

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

Substantive Order Review Meeting

Wednesday, 4 September 2024 – Thursday, 5 September 2024

Virtual Meeting

Name of Registrant: Ruth Alison Patton

NMC PIN 11A0091E

Part(s) of the register: RNA: Registered Nurse – Adult
(11 January 2011)

Relevant Location: Merseyside

Type of case: Misconduct

Panel members: Catherine Devonport (Chair, registrant member)
Lisa Holcroft (Registrant member)
Asmita Naik (Lay member)

Legal Assessor: Nigel Pascoe KC

Hearings Coordinator: Yewande Oluwalana

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Striking-Off order to come into effect at the end of 12 October 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 Mrs Patton's registered email address by secure email on 29 July 2024. The panel verified that the email address that the Nursing and Midwifery Council (NMC) had used for the Notice of Meeting was the same email address from which the registrant had emailed the NMC on 25 March 2024.

The panel took into account that the Notice of Meeting provided details of the review that the review meeting would be held no sooner than 27 August 2024 and inviting Mrs Patton 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 Mrs Patton 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 suspension order with a striking-off order. This order will come into effect at the end of 12 October 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the ninth review of a substantive conditions of practice order originally imposed for a period of 12 months by a panel of the Conduct and Competence Committee on 9 September 2015. This order was reviewed on 1 September 2016 and extended for a further six months. The order was reviewed again on 28 February 2017 whereupon it was replaced by a 12 month suspension order. On 26 February 2018 the third reviewing panel decided to replace the suspension order with a conditions of practice order for a period of 18 months. On 3 September 2019 the fourth reviewing panel decided to replace the conditions of practice order with a suspension order for a period of 12 months. The fifth reviewing panel on 10 September 2020 decided to extend the suspension order for a

further period of 12 months. The sixth reviewing panel on 2 September 2021 decided to extend the suspension order for a further period of 12 months. This seventh reviewing panel on 4 March 2022, replaced the suspension order with a conditions of practice order for a period of 18 months. The eighth reviewing panel on 1 September 2023, replaced the conditions of practice order with a suspension order for a period of 12 months.

The current order is due to expire at the end of 12 October 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, whilst employed as a registered nurse at Benham Care Home, Bromborough, The Wirral ('the Home'):

1. *On 14 July 2013:*

a) *Administered one Oxycodone MR 10mg tablet to Patient A at 22:00, when the prescribed dose was two Oxycodone MR 10mg tablets (20mg).*

b) *Recorded in Patient A's Medication Administration Record that you had administered two Oxycodone MR 10mg tablets at 22:00 when you had administered one.*

2. *On 14 July 2013, gave Patient A Oxycodone at 22:00 despite his previous dose having been administered by Colleague A at 16:45;*

3. *On one or more occasions between 11 July 2013 and 15 July 2013, you administered 7.5mg of Oxynorm liquid to Patient A without recording in Patient A's notes your reasons for doing so;*

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

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

'The panel considered that since the last review on 4 March 2022, there has been no substantial change of circumstances in terms of remediation and strengthening of practice on Mrs Patton's part. The panel noted that she has indicated a desire to return to nursing and is making enquiries about a return to nursing practice at the University of Chester, however the panel has not seen either an application or any preparation that Mrs Patton has done to assist her to return to nursing practice.'

The panel considered that Mrs Patton has made written representation in relation to her and her family's medical conditions which serves to highlight the current difficult situation she finds herself in.

The panel noted in her email of 31 August 2023, she states: 'I am aiming to return to practice when things have stabilised...', however the panel were concerned that her ambition to be able to return to either a university course or some form of practice could be limited by the issues she has raised in private session with the panel. The panel was of the view that the issues Mrs Patton has are not easily resolved and may result in slippage or disappointment.

The panel considered there was still impairment and the need to protect the public. The panel determined that there is an issue in public confidence as this is the eighth review of a charge originated in 2013. It determined that there would be a desire from the public for the effective disposal of this case.

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

The panel noted that the last reviewing panel found that Mrs Patton that evidence was produced, as seen in Mrs Patton's reflective piece, to show that she has developed good insight, has demonstrated remorse and has provided evidence of the steps she has taken to strengthen her practice. At this hearing, the panel was of the view that Mrs Patton has not had the opportunity or taken effective steps to demonstrate strengthening of her practice or remediation of her actions, as she has

not been able to work. In light of this, 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 your fitness to practise remains impaired.

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

' ...

The panel next considered whether imposing a conditions of practice order on Mrs Patton'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 next considered the continuation of the current conditions of practice order.

The panel noted that you have indicated that you will be unable to return to work for some time and noted your health and familial circumstances. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Mrs Patton's misconduct.

On this basis, the panel concluded that a conditions of practice order is no longer the appropriate order in this case. The panel concluded that no workable conditions of practice could be formulated which would protect the public or satisfy the wider public interest.

The panel was concerned that for eight of the twelve years that Mrs Patton has been registered she has been subject restrictions on her practice. Despite repeated assurances that she would address the matters that brought her before the NMC she has not done so. The panel was of the view that Mrs Patton appears to have drifted further from the required standards. The panel noted that it has not seen any information that she has kept up with professional standards. The panel determined that this is likely to undermine public confidence in the profession and the NMC as its regulator.

