

**BEFORE THE BOARD OSTEOPATHIC MEDICAL EXAMINERS  
STATE OF NEW MEXICO**

Case No.: APP 2010-01

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**DEFAULT ORDER**

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**IN THE MATTER OF MARC RANDAL KRUGER, D.O. APPLICANT,**

**Respondent.**

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This matter came before the New Mexico Board of Osteopathic Medical Examiners (the "Board") for a decision and order on Tuesday, February 21, 2012. After a review of the record and due consideration of the matter, the Board finds and concludes that:

1. On October 25, 2010, a Notice of Contemplated Action was properly served upon the Respondent in accordance with the Uniform Licensing Act, NMSA 1978, §§ 61-1-4 (B) and 61-1-5.
2. The Respondent did not mail a request for hearing within the time and in the manner required by NMSA 1978, §§ 61-1-4(B)(3) and (E) and is, therefore, in default.

Based upon the above findings and conclusions, the Board enters the following decision and order:

1. The Respondent's application for licensure to practice Osteopathic Medicine in the State of New Mexico is hereby **DENIED BY DEFAULT**.
2. This denial is final and not subject to judicial review. *See* NMSA 1978, §§ 61-1-4 (E).

**DONE AND SIGNED** this 8 day of March, 2012.



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**Dr. James Shiveley, D.O., Chairperson**  
New Mexico Board of Osteopathic Medical Examiners  
2550 Cerrillos Road  
Santa Fe, New Mexico 87505

BEFORE THE NEW MEXICO BOARD OF  
OSTEOPATHIC MEDICAL EXAMINERS  
IN THE MATTER OF:

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**Marc Randal Kruger, D. O.** )  
 )  
LICENSE NO.: ) **CASE No. App2010-01**  
Respondent. )  
\_\_\_\_\_ )

**NOTICE OF CONTEMPLATED ACTION**

YOU ARE HEREBY NOTIFIED that the New Mexico Board of Osteopathic Medical Examiners (“the Board”) has before it sufficient evidence that, if not rebutted or explained at a formal hearing, will justify the Board in imposing such penalties as may be permitted by law.

Chapter 61-10-3 of the New Mexico Statutes provides, in pertinent part:

“It shall be unlawful for any person to practice as an osteopathic physician in this state without a license... issued by the board of osteopathic medical examiners...” 16-10-3 NMSA 1978.

The Board has the authority to take any action which would result in the denial of a license to practice osteopathic medicine in the State of New Mexico pursuant to the *Uniform Licensing Act* (“the Act”) and the rules and regulations of the Board. NMSA 1978, § 61-1-3(A)(B)(C).

**Summary of evidence against respondent:**

1. Respondent does not hold an osteopathic physician's license in New Mexico.
2. Respondent does not hold an osteopathic physician's license in California.
3. Respondent has admitted committing fraud in the prescription of Vicodin and Ativan.
4. Respondent's license was twice placed probation and twice the Respondent violated the terms of his probation.
5. In or about March of 2008, Respondent failed to meet the prescriptions of his probation in California by consuming proscribed substances.
6. In or about March of 2008, Respondent did knowingly make false statements to an investigator of the Osteopathic Medical Board of California regarding consumption of substances proscribed by the terms of Respondent's probation.
7. Respondent has failed to obtain clearance from the Osteopathic Medical Board of California stating that his license has not been subject to disciplinary action. NMAC (2010) §16.17.2.8 (11)
8. Respondent has failed to obtain clearance from the American Osteopathic Association, the federation of state medical boards of the United States NMAC (2010) §16.17.2.8 (12)

The conduct above presumptively establishes grounds for the Board to deny Respondent licensure in the State of New Mexico pursuant to NMSA 1978, § 16-10-3 and NMSA 1978, § 61-1-3(A)(B)(C).

**Respondent's right to a hearing:**

The hearing, if requested, will be conducted in accordance with the *Uniform*

*Licensing Act* ("ULA") which provides as follows:

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 therefore 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.

CONCLUSION

The evidence before the Board, summarized above, if not rebutted or explained at a formal hearing, is sufficient to justify the Board in imposing such penalties as may be permitted by law. **The Board will take the contemplated action unless, within twenty days after service of this Notice, Respondent requests a formal hearing by certified mail return receipt requested. Such a request for a formal hearing should be mailed to Liz Montoya, Administrator, New Mexico Board of Osteopathic Medical Examiners 2550 Cerrillos Road Santa Fe, New Mexico 87505.**

10/18/10  
Date

  
\_\_\_\_\_  
James Shiveley, D.O.  
Board of Osteopathic Medical Examiners  
Regulation and Licensing Department  
2250 Cerrillos Road Second Floor  
Santa Fe, New Mexico 87505

Administrative Prosecutor:  
William J. Moon,  
Assistant Attorney General  
New Mexico Attorney General's Office  
408 Galisteo Street  
Santa Fe, New Mexico 87102  
(505) 827-6079



**BOARD OF OSTEOPATHIC MEDICAL EXAMINERS**

New Mexico Regulation and Licensing Department  
**BOARDS AND COMMISSIONS DIVISION**

Toney Anaya Building ▪ 2550 Cerrillos Road ▪ Santa Fe, New Mexico 87505  
(505) 476-4950 ▪ Fax (505) 476-4645 ▪ www.RLD.state.nm.us/osteopathy

**CERTIFICATE OF SERVICE – CERTIFIED MAIL**

I, Amanda Chavez, do hereby certify that I mailed via certified mail, return receipt a true and correct copy of a NCA, before the State of New Mexico, to Marc Krueger, the individual listed on the NCA, at 1613 W. Flora St., Stockton, CA, this 21<sup>st</sup> day of October, 2010.

Amanda Chavez

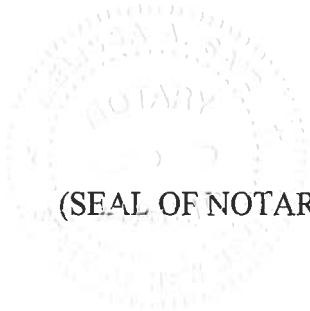
Print the Name of Individual Certifying Service

Amanda Chavez

Signature of Individual Certifying Service

Compliance Liaison

Title/Organization



(SEAL OF NOTARY)

Melissa Aguirre

Signature of Notary

10-28-14

My Commission Expires

CERTIFIED MAIL #