

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

**Substantive Order Review Hearing
Friday, 31 March 2023**

Virtual Hearing

Name of Registrant: Maria Theresa S Patangan

NMC PIN 03L01270

Part(s) of the register: Registered Nurse - Adult
RN1: Adult Nurse - Level 1 - 3 December 2003

Relevant Location: Surrey

Type of case: Misconduct

Panel members: James Lee (Chair, Registrant member)
Emily Davies (Registrant member)
Anthony Kanutin (Lay member)

Legal Assessor: Dr Marian Gilmore KC

Hearings Coordinator: Deen Adedipe

Nursing and Midwifery Council: Represented by Sian Priory, Case Presenter

Mrs Patangan: Not present and unrepresented

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (24 months)
to come into effect on 10 May 2023 in accordance with
Article 30 (1).**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Patangan was not in attendance and that the Notice of Hearing had been sent to Mrs Patangan's registered email address by secure email on 2 March 2023.

Ms Priory on behalf of the Nursing and Midwifery Council (NMC), told the panel that there had also been an email sent on 13 March 2023 seeking confirmation of attendance, to Ms Maudsley who is Mrs Patangan's known representative, and who appeared on her behalf at previous hearings. Ms Maudsley's response stated that Mrs Patangan had not responded to her communications in this regard.

Ms Priory submitted that the NMC had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Patangan's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Mrs Patangan has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

The panel noted that the Rules do not require confirmation of delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

Decision and reasons on proceeding in the absence of Mrs Patangan

The panel next considered whether it should proceed in the absence of Mrs Patangan. The panel had regard to Rule 21 and heard the submissions of Ms Priory who invited the panel to continue in the absence of Mrs Patangan.

Ms Priory referred to the email response on 13 March 2023 by Ms Maudsley to the email sent by the NMC with regards to Mrs Patangan's attendance, where she stated:

'Unfortunately, Ms Patangan has not responded to any of my correspondence asking about attendance at the review on 31/3/23. I am not available on that date. I'm afraid I am unable to assist in confirming her attendance.'

Ms Priory submitted that there had been no recent engagement by Mrs Patangan with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Patangan. In reaching this decision, the panel has considered the submissions of Ms Priory, the email response from Ms Maudsley, and the advice of the legal assessor. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Patangan;
- Mrs Patangan has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.
- The current order expires on 10 May 2023.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Patangan.

Decision and reasons on review of the substantive order

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

This order will come into effect at the end of 10 May 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the fifth review of a substantive suspension order originally imposed for a period of 9 months by a Fitness to Practise Committee panel on 12 July 2018. That order was reviewed on 16 April 2019 and replaced with a conditions of practice order for a period of 9 months. The order was then reviewed on 7 January 2020 and extended for a period of 9 months. This was reviewed again on 1 October 2020 and extended for a period of 18 months. The conditions of practice order was reviewed on 4 May 2022 and continued for a period of 12 months.

The current order is due to expire at the end of 10 May 2023.

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

The charges found proved by way of admission (charges 1, 2, 4, 5, 6, 7, 8, 9, 10.a, 11, 12) and the charges found proved (10.b, 13) which resulted in the imposition of the substantive order were as follows:

That you a registered nurse:

1. *On 20 January 2015, whilst working at the Grange Nursing Home in relation to Patient A, administered the following medications when they were not required*
 - a. *Bumetanide 1mg; and/or*
 - b. *Spironlactone 25mg*

2. *On 28 January 2015, signed Patient B's MAR chart that you had administered the following medications when you had not:*
 - a. *Co-codamol; and/or*
 - b. *Baclofen 10mg; and/or*
 - c. *Citalopram 20mg; and/or*
 - d. *Furosemide 40mg; and/or*
 - e. *Levothyroxine 50mg; and/or*
 - f. *Hyoscine Butylbromide 2 x 10mg.*
3. *...*
4. *Your actions at Charge 2 above caused Patient B to suffer unnecessary discomfort.*
5. *On a date on or around 15 December 2015 left the medications trolley unlocked.*
6. *On more than one occasion, in the course of a medication round, dispensed medication into cups for a number of patients at once*
7. *On 2 January 2016 in relation to Patient C you did not obtain immediate emergency medical assistance when her condition warranted this;*
8. *On 11 January 2016 in relation to Patient A, did not do any or all of the following:*
 - a. *Identify that Patient A was going in to hypotension*
 - b. *Contact the out of hours' GP service or seek emergency assistance*
 - c. *Inform staff on the day shift of a deterioration in Patient A's condition*
9. *On 17 January 2016 in relation to Patient D, you*

- a. *did not reposition her in accordance with her four hourly turning regime and/or*
 - b. *handled her without having a second person to assist.*
10. *On 17 January 2016 in relation to Patient E:*
- a. *did not administer a Rotigotine patch*
 - b. *Made an entry marked 'M' in the MAR sheet to indicate that medication was not currently available when it was*
11. *On unknown dates between 21 October 2016 and 25 November 2016, worked as a registered nurse at Craigarran nursing home, Durham whilst subject to an Interim Suspension Order effective from 21 October 2016.*
12. *Between 25 January 2016 and 25 November 2016 you failed to update the Nursing and Midwifery Council with your new address.*
13. *By your conduct at Charge 12 above you sought to avoid dealing with your Regulator in respect of your conduct at The Grange Nursing Home.*

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

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

'The panel noted that the last reviewing panel found that Mrs Patangan had demonstrated insight. At this hearing, the panel also acknowledged that Mrs Patangan remains engaged with the regulatory process.

