

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

**Substantive Order Review Meeting
Monday 31 July 2023**

Virtual Meeting

Name of Registrant: Thomas Richard Price

NMC PIN 77C1390E

Part(s) of the register: Registered Nurse – Sub Parts 1 & 2
RN2 Adult Nursing - June 1979
RN1 Adult Nursing – May 1999

Relevant Location: Sutton, Blackpool and Medway

Type of case: Misconduct

Panel members: Christina McKenzie (Chair, registrant member)
Diane Gow (Registrant member)
Barry Greene (Lay member)

Legal Assessor: Nigel Mitchell

Hearings Coordinator: Shela Begum

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (9 months) to come into effect immediately in accordance with Articles 30 (2) and 30 (4)**

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 Price's registered email address by secure email on 14 June 2023.

The panel took into account that the Notice of Meeting provided details of the review including the time, dates and the fact that this meeting was heard virtually.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Price 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 began this review as a standard review before expiry. The panel determined that some of the existing conditions were not particularly clear. It therefore decided to impose a new conditions of practice order with different, albeit similar, conditions to come into effect immediately. The panel determined that this clarification would assist both the NMC and Mr Price.

The panel therefore decided to vary the existing conditions of practice order. This order will come into effect immediately in accordance with Article 30(2) 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 9 months by a Fitness to Practise Committee panel on 11 November 2022.

The current order is due to expire at the end of 11 September 2023.

The panel is reviewing the order pursuant to Articles 30(2) and 30(4) of the Order.

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

“That you, a registered nurse:

At the Royal Marsden Hospital

1. *On the night shift of 16/17 February 2019:*
 - a. *Did not ensure that blood tests were taken for Patient A between 2100 hours and 0600 hours; **[PROVED]***
 - b. *Incorrectly recorded Patient A’s analgesia administration at:*
 - i. *2100 hours; **[PROVED]***
 - ii. *2200 hours; **[PROVED]***
 - iii. *2300 hours; **[PROVED]***
 - iv. *0100 hours. **[PROVED]***

At Blackpool Victoria Hospital

2. *On the night shift of 9/10 August 2019:*
 - a. *Did not respond in a timely way to a choking patient; **[PROVED]***
 - b. *Demonstrated inadequate knowledge of making up 10mg morphine in 1ml of solution. **[PROVED]***
3. *On a nightshift on or around 19 September 2019:*
 - a. *Left medication unattended in the presence of a patient; **[PROVED]***
 - b. *Signed for the administration of IV antibiotics to a patient which:*
 - i. *You had made up but not yet administered; **[PROVED]***
 - ii. *You had made up without a second nurse present to check. **[PROVED]***
4. *On the night shift of 20/21 September 2019:*
 - a. *Did not carry out observations, or did not record on the patient records that you had carried out observations, for one or more patients; **[PROVED]***
 - b. *Did not complete all admissions paperwork for patients admitted during your shift. **[PROVED]***

- c. *In relation to a female patient noted by you to have a grade 2 pressure sore to the sacrum:*
- i. *Did not accurately record the extent of her pressure sores; **[PROVED]***
 - ii. *Did not hand over the need to make a referral to a dietician and/or tissue viability nurse; **[PROVED]***
 - iii. *Did not hand over the need to take a swab of the pressure sores; **[PROVED]***
 - iv. *Did not hand over the need to complete an incident report. **[PROVED]***

At Medway Hospital

5. *On the nightshift of 4/5 October 2019:*
- a. *Signed for the administration of IV medication to a patient who had not been cannulated; **[PROVED]***
 - b. *Administered IV potassium to a patient without:*
 - i. *Setting up a pump; **[PROVED BY ADMISSION]***
 - ii. *Connecting a cardiac monitor. **[PROVED]***

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:

“Whilst there is no evidence to suggest that Mr Price’s actions caused actual harm to patients, his conduct put patients at risk of significant harm. Furthermore, having breached multiple provisions of the Code, the panel determined that Mr Price’s misconduct had breached fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find Mr Price’s fitness to practise to be impaired.

The panel then considered matters of public protection going forward. It had regard to the NMC’s guidance on ‘Insight and Strengthened Practice’. The panel was

satisfied that the concerns raised by Mr Price's misconduct are capable of being addressed.

