

**BEFORE THE NEW MEXICO STATE BOARD OF
ACUPUNCTURE & ORIENTAL MEDICINE**

IN THE MATTER OF:

DR. DANIEL CRAIG, D.O.M.
License No. 811
Respondent.

CASE NO. AOM-14-01

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND FINAL DECISION AND ORDER**

This matter came before a quorum of the New Mexico Board of Acupuncture & Oriental Medicine ("Board") at a special meeting on June 24, 2016 at the Regulation & Licensing Department located at 2550 Cerrillos Road, in Santa Fe, New Mexico for a decision in the above referenced matter. Board members Barbara Maddoux and Fiquet Duckworth were present and members Selah Chamberlain, Ernie Dole and Judith Youngman appeared telephonically. The Board members having familiarized themselves with the record of the proceedings, by listening to the recording of the hearing and reviewing the exhibits, as well as the Hearing Officer's Report, voted as follows, with member Maddoux recused:

FINDINGS OF FACT

The Board adopts the attached Hearing Officer's Proposed Findings of Fact in its entirety and it is incorporated herein by reference.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board reaches the following conclusions of law:

1. The Board has jurisdiction over the Respondent and the subject matter.
2. The Board has authority under the Uniform Licensing Act ("ULA"), NMSA 1978, §§ 61-1-1 through 61-1-33 (1953, as amended through 2003) and the

- Acupuncture and Oriental Medicine Practice Act ("Act"), NMSA 1978, §§ 61-14A-1 to -22 (1993, as amended through 2007) to conduct disciplinary hearings;
3. Pursuant to the provisions of the Act, the Board is empowered to enact laws and regulations controlling the privilege to practice acupuncture and oriental medicine and to ensure that the public is protected from the improper, unprofessional, incompetent and unlawful practice of acupuncture and oriental medicine.
 4. The Board has complied with all notice and hearing requirements under the Uniform Licensing Act and has afforded Respondent all due process rights required by law.
 5. The Board concludes that there is sufficient evidence in the record to prove by a preponderance of the evidence that Respondent engaged in unprofessional conduct by having sexual relationships with two vulnerable patients, over a period of eleven months, while a doctor-patient relationship was ongoing, in violation of Section 61-14A-17(A)(5) and (7) and 16.2.12.27 NMAC.
 6. The Board concludes that there is sufficient evidence in the record to prove by a preponderance of the evidence that Respondent failed to maintain appropriate professional boundaries with those two patients, in violation of Section 61-14A-17(A)(5) and (7) and 16.2.12.27 NMAC.
 7. The Board concludes that there is sufficient evidence in the record to prove by a preponderance of the evidence that Respondent failed to maintain appropriate professional boundaries with several patients, including those two patients referred to in paragraph 6, when he asked another patient out on two occasions during treatments, when he told a patient he was attracted to her and when he told yet another patient in jest, that it was National Women's Orgasm Day, in violation of Section 61-14A-17(A)(5) and (7) and 16.2.12.27 NMAC.
 8. The Board concludes that there is sufficient evidence in the record to prove by a preponderance of the evidence that Respondent, on the day of the hearing, still lacked remorse and failed to appreciate the seriousness of his conduct, indicating his lack of rehabilitation and his unfitness to practice under his DOM license.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board votes to revoke Dr. Craig's License No. 811 to practice acupuncture and oriental medicine. The Board also recommends, based on the seriousness of the violation, that Respondent undergo psychiatric counseling for a period of one year.

If Respondent re-applies for a license, Respondent shall file a new application and shall satisfy the requirements for licensure at the time the application is made. Moreover, should Respondent re-apply, Respondent shall have the burden to prove by a preponderance of the evidence that he is fully rehabilitated from the grounds that gave rise to the allegations in this disciplinary action and that he is currently qualified to practice acupuncture and oriental medicine in a professional manner without a risk of harm or danger to the public.

The Board may also require that Respondent be evaluated by a psychiatrist or a psychologist approved by the Board prior to obtaining a license. Respondent shall be responsible for all the fees and costs relating to application, examination, evaluation and other Board requirements.

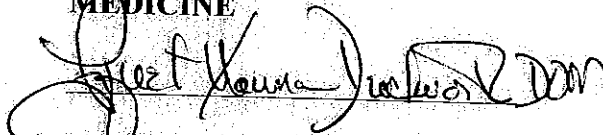
Fiquet Duckworth, D.O.M. is designated to sign the Decision and Order of the Board. The Decision and Order shall be served on Respondent in accordance with law. A notice advising Respondent about his right to judicial review and the applicable deadline is attached.

IT IS ORDERED that Dr. Craig's D.O.M. License No. 811 is hereby revoked.

IT IS SO ORDERED.

