

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of
Vocational Nurse License Number 319559
issued to ELIA ELSA FRANCO

§
§
§
§

AGREED ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of ELIA ELSA FRANCO, Vocational Nurse License Number 319559, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code.

Respondent waived notice and hearing and agreed to the entry of this Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on January 27, 2021.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Respondent waived notice and hearing, and agreed to the entry of this Agreed Order.
3. Respondent's license to practice as a vocational nurse in the State of Texas is in current status.
4. Respondent received a Certificate in Vocational Nursing from Quest College - Vocational Nursing, San Antonio, Texas, on September 1, 2013. Respondent was licensed to practice vocational nursing in the State of Texas on April 1, 2014.
5. Respondent's nursing employment history includes:

4/2014 – 11/2018

LVN

Home Health Innovations
San Antonio, Texas

Respondent's nursing employment history continued:

8/2018 – 7/2019	LVN	America's Health Team San Antonio, Texas
7/2019 – Present	LVN	The Enclave San Antonio, Texas
7/2019 – Present	LVN	Altima Home Health San Antonio, Texas

6. At the time of the initial incident, Respondent was employed as a Licensed Vocational Nurse with America's Health Team, San Antonio, Texas, and had been in that position for ten (10) months.
7. On or about June 1, 2019, while employed with America's Health Team, San Antonio, Texas, and assigned to Patient MRN 502, Respondent inaccurately documented nursing care for a home visit she had not completed because she "felt pressured to not have any missed visits." Additionally, Respondent was paid for a visit she did not make. Respondent's conduct created an inaccurate medical record and was likely to injure the patient in that subsequent care givers would rely on her documentation to further care for the patient.
8. In response to Finding of Fact Number Seven (7), Respondent does not deny she failed to accurately document a missed home visit on June 1, 2019. Respondent strongly regrets her action. Respondent explains that she was scheduled to see the patient three (3) times that day. Respondent reports that she performed the "a.m." and noon visits, without incident. However, prior to making the "p.m." visit, she telephoned the patient and there was no answer. According to Respondent, the patient had not mentioned she would be leaving the home so Respondent was concerned and decided to drive to the home. Respondent states she then called the patient's son who informed her the patient was with her daughter. At that time, Respondent states considering the patient's blood sugars and vital signs had been normal and stable, Respondent made the poor decision to document the visit was made as scheduled.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.11 (1)(A),(1)(B),(1)(C)&(1)(D) and 22 TEX. ADMIN. CODE §217.12(1)(B),(1)(C)&(6)(H).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(10)&(13), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 319559, heretofore issued to ELIA ELSA FRANCO.
5. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

I. SANCTION AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED that RESPONDENT SHALL receive the sanction of **WARNING WITH STIPULATIONS AND FINE** in accordance with the terms of this Order.

- A. This Order SHALL apply to any and all future licenses issued to RESPONDENT to practice nursing in the State of Texas.
- B. This Order SHALL be applicable to RESPONDENT'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. As a result of this Order, RESPONDENT'S license(s) will be designated "single state" as applicable and RESPONDENT may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

II. COMPLIANCE WITH LAW

While under the terms of this Order, RESPONDENT agrees to comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Agreed Order.

III. UNDERSTANDING BOARD ORDERS

Within thirty (30) days of entry of this Order, RESPONDENT must successfully complete the Board's online course, "Understanding Board Orders", which can be accessed on the Board's website from the "Discipline & Complaints" drop-down menu or directly at: <http://www.bon.texas.gov/UnderstandingBoardOrders/index.asp>. Upon successful completion, RESPONDENT must submit the course verification at the conclusion of the course, which automatically transmits the verification to the Board.

IV. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, RESPONDENT SHALL successfully complete the following remedial education course(s) **within one (1) year of the effective date of this Order, unless otherwise specifically indicated:**

- A. **A Board-approved course in Texas nursing jurisprudence and ethics** that shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft, and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study and video programs will not be approved.
- B. **A Board-approved course in nursing documentation** that shall be a minimum of six (6) hours in length. The course's content shall include: nursing standards related to accurate and complete documentation; legal guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. Home study courses and video programs will not be approved.
- C. **The course "Sharpening Critical Thinking Skills,"** a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension.