Therefore, the panel carefully considered the evidence before it in determining whether or not Mr Price has taken sufficient steps to strengthen his practice, including Mr Price's bundle which comprised of training certificates, references and reflections that related to the original incidents.

The panel accepted that Mr Price has undertaken a significant number of training courses. It determined that the majority of the courses undertaken by Mr Price were irrelevant to the concerns identified and that some were out of date. However, it noted Mr Price's recent training on medication awareness.

The panel noted the references provided by Mr Price which dated from 1986 to 2022. The panel determined that the March 2022 reference was unclear and did not directly address the matters in the charges. The panel concluded that there is no evidence within that reference to demonstrate that the referee knew about the concerns raised in the charges.

With regards to Mr Price's responses on the incidents that occurred, the panel determined that Mr Price had demonstrated very limited insight as he had repeatedly attributed responsibility to circumstantial factors for the mistakes he had made. The panel took into account Mr Price's statement in his response bundle, in which he said:

*'I guess I was at the time thinking 'no big deal, I have lots of experience'
(a big mistake)'*

The panel determined that Mr Price was not taking responsibility for his actions.

Because Mr Price's insight is not yet fully developed and the panel was not satisfied by the evidence provided in relation to training or current practice, the panel therefore could not be satisfied that it was 'highly unlikely' that the conduct would be

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

The panel bore in mind 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 proper professional standards for members of those professions.

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 Price's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Price's fitness to practise is currently impaired on the grounds of public protection and public interest."

The original 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 public protection concerns identified. 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 Mr Price'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 Price'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 placing conditions of practice on Mr Price'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:

- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- Potential and willingness to respond positively to 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 had regard to the fact that these incidents happened in 2019 in highly pressured environments. The panel was of the view that it was in the public interest that, with appropriate safeguards, Mr Price should be able to continue to practise as a nurse.

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

The panel determined that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances of Mr Price's case because the public protection concerns and public interest considerations identified can be appropriately addressed by a conditions of practice order.

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. It also concluded that a conditions of practice order would be more likely to address the concerns raised. It, therefore, 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. As soon as reasonably practicable, you must undertake further training on record keeping. You must improve your practice on record keeping, be assessed to demonstrate proficiency, and be signed off as competent by a clinical line manager.*
- 2. As soon as reasonably practicable, you must undertake further training on medications management, specifically around IV medications and controlled drugs. You must improve your practice on medications management, be assessed to demonstrate proficiency, and be signed off as competent by clinical line manager.*
- 3. As soon as reasonably practicable, you must work with your clinical line manager (or their nominated deputy) to create a personal development plan (PDP) designed to address the concerns about the following areas of your practice:*
 - a) Medicines management*
 - b) Record keeping*
- 4. You must:*
 - Send your case officer a copy of your PDP 14 days before the next review hearing.*

- *Meet with your clinical line manager monthly, to start as soon as reasonably practicable, to discuss your progress towards achieving the aims set out in your PDP.*
 - *Send your case officer a report from your clinical line manager, (or their nominated deputy) before any NMC review hearing or meeting. This report must show your progress towards achieving the aims set out in your PDP.*
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 9 months with a review to enable Mr Price an opportunity to demonstrate steps he has taken to address the concerns and to fully reflect on the issues raised in the charges.

Before the order expires, a panel will hold a review hearing to see how well Mr Price 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:

- An up to date reflective piece which is directly related to the charges and which outlines the impact of the misconduct identified on patients, colleagues and the nursing profession;*
- Evidence of training completed, specifically with regard to record keeping and medication management;*
- Up to date testimonials from current colleagues; and*
- Mr Price's attendance at a future review hearing."*

Decision and reasons on current impairment

This panel has considered carefully whether Mr Price'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.

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 Price's fitness to practise remains impaired.

This panel noted that the original panel found that Mr Price's insight had not fully developed. This panel further noted that at the substantive hearing, the original panel had regard to training undertaken by Mr Price and his responses to the incidents but on that date, it could not be satisfied that Mr Price had demonstrated full insight. Today's panel has not had any evidence of developed insight or training undertaken by Mr Price. It did not have any information before it to determine that, since the original hearing, Mr Price has taken responsibility for his failures or developed any understanding of why what he did was wrong and how this could have impacted negatively on his patients and on the reputation of the nursing profession.

