

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

**Substantive Order Review Hearing
Thursday 16 January 2025**

Virtual Hearing

Name of Registrant: Nanette Combatir Florida

NMC PIN 02H1104O

Part(s) of the register: RN1: Registered Nurse – (sub part 1)
Adult – Level 1 – August 2002

Relevant Location: Bury

Type of case: Misconduct

Panel members: Anthony Kanutin (Chair lay member)
Sharon Haggerty (Registrant member)
Gary Trundell (Lay member)

Legal Assessor: Joseph Magee

Hearings Coordinator: Adaobi Ibuaka

Nursing and Midwifery Council: Represented by Lindsey McFarlane, Case Presenter

Ms Florida: Present and represented by Megan Fletcher-Smith,
instructed by Royal College of Nursing (RCN)

Order being reviewed: Conditions of practice order (9 months)

Fitness to practise: Impaired

Outcome: **Varied conditions of practice order (9 months
to come into effect immediately on 16 January 2025 in
accordance with Article 30(4))**

Decision and reasons on review of the substantive order

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

This order will come into effect today that is 16 January 2025 in accordance with Article 30(4) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second effective review of a substantive suspension order originally imposed for a period of 6 months by a Fitness to Practise Committee panel on 19 October 2023. This was first listed for a review on 8 April 2024 however the hearing was adjourned due to your health. This was then reviewed on 2 May 2024 where a conditions of practice order was imposed for 9 months.

The current order was due to expire at the end of 16 February 2025.

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, whilst employed at Fairfield General Hospital;

1) ...

2) ...

3) ...

4) *On or around 16 August 2017, inaccurately recorded Patient E's intentional rounding log to indicate that;*

a) ...

b) *Patient E had declined skin care checks*

5) ...

- 6) *Your actions in charge 4 b) were dishonest, as you knew Patient E had not declined skin care checks, but you sought to represent that they had.*
- 7) *On or around 26 July 2018;*
- a) *Did not wear Personal Protective Equipment, namely an apron when administering IV Omeprazole to Patient A.*
 - b) *...*
 - c) *...*
 - d) *Incorrectly flushed the cannula with 0.9 % Saline 50ml following the administration of IV Omeprazole to Patient A.*
 - e) *Did not record that you had incorrectly flushed the peripheral cannula with Saline 50 ml in Patient A's notes.*
 - f) *Did not document/monitor Patient A's fluid intake and urine output on an hourly basis.*
- 8) *On or around 27 July 2018, incorrectly recorded Patient A's NEWS score as green.*
- 9) *On or around 27 July 2018;*
- a) *...*
 - b) *Failed to offer Patient B a skin care check at 14:00*
 - c) *Inaccurately signed Patient B's rounding log to indicate that he had declined a skin care check at 14:00.*
 - d) *....*
 - (i) *...*
 - (ii) *...*
 - (iii) *...*
 - e) *...*
- 10) *Your actions in charge 9 c) above were dishonest as you knew Patient B had not declined a skin care check at 14:00, but you sought represent that they had.*

AND in light of the above, your fitness to practise is impaired by reason of your

misconduct.

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

'The panel was of the view that you have shown good insight into your failings and have taken steps to strengthen your practice. However, the panel considered that since undertaking these measures you have not yet been tested in clinical practice as a nurse. The panel was aware following your answers to the panel's questions, that you appeared to share this sentiment and that you wished to have a period of supervision to help ensure you do not repeat the same mistakes. The panel further noted that you have demonstrated a sense of ownership over your failings and misconduct.

The panel further considered that you have shown good insight into your dishonest conduct and in particular, the impact of that conduct on patients, colleagues and the public perception of the nursing profession. Consequently, the panel agreed that it is not likely that you would behave dishonestly in a clinical practice in the future again. The panel noted that whilst dishonesty is often more difficult to remedy, your dishonesty has been at the lower end of the spectrum and therefore able to be remedied. The panel determined that you were able to demonstrate the remediation of your dishonest conduct due to your written reflections and the oral testimony under examination today.

The panel noted that you had five years of unimpaired practice following the allegations, however, your clinical skills have not yet been tested since the charges were found proved and since you have provided your reflections.

The panel took into account the relevant training courses and testimonials you have provided, [PRIVATE].