Dated: June 17, 2016

**FOR THE NEW MEXICO BOARD
OF ACUPUNCTURE & ORIENTAL
MEDICINE**



FIQUET DUCKWOTH, D.O.M.

BEFORE THE NEW MEXICO STATE BOARD OF
ACUPUNCTURE AND ORIENTAL MEDICINE

IN THE MATTER OF:

DR. DANIEL CRAIG, D.O.M.,
License No. 811

Respondent.

CASE NO. AOM-14-01

HEARING OFFICER'S REPORT

THIS MATTER came for a hearing on the merits before Judith Youngman, the designated hearing officer, on June 15, 2016, at the Regulation and Licensing Department, Hearing Room 1, located at 2550 Cerrillos Road, Santa Fe, NM 87505. Sean Cunniff, Assistant Attorney General and Administrative Prosecutor, was present on behalf of the State. Respondent appeared in person and proceeded *pro se*. Assistant Attorney General Jennifer Salazar was present to assist the hearing officer. The hearing officer submits this report pursuant to NMSA 1978, Section 61-1-7(A) and hereby recommends the following:

PROPOSED FINDINGS OF FACT

1. Respondent Daniel Craig is a Doctor of Oriental Medicine (D.O.M.) and holds a license issued by the New Mexico Board of Acupuncture and Oriental Medicine ("Board").
2. The Board received a complaint on April 7, 2014 from Dr. Kelly Allen, a licensed D.O.M.
3. In the complaint, Dr. Allen alleges that: (1) two women reported having sexual relationships with Respondent after meeting him in his capacity as a D.O.M. and while continuing to receive treatments from him; (2) Respondent asked another patient out twice during treatments; (3) Respondent told another patient, during a treatment, that he

- was attracted to her; (4) Respondent told another patient that it was National Women's Orgasm Day during a treatment; (5) Respondent invited another patient to his house for a massage. Exhibit A.
4. At the hearing, Respondent admitted that he had sexual relationships with two female patients after meeting them in his capacity as their D.O.M. and while they continued to come in for treatments with Respondent.
 5. Respondent admitted to telling a patient that it was "National Women's Orgasm Day."
 6. Respondent admitted to asking a female patient out, but testified that the woman was a massage therapist and Respondent was asking her out not as a date, but because he wanted to inquire about employment at the location where she worked.
 7. Respondent did not deny or refute the allegation that he told a patient he was attracted to her.
 8. Respondent denies giving a massage to a female patient at his house. He explained that he gave and charged the patient for a "tui na" procedure, which is within his scope of practice.
 9. Dr. Allen, for whom Respondent worked during the time of the incidents, stated that she hired Respondent in March of 2013 and fired him February of 2014.
 10. Dr. Allen stated that she fired Respondent because she felt Respondent lied to her, and she did not believe his excuses for missing work related meetings and phone calls.
 11. Respondent testified he recognized that he had a duty to be aware of all the Board's laws and regulations and admitted that he had not complied with all of these laws and regulations.

12. The Administrative Prosecutor requested a revocation of Respondent's license, stating the State viewed sexual misconduct and exploitation as one of the most serious violations a licensee could commit and that Respondent had admittedly engaged in this prohibited behavior multiple times.

13. Respondent testified that he wanted to take responsibility for engaging in sexual relationships with female patients and recognized that he had made bad decisions. Respondent asked that the Board not revoke his license.

FOR THE NEW MEXICO STATE BOARD
OF ACUPUNCTURE AND ORIENTAL
MEDICINE

Date:

06/16/2016

Respectfully Submitted,


JUDITH YOUGHMAN
Hearing Officer

**BEFORE THE NEW MEXICO STATE BOARD
OF ACUPUNCTURE AND ORIENTAL MEDICINE**

IN THE MATTER OF:

Case No. AOM-14-01

**DR. DANIEL CRAIG, D.O.M.,
License No. 811**

Respondent.

NOTICE OF CONTEMPLATED ACTION

YOU ARE HEREBY NOTIFIED that the New Mexico Board of Acupuncture and Oriental Medicine (the “Board”) has before it sufficient evidence, which if not satisfactorily explained or rebutted by you at a formal hearing, will justify the Board in assessing a penalty or penalties against you, including but not limited to, suspending, revoking, refusing to renew, or placing your professional license on probation; imposing a civil monetary fine; and other penalties as permitted by law.

Applicable Law: Jurisdiction and Authority to Discipline

The Board has jurisdiction and is authorized to take disciplinary action against you under the Acupuncture and Oriental Medicine Practice Act (the “Act”), NMSA 1978, Sections 61-14A-1 through -22, and the regulations enacted under the Act. See Section 61-14A-17 (providing the Board authority to discipline persons licensed under the Act). Among other penalties, this includes the assessment of fines of up to one-thousand dollars (\$1,000.00) per violation. See Section 61-14A-8 and -17; see also NMSA 1978, Section 61-1-3; Rule 16.2.12.34 NMAC. The Board may exercise this disciplinary authority “upon findings by the [B]oard that the licensee”... is guilty of unprofessional conducts, as defined by [B]oard rule ... [or] has violated

any provision of the [Act] or rules promulgated by the [Board]. Sections 61-14A-17(A)(5) and (7).

