

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of	§	AGREED ORDER
Vocational Nurse License Number 219535	§	
issued to ALEJANDRO DAVID GARCIA	§	
	§	

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of ALEJANDRO DAVID GARCIA, Vocational Nurse License Number 219535, 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 October 9, 2020.

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 Valley Grande Institute for Academic Studies, Weslaco, Texas, on October 31, 2008. Respondent was licensed to practice vocational nursing in the State of Texas on December 11, 2008.
5. Respondent's nursing employment history includes:

12/2008 – 6/2019	Licensed Vocational Nurse	Balli Home Health Weslaco, Texas
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Respondent's nursing employment history continued:

10/2016 – 10/2018	Licensed Vocational Nurse	First Choice Home Health McAllen, Texas
10/2018- Present	Licensed Vocational Nurse	Verge Home Health Edinburg, Texas
6/2019- 5/2020	Licensed Vocational Nurse	All Seasons Home Care Edinburg, Texas

6. At the time of the incident, Respondent was employed as a Licensed Vocational Nurse with All Seasons Home Care, Edinburg, Texas, and had been in that position for ten (10) months.
7. On or about April 27, 2020, while employed as a Licensed Vocational Nurse with All Seasons Home Care, Edinburg, Texas, Respondent failed to report to his nursing supervisor that he had been tested for COVID-19 on April 24, 2020, after a recent exposure and was awaiting the results, and instead reported to work and completed two patient visits. Subsequently, Respondent received positive test results. Respondent's conduct exposed the patients to a risk of harm from transmission of a communicable disease.
8. In response to the incident in Finding of Fact Number Seven (7), Respondent states that he received positive test results on April 28th. Respondent states that he wanted to be tested because a few weeks prior, he heard a friend of his was in the hospital and tested positive for COVID-19. While there, his friend was actually tested and received a negative result. The same week, two of Respondent's patients had symptoms closely related to COVID-19 but tested negative. Respondent states that he reported to his supervisor at Verge Home Health and requested to be tested, even though he was asymptomatic. Respondent states that Verge Home Care took him off the schedule pending the results, and when he received the positive test result, he notified both employers. Respondent states that All Seasons never gave him training or protocol to follow regarding this matter, and never informed him that he had to notify them of any medical procedures or testing that he underwent, not even COVID-19.
9. Formal Charges were filed on September 9, 2020.

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)(O), and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B)&(4).
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 219535, heretofore issued to ALEJANDRO DAVID GARCIA.
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 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. **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.
- C. **The course "Professional Accountability,"** a 4.6 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 five hundred dollars (\$500.00) 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. 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.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Order. I have representation by counsel. I have reviewed this Order. I neither admit nor deny the charges alleged herein. By my signature on this Order, I agree to the entry of this Order, and the contents 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. 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 further 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 23 day of April, 2020


ALEJANDRO DAVID GARCIA, RESPONDENT

Sworn to and subscribed before me this 23 day of April, 2020

SEAL

Notary Public in and for the State of _____

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 27th day of April, 2021, by ALEJANDRO DAVID GARCIA, Vocational Nurse License Number 219535, and said Agreed Order is final.

Effective this 8th day of June, 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