requests a formal hearing by certified mail return receipt requested. Such a request for a formal hearing should be mailed to Sheila Harris, Compliance Liaison; New Mexico Board of Social Work Examiners; 2550 Cerrillos Road; Santa Fe, NM 87505.**

February 15, 2018  
Date

  
Chairperson  
New Mexico Board of Social Work Examiners  
Regulation and Licensing Department

Prepared by:  
/s/ Julia White

Julia White, Assistant Attorney General  
P.O. Drawer 1508  
Santa Fe, NM 87504-1508  
Tel.: (505) 490-4060

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Notice of Contemplated Action was mailed to the Respondent on this 21<sup>st</sup> day of February, 2018, via certified mail return receipt requested.

Sheila Harris  
Sheila Harris, Compliance Liaison  
New Mexico Board Social Work Examiners  
Regulation and Licensing Department  
2550 Cerrillos Road  
Santa Fe, NM 87505

9171 9690 0935 0076 8828 66

Richard Maestas  
30 Kendrick Rd  
Belen, nm 87002

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"><li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>Print your name and address on the reverse so that we can return the card to you.</li><li>Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>	A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee <u>Richard Maestas</u> B. Received by (Printed Name) C. Date of Delivery <u>2/23</u>
1. Article Addressed to: <div data-bbox="324 997 706 1207" style="border: 1px solid black; padding: 5px; margin: 10px 0;">Richard Maestas 30 Kendrick Road Belen, NM 87002 SW-16-17-COM</div>	D. Is delivery address different from item 1? If YES, enter delivery address below: <input type="checkbox"/> Yes <input type="checkbox"/> No <p style="text-align: center; color: red; font-weight: bold;">FEB 27 2018</p>
2. Article Number (Transfer from service label)	3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail <input type="checkbox"/> Priority Mail Express™ <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery
PS Form 3811, July 2013	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <p style="text-align: center;">9171 9690 0935 0076 8828 66</p> <p style="text-align: center;">Domestic Return Receipt</p>