Board Rule 16.2.12.27 NMAC provides that

a doctor of oriental medicine...shall be guilty of unprofessional conduct who commits and act of sexual abuse, exploitation or misconduct, by exercising influence within a doctor/patient...relationship for purposes of engaging a patient...in sexual activity or who engages in sexual contact or the suggestion of sexual contact with a patient...during the doctor/patient...relationship...unless a sexual relationship with the patient...preceded the professional relationship as doctor/patient.... If the licensee...and the patient mutually desire a personal/sexual relationship, the licensee...shall immediately terminate the professional relationship...

Also, under Rule 16.2.12.27, each of the following acts (among others not listed here) constitutes “sexual abuse, exploitation or misconduct:”

- physical or verbal sexual contact or intercourse during the course of the professional relationship, whether in or out of the practitioner’s place of business,
- failure to maintain appropriate professional boundaries even if the patient is perceived as seductive, and
- sexual repartee, innuendo, jokes, or flirtation.

See Rule 16.2.12.27(A), (B) and (H).

Nature of the Evidence Against You as Respondent

On April 7, 2014, Dr. Kelly Allen filed a complaint with the Board alleging that

- (1) Two women reported having sexual relationships with [Respondent] after meeting him in his capacity as their acupuncturist and while continuing to come in for treatments with [Respondent]
- (2) During a treatment Respondent asked another patient out twice during treatments
- (3) During a treatment Respondent told another patient that he was attracted to her
- (4) During a treatment Respondent told another patient that it was National Women’s’ Orgasm Day
- (5) Respondent invited another patient to his house for a massage.

On May 8, 2014, you mailed a response to Dr. Allen's complaint to the Board. In your response, you admitted that you did "engage in intimate sexual encounters with two of the women who were coming to the clinic for professional healing services." And although you argue that the context of the interactions was portrayed inaccurately in the complaint, you also admitted that you did ask out a patient during treatment; that you told a patient you were attracted to her; that you did tell another patient that it was National Women's' Orgasm Day; and that you provided body work to a patient at your home. As such, you have admitted to at least two, if not more, acts that constitute unprofessional conduct through sexual abuse, exploitation or misconduct. See Rule 16.2.12.27(A), (B) and (H).

Your Rights as Respondent

You have the right to request a formal hearing before the Board in this matter. In order to exercise this right, you must respond to this Notice with a request for a hearing within twenty (20) days of the service of this notice as required under the Uniform Licensing Act (the "ULA"), NMSA 1978, Section 61-1-4, which governs these proceedings. See NMSA 1978, Sections 61-14A-8(I) and (J); see also Section 61-14A-17(B). You must make a hearing request in writing, sent to the Board by certified receipt requested letter at the address provided below. Failure to request a hearing will authorize the Board to take the contemplated disciplinary action. Such action shall be final and you will not have the opportunity for judicial review. Please send any hearing request to:

Marcus Erickson
New Mexico Board of Acupuncture and Oriental Medicine
2550 Cerrillos Road
Santa Fe, NM 87505
(505) 476-4648

If that hearing is requested, it will be conducted in accordance with the ULA, NMSA 1978, Sections 61-1-1 through -34. With respect to any formal hearing, as the respondent you have the following rights under NMSA 1978, Section 61-1-8:

- A. A person entitled to be heard under the Uniform Licensing 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 [B]oard 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.

Dated on this 6th day of April, 2016.

**STATE OF NEW MEXICO BOARD OF
ACUPUNCTURE AND ORIENTAL MEDICINE**

By: Barbara Maddoux RN, DOM
Board Chair Barbara Maddoux RN, DOM

Administrative Prosecutor

In the Matter of Dr. Daniel Craig
No. AOM-14-01
Notice of Contemplated Action
Page 4 of 5

Administrative Prosecutor

Sean Cunniff, Assistant Attorney General
408 Galisteo Street
P.O. Drawer 1508
Santa Fe, NM 87501
(505) 827-6469
scunniff@nmag.gov


CERTIFICATE OF SERVICE

A true and authentic copy of this Notice of Contemplated Action was sent to Respondent at the below address by certified mail, return receipt requested, on this 6th day of April, 2016.

Dr. Daniel Craig
622 Paulin Street
Santa Fe, NM 87505

Certified Mail No.: _____
Return Receipt Requested

9171 9690 0935 0078 6740 01

By: 
Marcus Erickson
New Mexico Regulation and Licensing Department