

IN AND BEFORE THE OKLAHOMA STATE BOARD
OF MEDICAL LICENSURE AND SUPERVISION
STATE OF OKLAHOMA

FILED

STATE OF OKLAHOMA, ex rel.,)
OKLAHOMA STATE BOARD OF)
MEDICAL LICENSURE AND)
SUPERVISION,)

APR 26 2006

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

vs.)

CASE NO. 06-02-3071

ELIO LUIS FRANCO, PTA,)
LICENSE NO. TA1119,)

Defendant.)

COMPLAINT

COMES NOW the plaintiff, the State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Elizabeth A. Scott, Assistant Attorney General, and for its Complaint against the Defendant, Elio Luis Franco, PTA, alleges and states as follows:

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of Physical Therapy Assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §887.1 *et seq.*

2. Defendant, Elio Luis Franco, PTA, holds Oklahoma license no. TA1119, and is authorized to practice as a physical therapy assistant in the State of Oklahoma.

3. In January 2006, Defendant was working as a physical therapy assistant at Wilkins Nursing Center in Duncan, Oklahoma. During this time, he was assigned to perform physical therapy on Patient CHD. According to the billing records, patient chart and documentation submitted to his employer, Rehabworks, he performed physical therapy on Patient CHD on January 9, 10, 12, 17, 17, 19, 25, 27 and 28, 2006. However, on or around February 2, 2006, Patient CHD complained that she had not received any physical therapy. When confronted by Rehabworks and staff at Wilkins Nursing Center, Defendant admitted that he had not performed the physical therapy and that he had in fact falsified the patient's chart and billing records. Defendant subsequently resigned his position at Rehabworks.

4. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

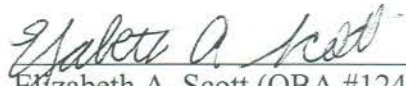
- A. Is guilty of conduct unbecoming a person licensed as a physical therapist or physical therapy assistant or guilty of conduct detrimental to the best interests of the public or his profession in violation of 59 O.S. §887.13(9).
- B. Is guilty of any act in conflict with the ethics of the profession of physical therapy in violation of 59 O.S. §887.13(10).
- C. Has engaged in dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public in violation of 435:20-5-8(b)(5).
- D. Has participated in fraud, abuse and/or violation of state or federal laws in violation of 435:20-5-8(b)(8).
- E. Has engaged in conduct which potentially or actually jeopardizes a patient's life, health or safety in violation of 435:20-5-8(b)(9).
- F. Has engaged in fraudulent billing practices and/or violation of Medicare and Medicaid laws or abusive billing practices in violation of 435:20-5-8(b)(15).
- G. Has engaged in improper management of medical records, inaccurate recording, falsifying or altering of patient records in violation of 435:20-5-8(b)(16).
- H. Has violated any provision of the Physical Therapy Practice Act or the rules and regulations of the board or of an action, stipulation, agreement or order of the Board in violation of 435:20-5-8(b)(31).

5. These allegations raise serious concerns about Defendant's ability to practice as a physical therapy assistant in the State of Oklahoma with reasonable skill and safety.

WHEREFORE, plaintiff requests that the Board conduct a hearing, and upon proof of the allegations contained herein, impose such disciplinary action as authorized by law, up to and including suspension or revocation, the assessment of costs and fees incurred in this action, and any other appropriate action with respect to Defendant's license to practice as a physical therapy assistant in the State of Oklahoma.

Dated this 24th day of April, 2006.

Respectfully submitted,



Elizabeth A. Scott (OBA #12470)

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Attorney for State ex rel.

Oklahoma Board of Medical Licensure and
Supervision