

**Nursing and Midwifery Council
Fitness to Practise Committee**

**Substantive Order Review Hearing
Monday, 1 July 2024 – Tuesday, 2 July 2024**

Virtual Hearing

Name of Registrant: Dorine Grace Laber

NMC PIN 9716203E

Part(s) of the register: Registered Nurse - Children
RNC (June 2001)

Relevant Location: Cheshire

Type of case: Misconduct

Panel members: Dale Simon (Chair, lay member)
Oluremi Alabi (Lay member)
Angela Clare O'Brien (Registrant member)

Legal Assessor: Nigel Ingram

Hearings Coordinator: Samara Baboolal

Nursing and Midwifery Council: Represented by Matt Kewley, Case Presenter

Mrs Laber: Not present and represented by Amy Woolfson, instructed by the Royal College of Nursing (RCN)

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (12 months) to come into effect on 28 July 2024 in accordance with Article 30 (1)**

Decision and reasons on application for hearing to be held in private

At the outset of the hearing, Ms Woolfson made a request that this case be held in private on the basis that her proposed application on behalf of Mrs Laber is linked [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Kewley indicated that he supported the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Having heard that there will be substantial reference to [PRIVATE], the panel determined to hold the entirety of the application in private and the remainder of the hearing, that pertained to [PRIVATE], in private in order to [PRIVATE].

Application to postpone fact finding

[PRIVATE]

Panel decision on the application

[PRIVATE]

Decision and reasons on review of the substantive order

The panel decided to confirm the current conditions of practice order.

This order will come into effect at the end of 28 July 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the sixth review of a substantive conditions of practice order originally imposed for a period of 18 months by a panel of Conduct and Competence Committee (CCC) on 25 June 2014. This conditions of practice order was first reviewed and extended by a panel of the CCC on 21 December 2015 for 24 months. A panel of the Fitness to Practise Committee (FtPC) conducted the second review of this matter on 11 December 2017 and extended the current conditions of practice order for a further 24 months. The order was reviewed by a panel of the FtPC on 14 June 2019 and the conditions of practice order was continued for 24 months. A further review panel amended the conditions of practice order for a further 24 months which took effect on 29 July 2021. This order was last reviewed by a FtPC panel on 20 July 2023, where the conditions of practice order was amended and continued for 12 months.

The current order is due to expire at the end of 28 July 2024.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved by way of admission which resulted in the imposition of the substantive order were as follows:

“That you whilst employed as a Band 6 Staff Nurse at Leighton Hospital by Mid Cheshire Hospitals NHS Foundation Trust:

1. On 26 March 2010 set up an aminophylline infusion for Child A and incorrectly entered:

- a) The Volume given per hour*
- b) The total amount to be delivered*

2. On 16 May 2010

- a) did not administer Tazocin at 16.00 to Child B*
- b) did not record on the MAR chart the reason for not administering Tazocin*

That, you, between 10 June 2010 and 30 August 2011, whilst undergoing

competence assessment, failed to demonstrate the standards of knowledge, skill and judgement required to practise as a Band 6 Staff Nurse in that you:

3. Failed to pass drug assessments on the following dates:

- a) 10 June 2010*
- b) 13 October 2010*
- c) 14 December 2010*
- d) 10 February 2011*
- e) 3 August 2011*

And in light of the above, your fitness to practise is impaired by reason of your misconduct (charges 1 and 2) and/or your lack of competence (charge 3)'

The fifth reviewing panel determined the following with regard to impairment:

'The panel noted that the last reviewing panel found the following in relation to your insight;

'At this hearing the panel had regard to your reflective pieces and your oral evidence. The panel noted that you demonstrated insight and remorse into your failings and noted that you have demonstrated commitment into securing a RtP course. However, it noted that you accept that you made drug errors and your fitness to practise remains impaired.'

The panel determined that you have sufficient insight into your lack of competence and misconduct.

In its consideration of whether you have taken steps to strengthen and remediate your practice, this panel considered your reflective piece and your oral evidence. Today's panel has considered that the facts found proved in 2014 were serious. However, you have provided no documentary evidence to confirm remediation or successful completion of the Course.

Therefore, the panel determined that there remains a risk that you are liable to repeat matters of the kind found proved.

The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, there is oral evidence of having remediated the concerns surrounding your practice, but no documentary or written evidence; consequently, a risk of repetition. The panel concluded that there is a finding of continuing impairment on public interest grounds also.

For these reasons, the panel finds that your fitness to practise remains impaired.'

The fifth reviewing panel determined the following with regard to sanction:

'The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.' The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel

decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a further conditions of practice order on your registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable, and workable.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. Although the panel recognise the technical breaches of certain conditions, it balanced this with your ongoing commitment over many years to return to the nursing profession.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that there was no deep-seated attitudinal problems. In this case, there are conditions could be formulated which would protect patients during the period they are in force.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 12 months which will come into effect on the expiry of the current order, namely at the end of 28 July 2023. It decided to maintain the current order of conditions which it considered are appropriate and proportionate in this case, with a small amendment to condition 1. The panel removed 'While undertaking any Return to Practice course or clinical placement you' and added 'and this has been confirmed in writing to the NMC by your line manager, mentor or supervisor.' The imposed conditions are as follows:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or

nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.'

1. You must not administer any medication without a second check from another registered nurse of Band 5 or above until you have been deemed competent, and this has been confirmed in writing to the NMC by your line manager, mentor or supervisor.

