

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

**Substantive Order Review Meeting
Tuesday 23 July 2024**

Virtual Meeting

Name of Registrant: Paul Bola Oluleye

NMC PIN 1014470E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – (December 2012)

Relevant Location: Stoke-on-Trent

Type of case: Misconduct

Panel members: Deborah Jones (Chair, Lay member)
Carol Porteous (Registrant member)
Alex Forsyth (Lay member)

Legal Assessor: Juliet Gibbon

Hearings Coordinator: Charis Benefo

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order replaced with a
Suspension order (6 months) to come into effect at
the end of 6 September 2024 in accordance with
Article 30 (1)**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Mr Oluleye's registered email address by secure email on 17 June 2024.

The panel took into account that the Notice of Meeting provided details of the review and that the review meeting would be held no sooner than 22 July 2024 and invited Mr Oluleye to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Oluleye has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (as amended) (the Rules).

Decision and reasons on review of the current order

The panel decided to replace the current conditions of practice order with a suspension order for a period of six months. This order will come into effect at the end of 6 September 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 9 August 2023.

The current order is due to expire at the end of 6 September 2024.

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

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

'That you a registered nurse;

1. *On 26 January 2021 failed to administer Gabapentin 600mg to Resident A.*
2. *On 26 January 2021 incorrectly entered on Resident A's MAR chart that you had administered Gabapentin 600mg to Patient A when only Gabapentin 300mg was administered.*
3. *On 7 February 2021 failed to administer Furosemide 40mg to Resident B.*
4. *On 7 February 2021 incorrectly entered on Resident B's MAR chart that you had administered Furosemide 40mg to Patient B when it was not administered.*
5. *On 5 February 2021 failed to administer Trimethoprim 100mg to Resident C.*
6. *On 5 February 2021 incorrectly entered on Resident C's MAR chart that you had administered Trimethoprim 100mg to Resident C when it was not administered.*
7. *...*
8. *On 8 February 2021 failed to administer Trimethoprim 100mg to Resident C.*
9. *On 8 February 2021 incorrectly entered on Resident C's MAR chart that Trimethoprim 100mg was administered to Resident C when it had not.*
10. *On 10 May 2021 incorrectly administered Mirtazapine 30mg to Resident D in the morning.*
11. *On 7 June 2021 failed to administer Lansoprazole 15mg to Resident D.*
12. *On 7 June 2021 incorrectly initialled Resident D's MAR Chart that Lansoprazole 15mg was administered to Resident D when it had not.*

13. *On 12 June 2021 failed to administer two capsules of Pregabalin 75mg to Resident C.*

14. *On 12 June 2021 incorrectly entered on Resident C's MAR chart that Pregabalin 75mg had been administered to Resident C when it had not.*

15. *On 12 June 2021 failed to administer Ramipril 2.5mg to Resident E.*

16. *On 12 June 2021 incorrectly entered on Resident E's MAR chart that Ramipril 2.5mg had been administered to Resident E when it had not.*

And in light of the above your fitness to practise is impaired by reason of your misconduct'

The original panel determined the following with regard to impairment:

'The panel finds that residents were put at a risk of harm as a result of Mr Oluleye's misconduct. It considered that there is a high risk that Mr Oluleye would repeat his actions in the future as there is no evidence before the panel to demonstrate that he has addressed the concerns or strengthened his practice.

The panel considered that Mr Oluleye's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel considered that there is no evidence before it that Mr Oluleye has demonstrated insight, reflection or remorse for his actions. There is no evidence of further training having been undertaken by him, nor any testimonials to speak to his current or any recent nursing practice. Therefore, the risk of harm and the risk of repetition remains high.

The panel noted that there is reference made to a reflection provided during the local investigation, but it has not had sight of this.

The panel acknowledged that Mr Oluleye had previously stated in a local interview that took place in July 2021 that he was considering no longer practising as a nurse. The panel has no further information before it regarding his position on returning to nursing practice.

In light of the above, the panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required as a well-informed member of the public would be concerned to learn of Mr Oluleye's actions that repeatedly occurred over a period of six months.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mr Oluleye's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Oluleye's fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'The panel next considered whether placing conditions of practice on Mr Oluleye's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*

- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel considered that the concerns in this case are remediable and imposing a conditions of practice order would allow Mr Oluleye a further opportunity to return to nursing and address those concerns.

The panel considered that there is no evidence before it that any other aspects of Mr Oluleye's practice have been called into question, apart from the medication errors and record keeping in relation to those errors.