The panel consequently determined that you remain impaired on the grounds of public protection due to the ongoing concerns around your clinical misconduct and because you have not yet been tested in the clinical setting practising as a nurse, following the steps you have taken to remediate.

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 not required. The panel was of the view that a member of the public who was fully informed of the facts of the case and who had a sight of your remediation thus far, would on the balance of probabilities consider that the public interest would not be engaged in this matter.

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

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

'The panel next considered whether imposing a 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. The panel accepted that you are engaging with the NMC and are willing to comply with any conditions imposed and have yourself suggested that you would benefit from supervision and further training.

The panel was of the view that a conditions of practice order is sufficient to protect patients. In this case, there are conditions that 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 because the public interest was served by the previous suspension order. Furthermore, the panel was of the view that imposing a

suspension order would be incompatible with its earlier view that you needed to demonstrate how you were tested in a clinical setting.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 9 months, which will come into effect on the expiry of the current order, namely at the end of 16 May 2024. It decided to impose the following conditions which it considered 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 limit your nursing practice to one substantive employer which can be an agency provided that any placement is for a minimum period of 6 months.*
 - 2. You must provide monthly reports from a senior nurse, focusing on:
 - a) Your record keeping and clinical documentations.*
 - b) IV drug administration.*
 - c) Infection prevention control.**
- 3. You must keep us 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.**

4. *You must keep us 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.*

5. *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.*

6. *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.*

7. *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'*

Decision and reasons on current impairment

The panel has considered carefully whether your 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 ability to practise safely, kindly 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 and your on-table bundle. It has taken account of the submissions made by Ms McFarlane on behalf of the NMC, as well as submissions made on your behalf by Ms Fletcher – Smith.

Ms McFarlane took the panel through the background of the case and the decisions of the last reviewing panel.

Ms McFarlane drew the panel's attention to the bundle where you provided a written reflective piece, training certificates and written testimonials, highlighting how you continued to engage with the NMC process.

Ms McFarlane stated that the persuasive burden to show you are not impaired lies with you, making reference to the case of *Abrahaem v GMC 2008 EWHC 183* (Admin). Ms McFarlane stated you were not currently working as a nurse and that the reference you had, was a testimonial from your manager who has not directly observed you. Ms McFarlane stated that your role as a health care assistant is in a care home and does allow you to work in a limited clinical setting.

Ms McFarlane highlighted that the last review panel decided that you had not been tested as a nurse and you still have not been tested as a nurse and have therefore been unable to demonstrate safe clinical practise as a registered nurse which is fundamental.

Ms McFarlane highlighted that there is still no evidence to demonstrate that there isn't a risk of repetition, and therefore your fitness to practice remains impaired. Ms McFarlane

drew the panel to its right to exercise the guidance set out by the NMC for “Standard reviews of substantive orders before they expire” REV-3a, submitting that the panel extend the current conditions of practice in order to allow you to demonstrate strengthening of practice, and that you have fully addressed concerns regarding the charges found proved, assuring you can practice kindly, safely and professionally as a registrant.

The panel also had regard to submissions from your representative Ms Fletcher – Smith.

Ms Fletcher – Smith submitted that the panel should vary and extend the current conditions of practice order. Ms Fletcher – Smith drew to the panel’s attention to your bundle, highlighting the various training you had undertaken such as pressure care in pages 9-10, infection control in pages 17-18, hydration and fluid balance control for patients in pages 67-96, etc as well as relevant reading you had undertaken.

Ms Fletcher-smith stated that your current role does not allow you to demonstrate any competences in relation to IV administration as it is not practised in the care home and therefore you are unable to even observe an IV medication and administration procedure.

Ms Fletcher stated that you continued to apply for roles but you have been unsuccessful, highlighting that condition 2, of your conditions of practice order often prevents potential employers from employing you because monthly reporting could not be supported.

‘2. You must provide monthly reports from a senior nurse, focusing on:

- a) Your record keeping and clinical documentations.*
- b) IV drug administration.*
- c) Infection prevention control.’*

Also, Ms Fletcher – Smith submits that a few of the employers have said monthly reporting would be difficult for them primarily because the roles require working on different wards. She further submitted that a senior nurse working in the residential home you work in has commented that there is a role available within the residential home for you, however the monthly reporting makes it hard as a single senior nurse would struggle to provide a comprehensive report.