However, the panel is of view that there is no new information before it that undermines the necessity of a continuing finding of impairment. The panel

considered that Mrs Patangan has not worked as a registered nurse in a clinical setting for a significant period of time and has therefore been unable to remediate the concerns found proved and/or demonstrate compliance with the current conditions of practice order. Further, it found that Mrs Patangan remains liable to repeat matters of the kind found proved. In light of this, the panel determined that Mrs Patangan still poses a risk to patient safety. 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 Mrs Patangan's fitness to practise remains impaired. '

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

'The panel first considered whether to take no action and allow the current order to lapse. The panel determined that neither order would be appropriate in view of the risk of repetition identified and seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to allow the current order to lapse.

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 Patangan'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 Patangan'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 Patangan'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 was of the view that a conditions of practice order is sufficient to protect patients and that the current conditions would sufficiently protect patients during the period they are in force. The panel noted as the original panel did that there was no evidence of general incompetence and no deep-seated attitudinal problems. The panel had regard to Mrs Patangan's attempts to secure employment and her request for a variation of the conditions of practice order. The panel was of the view that the current conditions of practice order is proportionate and workable, and that none of the conditions impede Mrs Patangan gaining employment as a registered nurse. It came to this conclusion with the submissions from Ms Maudsley that Mrs Patangan declined a job offer for a position as a registered nurse with the current conditions of practice order being in place.

The panel was mindful that Mrs Patangan was unable to attend the virtual hearing due to IT issues however she was represented and submitted a reflective statement along with a reference.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate in the circumstances of Mrs Patangan's case because there has been no material change to warrant an escalation in sanction at this time. The panel bore in mind however, that a future reviewing panel, whilst making their own decision, will have all options available to it including a striking-off order.

The panel considered the significant period that this conditions of practice order has been in place. It considered that a 12-month period would be suitable for Mrs Patangan to provide further evidence to a future reviewing panel and to apply/gain employment to work within the conditions of practice order.

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 10 May 2022. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

- 1) At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the supervision of a workplace line manager, mentor or supervisor nominated by your employer, such supervision to consist of working at all times on the same shift as, but not necessarily under the direct observation of, a registered nurse who is physically present in or on the same ward, unit, floor or home that you are working in or on.*

- 2) You must meet with your line manager, mentor, or supervisor (or their nominated deputy) at least monthly to create and work on a personal development plan designed to demonstrate your competence in the following areas:*
 - medication administration;*
 - performing clinical observations;*
 - escalation of patient concerns;*
 - record keeping.*

- 3) You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance as a nurse and your progress towards achieving the aims set out in your personal development plan to the NMC at least 14 days before any NMC review hearing or meeting.*

- 4) You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress towards achieving the aims set out in your personal development plan with your line manager, mentor or supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with*

any employer, prospective employer and at any educational establishment.

- 5) *You must disclose a report not more than 28 days old from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to any current and prospective employers (at the time of application) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer and at any educational establishment.*
- 6) *You must tell the NMC within 14 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.*
- 7) *You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.*
- 8)
 - a. *You must within 14 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 and contact details of the individual or organisation offering the post, employment or course of study.*
 - b. *You must within 14 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.*
- 9) *You must immediately tell 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 8 above, to them.*

- b. Any organisation or person employing, contracting with, or using you to undertake nursing work.*
- c. Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services.*
- d. Any prospective employer (at the time of application) where you are applying for any nursing appointment.*
- e. 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.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 10 May 2022 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 Mrs Patangan 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 up to and including a striking-off order.

Any future panel reviewing this case would be assisted by:

- Evidence that Mrs Patangan has complied with the conditions of practice order;*
- Evidence of jobs applied for;*
- Evidence of continued professional development for example; completion of online modules, keeping up to date with nursing literature and attending courses;*
- Ongoing meaningful engagement with the NMC;*
- Mrs Patangan's attendance at the next hearing;*
- Updated testimonials;*

- *An updated reflective piece.*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Patangan'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. It has taken account of the submissions made by Ms Priory on behalf of the NMC. She submitted that NMC seek the confirmation and continuation of the current order on the grounds that the registrant's fitness to practice remains impaired.

Ms Priory took the panel through the background of the case by outlining the charges and providing a summary of the determinations of each of the reviewing panels.