The panel next considered whether Mr Price has taken steps to strengthen his practice since the original substantive hearing. This panel did not have any documentary evidence before it which shows that Mr Price has undertaken additional training in the relevant areas of concern, nor has he provided evidence that a clinical manager has assessed him for competence in the areas of record keeping and medicines management.

The original panel determined that Mr Price was liable to repeat matters of the kind found proved. Today's panel has not received any information to undermine this decision. In light of this the panel determined that Mr Price is 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 Price's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mr Price'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 charges found proved. 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 charges found proved, and the public protection issues identified, an order that does not restrict Mr Price'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 Price'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 Mr Price'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 concluded that there are conditions which could be formulated which would protect patients during the period they are in force. The panel considered that the existing conditions of practice should be varied to ensure there is clarity for Mr Price about what he needs to do to demonstrate that he has strengthened his practice and provide evidence to a future panel about his insight and competence in relation to record keeping and medicines management.

Mr Price has stated in an email dated 21 December 2022 that he no longer wishes to practise as a registered nurse. In light of this, the panel considered allowing the order to lapse upon expiry. The panel noted that Mr Price's registration is active until December 2023. Further, he has also stated that he would consider a return to practice in healthcare. In all the circumstances, the panel could not be sure he no longer wished to practise as a nurse, nor did it have a clear explanation from him as to his future intentions.

The panel noted that Mr Price has not provided evidence to the NMC showing that he has been assessed in the areas as directed in the conditions of practice order. The panel also noted that Mr Price has not been consistent in his communications with the NMC in the short period since the outcome of his substantive hearing. He appears to have changed his mind from appealing the decision of the original panel, to wanting to work in an occupation away from nursing, albeit in a healthcare setting. In light of this, the panel concluded that imposing a further conditions of practice order would allow Mr Price further time to consider his position, hopefully to return to his original profession as a nurse and to be able to comply with this conditions of practice order to improve his nursing practice.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate at this stage and would not be a reasonable response in the circumstances of Mr Price's case because the public protection concerns and public interest considerations identified can be appropriately addressed by a conditions of practice order.

Accordingly, the panel determined, pursuant to Articles 30(2)(c) and 30(4) to make a conditions of practice order for a period of 9 months, which will come into effect immediately. 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. As soon as reasonably practicable, you must undertake further training on record keeping. You must improve your practice on record keeping, be assessed to demonstrate proficiency, and be signed off as competent by a clinical line manager.
2. As soon as reasonably practicable, you must undertake further training on medications management, including use of IV medications and controlled drugs.
3. You must be observed and assessed by a more senior nurse whilst you are undertaking medications management until such time as you are signed off as competent in medicines management by your clinical line manager.
4. As soon as reasonably practicable, you must work with your clinical line manager (or their nominated deputy) to create a personal development plan (PDP) designed to address the concerns about the following areas of your practice:
 - a) Medicines management
 - b) Record keeping
5. You must:
 - Send your case officer a copy of your PDP 14 days before the next review hearing.
 - Meet with your clinical line manager monthly, to start as soon as reasonably practicable, to discuss your progress towards achieving the aims set out in your PDP and your compliance with your conditions of practice order.
 - Send your case officer a report from your clinical line manager, (or their nominated deputy) before any NMC review hearing or meeting. This report must show your progress towards achieving the aims set out in your PDP.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

This conditions of practice order will replace the current conditions of practice order with immediate effect in accordance with Articles 30(2) and 30(4).

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

- An up-to-date reflective piece by Mr Price which relates to the charges and the impact of his errors on patients, colleagues and the nursing profession;
- Up-to-date testimonials from current colleagues and/or line manager; and
- Mr Price's attendance at a future review hearing whether in person or by virtual means.

The panel was mindful of the contextual features of the incidents, namely that Mr Price was an agency member of staff in multiple acute settings at a time of great difficulty within the NHS. The panel encourages Mr Price to explore how this may have impacted his nursing practice and how these factors may have had potential to contribute to his failures.

This will be confirmed to Mr Price in writing.

That concludes this determination.