The panel determined therefore that a suspension order is the appropriate 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 12 months. The panel determined that this removes any risk from the public and also sends out a clear message to the public about the profession and is also the right message to send out in relation to proper standards of conduct and behaviour. The panel considered this to be the most appropriate and proportionate sanction available.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely the end of 12 October 2023 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, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- *Mrs Patton has asserted that she wishes to return to nursing. A future panel may be assisted by some documentary evidence of her attempting to obtain a place on the return to nursing practice or an NMC approved equivalent.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Patton's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the Nursing and Midwifery Council (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 conducted 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 Mrs Patton's fitness to practise remains impaired.

The panel considered that since the last review on 1 September 2023, there has been no substantial change of circumstances in terms of Mrs Patton remediating or strengthening her practice. The panel noted that in an email to the NMC dated 25 March 2024, Mrs Patton stated,

'I wish to remain on the register and in November 2023 I completed an aesthetics course both pathway and advanced levels which have given me an insight and helped with my confidence to prepare to return into nursing practice. I followed the advice that you gave that I needed to try and obtain employment that doesn't require my NMC Pin. My hope is that I can return to university to complete a Return to Nursing Practice course'.

The panel considered Mrs Patton's desire to return to practice, however the panel has not seen either an application or any preparation that Mrs Patton has done to assist her return to nursing practice. Reference was made to Mrs Patton engaging on courses concerning

aesthetics. There was no evidence of any certification for this course of study. In addition, no evidence was before this panel that Mrs Patton has undertaken other courses or continued professional development.

The panel could not conclude as to whether there has been greater insight since the last review, as there is no evidence before this panel that shows Mrs Patton's insight. The panel did not have sight of the information the previous panel had in respect of a reflection statement. Therefore, the panel was unable to establish Mrs Patton's current level of insight or what steps she has taken to remediate the misconduct.

The panel determined that Mrs Patton's practice remained impaired and there was still a need to protect the public. The panel determined that it could be perceived that there is an issue of public confidence in the nursing profession and in the regulator, in relation to this case, as this is the ninth review of charges which originated in 2013. It determined that there would be a desire from the public for the effective disposal of this case.

The panel determined that since 2015 when the first substantive conditions of practice order was imposed, Mrs Patton had the opportunity to strengthen her practice under a conditions of practice order. However, since the inception of the order, Mrs Patton has continued and progressed through reviews where the substantive orders have alternated between conditions of practice and suspension orders in accordance with Mrs Patton's changing circumstances. The panel was of the view that there has still been no further progression in this case. This case has been ongoing for nine years, and Mrs Patton has not been able to comply with the conditions of practice order satisfactorily.

The panel was of the view that Mrs Patton has provided no information regarding her current employment status or the type of work she is currently doing. There is still a risk of harm to patients as Mrs Patton has demonstrated a lack of insight and a lack of remediation. Mrs Patton did not comply with the conditions of practice order and previous panels replaced those orders with a suspension order. The panel determined that Mrs Patton is liable to repeat the misconduct found proved. It therefore concluded that a finding of 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 Mrs Patton's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Patton'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 Patton'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 Patton'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 a conditions of practice on Mrs Patton'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 bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public

interest. The panel noted that on three occasions during the history of Mrs Patton's fitness to practice, she has had the opportunity to adhere to a conditions of practice order. On the three occasions, Mrs Patton did not engage with the conditions and in these circumstances, it would not be appropriate to impose a further conditions of practice order. Mrs Patton has chosen not to attend, or to provide any evidence to show that she is willing to engage with a conditions of practice order. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Mrs Patton's misconduct.

The panel noted that Mrs Patton has a desire to return to practice but there has been no evidence of action by her in relation to this. The panel considered that any conditions of practice order would not be workable or measurable as there is no evidence that a conditions of practice order would be a viable option.

The panel next considered imposing a further suspension order. The panel noted that Mrs Patton has on several occasions been subject to a suspension order and no progress in terms of remediation has been shown by her. Further, Mrs Patton had not demonstrated sufficient insight into her previous failings. The panel was of the view that considerable evidence would be required to show that Mrs Patton no longer posed a risk to the public. It noted that Mrs Patton has not practised as a registered nurse for nine years and is only on the NMC register because of the fitness to practise process.

The panel identified that a suspension order would be sufficient to protect patients, however public confidence in the NMC as regulator would be undermined considering the length of time this case has been in progress. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances.

The panel considered that for nine years there has been minimal engagement and strengthening of practice by Mrs Patton, and there were issues identified regarding her professionalism. The continued reviews of Mrs Patton's substantive orders showed that she had made very little progress with insight and remediating her practice. The panel was of the view that public confidence would be adversely affected by the knowledge that Mrs Patton has been subject to the regulatory process since 2015 with no further improvement.

The panel determined that Mrs Patton has not worked as a registered nurse for the last nine years, professional standards are unachievable at this moment as she is not in the profession. There is no evidence to suggest that a tenth review would lead to remediation. It was of the view that public confidence in the regulatory process would be undermined if a further order was imposed. The panel determined there would be no useful purpose in extending the current order.

The panel determined that it was necessary to take action to prevent Mrs Patton from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 12 October 2024 in accordance with Article 30(1).

This decision will be confirmed to Mrs Patton in writing.

That concludes this determination.