Balancing all of these factors, the panel determined that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order or a striking-off order at this stage would be wholly disproportionate and would not be a reasonable response in the circumstances of Mr Oluleye's case. The concerns in this case can be addressed by appropriate conditions of practice in place.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession, and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions are appropriate and proportionate in this case:

'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 place yourself under the supervision of another registered nurse when administering medication until you complete your employer's safe administration of medication training and have been assessed as competent to independently administer medicines.*
2. *You must within seven days of the completion of the training and competency assessment, referred to in condition one, send evidence to your NMC case officer that you have completed your employer's safe administration of medication training and have been assessed as competent to independently administer medicines.*
3. *You must meet with your line manager at least every six weeks and discuss your progress in the administration of medication and record keeping.*
4. *You must provide a report from your line manager that discusses your progress in the administration of medication and record keeping to any future review panel.*
5. *You must keep the NMC informed about anywhere you are working by:*
 - a) *Telling your case officer within seven days of accepting or leaving any employment.*
 - b) *Giving your case officer your employer's contact details.*

6. *You must keep the NMC informed about anywhere you are studying by:*
 - a) *Telling your case officer within seven days of accepting any course of study.*
 - b) *Giving your case officer the name and contact details of the organisation offering that course of study.*

7. *You must immediately give a copy of these conditions to:*
 - a) *Any organisation or person you work for.*
 - b) *Any agency you apply to or are registered with for work.*
 - c) *Any employers you apply to for work (at the time of application).*
 - d) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
 - e) *Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity.*

8. *You must tell your case officer, within seven days of your becoming aware of:*
 - a) *Any clinical incident you are involved in.*
 - b) *Any investigation started against you.*
 - c) *Any disciplinary proceedings taken against you.*

9. *You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:*
 - a) *Any current or future employer.*
 - b) *Any educational establishment.*
 - c) *Any other person(s) involved in your retraining and/or supervision required by these conditions*

The period of this order is for 12 months, with a review.

Before the end of the period of the order, a panel will hold a review hearing to see how well Mr Oluleye 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:

- *A report from your line manager that discusses your progress in administration of medication and record keeping.*
- *Evidence of training undertaken.*
- *Testimonials whether from paid or unpaid work.*
- *A written reflective piece that addresses the concerns found proved.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Oluleye's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has provided guidance to panels that the question it should ask itself is '*can the nurse.. practise kindly, safely and professionally?*'. 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.

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 Mr Oluleye's fitness to practise remains impaired.

The panel noted that the original panel found that Mr Oluleye had not demonstrated insight, reflection or remorse for his actions. At this meeting, the panel noted that Mr Oluleye had still not engaged with the NMC about his case, or provided any of the information for this review meeting as recommended by the previous panel. There was no information before this panel regarding Mr Oluleye's current circumstances. There was also no new information to indicate that Mr Oluleye has developed insight, that he has engaged with the conditions of practice order, that the concerns identified have been addressed or that he has taken steps to strengthen his practice as a registered nurse.

The original panel determined that Mr Oluleye was liable to repeat matters of the kind found proved. Today's panel had not received any new information from, or in respect of, Mr Oluleye to suggest that the risk of repetition had decreased. In light of this, this panel determined that Mr Oluleye is still 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, a finding of continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Mr Oluleye'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.

The panel 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 Mr Oluleye'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 Mr Oluleye'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 extending the current conditions of practice on Mr Oluleye's registration would still be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. It noted that Mr Oluleye has not engaged with the NMC since the imposition of the conditions of practice order on 9 August 2023 and there was no information before it to conclude that Mr Oluleye is willing to comply with any conditions imposed upon his practice.

On this basis, the panel concluded that a conditions of practice order is no longer practicable or the appropriate order in this case. The panel concluded that due to Mr Oluleye's non-engagement, no workable conditions of practice could be formulated which would protect the public or satisfy the wider public interest.

The panel determined therefore that a suspension order is the appropriate and proportionate sanction which would both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of six months would provide Mr Oluleye with an opportunity to engage with the NMC and make clear his future intentions in respect of his nursing career. It considered this to be the most appropriate and proportionate sanction available.

The panel seriously considered the imposition of a striking-off order due to the seriousness of the misconduct and Mr Oluleye's lack of engagement with these proceedings. However, it took into account that the charges found proved related to medication errors and record-keeping errors which could be easily remediable, were Mr Oluleye willing to engage with the NMC and strengthen his practice. The panel therefore found that a striking-off order would not be appropriate or proportionate at this stage, although a future reviewing panel would have that option available to it.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely the end of 6 September 2024 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, it may allow the order to lapse upon expiry, it may further extend the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Mr Oluleye's engagement with the NMC to indicate his future intentions in nursing.
- Evidence of professional development, including details of how Mr Oluleye has been maintaining his knowledge and strengthening his practice through training or work.
- Testimonials including from paid or unpaid work.
- A written reflective piece that addresses Mr Oluleye's insight into the concerns found proved.

This will be confirmed to Mr Oluleye in writing.

That concludes this determination.