In order to receive credit for completion of this/these course(s), RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. RESPONDENT SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

V. MONETARY FINE

RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250.00) within forty-five (45) days of the effective date of this Order.

Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

VI. EMPLOYMENT REQUIREMENTS

In order to complete the terms of this Order, RESPONDENT must work as a nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of sixty-four (64) hours per month for four (4) quarterly periods [one (1) year] of employment. This requirement will not be satisfied until four (4) quarterly periods of employment as a nurse have elapsed. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate, will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** RESPONDENT SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, RESPONDENT SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** RESPONDENT SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment"

form to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.

- C. **Incident Reporting:** For so long as Respondent remains employed in her current position as a Licensed Vocational Nurse with Altima Home Health, San Antonio, Texas, RESPONDENT SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.
- D. **Indirect Supervision:** Should Respondent's current position as a Licensed Vocational Nurse with Altima Home Health, San Antonio, Texas cease or change: RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse, who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years of experience in the same or similar practice setting to which the RESPONDENT is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- E. **Nursing Performance Evaluations:** RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the RESPONDENT by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the individual who supervises the RESPONDENT and these reports shall be submitted by the supervising individual to the office of the Board at the end of each three (3) month quarterly period for four (4) quarters [one (1) year] of employment as a nurse.

VII. SUBSEQUENT CRIMINAL PROCEEDINGS

IT IS FURTHER AGREED, should the RESPONDENT'S conduct, as outlined in the findings of fact of this Agreed Order, result in subsequent judicial action, including a deferred disposition, RESPONDENT may be subject to further disciplinary action, up to,

and including, revocation of RESPONDENT'S license(s) to practice nursing in the State of Texas.

VIII. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Agreed Order, all encumbrances will be removed from RESPONDENT'S license(s) and/or privilege(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, RESPONDENT may be eligible for nurse licensure compact privileges, if any.

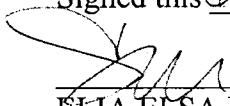
BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONTINUED ON NEXT PAGE.

RESPONDENT'S CERTIFICATION

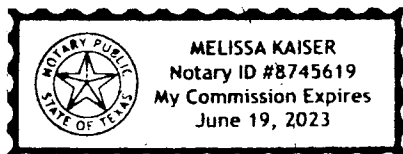
I understand that I have the right to legal counsel prior to signing this Order. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the entry of this Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Texas Board of Nursing and a copy of this Order will be mailed to me once the Order becomes effective. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including possible revocation of my license(s) and/or privileges to practice nursing in the State of Texas, as a consequence of my noncompliance.

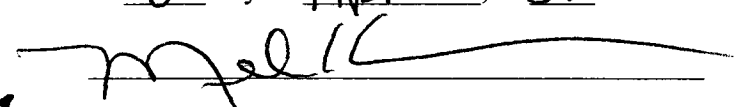
Signed this 6th day of April, 2021.


ELIA ELSA FRANCO, RESPONDENT

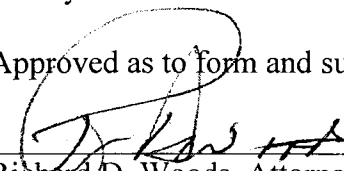
Sworn to and subscribed before me this 6 day of April, 2021.

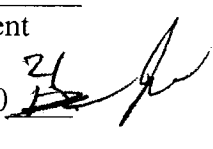
SEAL




Notary Public in and for the State of TEXAS

Approved as to form and substance.


Richard D. Woods, Attorney for Respondent

Signed this 6th day of April, 2021 

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 6th day of April, 2021, by ELIA ELSA FRANCO, Vocational Nurse License Number 319559, and said Agreed Order is final.

Effective this 11th day of May, 2021.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas".

Katherine A. Thomas, MN, RN, FAAN
Executive Director on behalf
of said Board