Ms Fletcher – Smith highlighted in pages 115-162, you showed that the Royal College of Nursing (RCN) have developed an IV therapy passport practice learning assessment which you would like to complete in replacement of that condition. Ms Fletcher further submits, due to condition 2, the conditions of practice order currently has the effect of a suspension order and therefore should be varied.

Ms Fletcher – Smith stated that instead of monthly reporting, you should be under a condition to not to give IV medication under such a time as the IV passport or equivalent has been satisfactorily completed. She submitted that the document is a significant safeguard and believes that this would open up opportunities for you to work in nursing whilst continuing to protect the public.

As for conditions 2(a) and 2(c) Ms Fletcher – Smith submitted that these can be the subject of a personal development plan (PDP) and can be completed within your current role, as this role requires many of the same clinical skills and competences applicable to registered nurses.

Ms Fletcher – Smith states that It is clear from your reflection, previous determinations and acceptance of your wrongdoing immediately that you have developed significant insight, noting that the previous panel deemed that there was no need for the order to proceed on public interest grounds but public protection grounds only.

She submits that you accept that you aren't able to demonstrate strengthening of practice and remediation with regard to IV administration, but would like to and Ms Fletcher – Smith invites the panel to allow you to do so by extending and varying the conditions of practice order.

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 your fitness to practise remains impaired.

The panel noted that the last reviewing panel found that you had good insight. Today's panel were of the view that while you continue to have developed further insight, there were still concerns about your ability to practise safely with regard to IV administration and infection control practice.

The panel noted that you had five years of incident free practice following the allegations, however, your clinical skills as a nurse have not been tested fully following the charges that were found proved. The panel noted that the burden is on you the registrant nurse to show that you are no longer impaired, and because you haven't had the opportunity to gain employment as a registered nurse, you have not been able to work in a setting to address your previous failings.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account your reflective piece and various training certificates which showed that even though you were not currently working as a nurse but as a health care assistant in a care home, you did endeavour to show a willingness to improve your practice there is evidence however of you strengthening your practice in regards to record keeping, and therefore today's panel has determined that there is no longer a competency issue in relation to record keeping.

The panel did find that there has been no evidence of any further strengthening of practice in a clinical setting as a registrant, particularly in relation to IV drug administration, however it is noted that this is partly due to the fact that the care home you currently work at does not administer IV therapy.

Today's panel were also of the opinion that since you are unable to show strengthening of IV practice as a nurse, there remains a risk or repetition as the concerns arising from the charges found proved have not been remediated. 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 not required.

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

Decision and reasons on sanction

Having found your 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 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 varied 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. The panel accepted that you have been engaging with the NMC but you were unable to comply with conditions

of practice due to your current employment status as a health care assistant but you are engaging with the NMC and are willing to comply with any conditions imposed.

The panel was of the view that a varied conditions of practice order is sufficient to protect patients, noting as the original panel did that there was no evidence of general incompetence and more so a lack of opportunities to be able to demonstrate clinical skills as a nurse. In this case, there are conditions that 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.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 9 months, which will come into effect immediately, namely at the end of 16 January 2025. It decided to impose the following conditions which it considered 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 limit your nursing practice to one substantive employer which can be an agency.
2. You must obtain and provide a monthly record or supervision notes in the form of a report/feedback log or clinical competence checklist from a registered nurse, focusing on your clinical practice and in particular, infection prevention control.
3. You must not administer IV drugs, until you have completed satisfactorily your IV passport or an NHS Trust equivalent.
4. You must keep us 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.

5. You must keep us 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.

6. 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.

7. 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.

8. 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 9 months.

Should you have the evidence to show that you have satisfied the requirements of all of the conditions above it is open to you to request an early review in accordance with Article 30(2).

This conditions of practice order will take effect immediately at the end of 16 January 2025 in accordance with Article 30(4)

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.

In addition to the information required from your employer, which form part of this order, a future panel reviewing this case would be assisted by:

- Your continuing engagement with the NMC proceedings.
- Updated testimonials, including at least one from your current manager and other staff you have recently worked alongside.

This will be confirmed to you in writing.

That concludes this determination.