2. You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress in relation to medicine administration and record keeping to the NMC at least 14 days before any NMC review hearing or meeting.

3. You must notify the NMC within seven days of any nursing or midwifery appointment (whether paid or unpaid) you accept within the UK or elsewhere and provide the NMC with contact details of your employer.

4. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within seven days of you receiving notice of them.

5. You:

a. You must within seven days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.

b. You must within seven days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.

6. You must immediately inform the following parties that that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (5) above, to them:

a. Any organisation or person employing, contracting with, or using you to undertake nursing or midwifery work

b. Any agency you are registered with or apply to be registered with (at the time of application)

c. Any prospective employer (at the time of application)

d. Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).

The period of this order is for 12 months on the basis that this was an appropriate period for you to produce the required information, as confirmed by your representative.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 28 July 2023 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel will be assisted by the following:

- 1) Your attendance and continued engagement with the NMC;*
- 2) Evidence of your compliance with these conditions;*
- 3) Evidence of completion of your Return to Practice Course;*
- 4) An updated reflective piece written by you.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Laber's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle, and the registrant defence bundle. It has taken account of the submissions made by Mr Kewley on behalf of the NMC and Ms Woolfson, on behalf of Mrs Laber.

Mr Kewley took the panel through the background of this matter. He informed the panel that Mrs Laber has been engaging with the NMC during this process.

Mr Kewley informed the panel that Mrs Laber has not yet provided all of the requested information to the NMC in compliance with her conditions. He informed the panel that Mrs Laber did secure a substantive nursing post at the end of 2023, [PRIVATE]

Mr Kewley informed the panel that on 8 December 2023 there was contact between Mrs Laber and the NMC regarding next steps following the successful completion of her return to practise course. This was confirmed to the NMC on 6 September 2023 by the training provider.

Mr Kewley submitted that in light of insufficient evidence to demonstrate that the risk of harm and repetition has been mitigated, an order remains necessary to protect the public. He further submitted that an order remains necessary to meet the public interest in this matter.

Mr Kewley invited the panel to continue the current conditions of practice order for a further 12 months.

Ms Woolfson submitted that Mrs Laber does not dispute that her fitness to practise is currently impaired. She has not been signed-off in respect of competency to administer medications and she has been unable to provide the report stipulated in condition two.

Ms Woolfson invited the panel to continue the current conditions of practice order for a further 12 months to [PRIVATE]. Ms Woolfson submitted that a further conditions of practice order will give Mrs Laber time to develop, demonstrate compliance, work as a nurse under supervision and get signed off in respect of her medications administrations competency.

The panel heard and accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Mrs Laber's fitness to practise remains impaired.

The panel accepted that Mrs Laber has been unable to comply with the first two conditions of her conditions of practice order [PRIVATE]. [PRIVATE]. Consequently, she has been unable to undertake any supervised work as a nurse.

The panel determined that Mrs Laber's fitness to practise remains impaired as she has not been able to strengthen her practice or show that she is able to practise kindly, safely, and professionally and demonstrate her compliance with the conditions of practice order.

The panel acknowledged that Mrs Laber successfully completed her return to practice course. [PRIVATE], therefore it determined that there remains a risk of harm to patients in Mrs Laber's care, and that there remains a risk of repetition.

The panel determined that there was no new evidence before it which undermines the previous panel's finding of impairment, and that a finding of continuing impairment is required on the ground of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Mrs Laber's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Laber's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Laber's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Laber's misconduct was not at the lower end of the spectrum and that a caution order would be

inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a further conditions of practice order on Mrs Laber's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that the current conditions in the conditions of practice order appropriately and adequately addresses the failings in this case.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting that the original panel had found that there were no deep-seated attitudinal problems.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances. The panel accepted that Mrs Laber has made efforts to return to her nursing practice and that [PRIVATE]. She has continued to engage with the NMC and demonstrated a commitment to practising as a nurse. The panel therefore determined that a suspension order would be disproportionate.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to continue the current conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 28 July 2024. It decided to continue the following conditions which it considered are appropriate and proportionate:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.'

1. You must not administer any medication without a second check from another registered nurse of Band 5 or above until you have

been deemed competent, and this has been confirmed in writing to the NMC by your line manager, mentor or supervisor.

2. You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress in relation to medicine administration and record keeping to the NMC at least 14 days before any NMC review hearing or meeting.
3. You must notify the NMC within seven days of any nursing or midwifery appointment (whether paid or unpaid) you accept within the UK or elsewhere and provide the NMC with contact details of your employer.
4. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within seven days of you receiving notice of them.
5. You:
 - a. You must within seven days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.
 - b. You must within seven days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.
6. You must immediately inform the following parties that you are subject to a conditions of practice order under the NMC's fitness to

practise procedures, and disclose the conditions listed at (1) to (5) above, to them:

- a. Any organisation or person employing, contracting with, or using you to undertake nursing or midwifery work
- b. Any agency you are registered with or apply to be registered with (at the time of application)
- c. Any prospective employer (at the time of application)
- d. Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).

The period of this order is for 12 months.

Before the end of the period of the order, a panel will hold a review hearing to see how well Mrs Laber has complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Mrs Laber's attendance at the next hearing
- Testimonials from employers and colleagues

This will be confirmed to Mrs Laber in writing.

That concludes this determination.