Ms Priory told the panel that Mrs Patangan has not worked as a Registered Nurse since the imposition of the Conditions of Practice Order. Indeed, at the time of the last review, the Registrant was working as a Health Care Assistant. She said the previous panel took the view that Mrs Patangan had not had the opportunity to demonstrate her fitness to practice and that there was no new information to undermine the continuing necessity for a finding of impairment.

Ms Priory said the NMC had not been provided with any information to suggest that the position has changed and that bearing in mind that the misconduct spanned a lengthy period of time, that patients suffered harm, and that Mrs Patangan made a wide range of clinical errors, she invited the panel to find that, in the absence of any new information to the contrary, the concerns remain live and the Registrant's fitness to practice remains impaired both on grounds of public protection and in the wider public interest. She stated that the length of such an order was for the panel to determine.

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 Patangan's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mrs Patangan had remained engaged with the regulatory process. It was disappointing for this panel that Mrs Patangan has not engaged on this occasion.

The panel is of view that there is no new information before it that undermines the necessity of a continuing finding of impairment. The panel considered that Mrs Patangan has not worked as a registered nurse in a clinical setting for a significant period of time and that and she had turned down the offer of a registered nursing role. The panel was therefore of the view that this makes it more difficult for Mrs Patangan to demonstrate a strengthening of her practice, address the regulatory concerns found proved, or demonstrate compliance with the current conditions of practice order.

The panel determined that a risk of repetition and real risk of harm to the public remained as her level of insight could not be gauged and that Mrs Patangan still poses a risk to patient safety. 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 Mrs Patangan's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Patangan'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.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the SG, which 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 Patangan'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 and the risk to patient safety. The panel noted that Mrs Patangan had not returned to work in a registered role and had not demonstrated a strengthening of her practice. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel considered whether it would be proportionate to impose a more restrictive sanction and looked at a conditions of practice order. The panel noted Mrs Patangan had not effectively worked as a registered nurse in over three years. The panel had no information on what Mrs Patangan's current intentions were regarding returning to a nursing role. The panel was however of the view that the concerns could be remediated and that Mrs Patangan's practice could be strengthened if she chooses to remain in the profession. The public would be protected by the imposition of a conditions of practice order which remains 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 was of the view that the current conditions of practice order is proportionate and workable, and that none of the conditions impede Mrs Patangan gaining employment as a registered nurse. The panel noted that Mrs Patangan declined a job offer for a position as a registered nurse with the current conditions of practice order being in place.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate because there has been no material change to warrant an escalation in sanction at this time. Nevertheless, importantly the panel noted that this situation has been ongoing approaching 5 years and that progress needs to be established at some point. The panel bore in mind, that a future reviewing panel, whilst making their own decision, will have all options available to it including a striking-off order.

The panel considered the significant period that this conditions of practice order has been in place. It considered that a 24-month period would be suitable for Mrs Patangan to provide further evidence to a future reviewing panel and to obtain employment and work within the conditions of practice order.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 24 months, which will come into effect on the expiry of the current order, namely at the end of 10 May 2023. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

1. At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the supervision of a workplace line manager, mentor or supervisor nominated by your employer, such supervision to consist of working at all times on the same shift as, but not necessarily under the direct observation of, a registered nurse who is physically present in or on the same ward, unit, floor or home that you are working in or on.
2. You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least monthly to create and work on a personal development plan designed to demonstrate your competence in the following areas:

- a) medication administration;
 - b) performing clinical observations;
 - c) escalation of patient concerns;
 - d) record keeping.
3. You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance as a nurse and your progress towards achieving the aims set out in your personal development plan to the NMC at least 14 days before any NMC review hearing or meeting.
 4. You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress towards achieving the aims set out in your personal development plan with your line manager, mentor or supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer and at any educational establishment.
 5. You must disclose a report not more than 28 days old from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to any current and prospective employers (at the time of application) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer and at any educational establishment.
 6. You must tell the NMC within 14 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.
 7. You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.
 - a) You must within 14 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 and contact details of the individual or organisation offering the post, employment or course of study.

- b) You must within 14 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.
8. You must immediately tell 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 8 above, to them.
- a. Any organisation or person employing, contracting with, or using you to undertake nursing work.
 - b. Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services.
 - c. Any prospective employer (at the time of application) where you are applying for any nursing appointment.
 - 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 24 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 10 May 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 Mrs Patangan 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 up to and including a striking-off order.

Any future panel reviewing this case would be assisted by:

- Evidence that Mrs Patangan has complied with the conditions of practice order;
- Evidence of registered nurse jobs applied for;

- Evidence of continued professional development for example; completion of online modules, keeping up to date with nursing literature and attending courses;
- Meaningful engagement with the NMC and clear information regarding Mrs Patangan's intentions to return to nursing practice;
- Mrs Patangan's attendance at the next hearing;
- Updated testimonials;
- An updated reflective piece.

This will be confirmed to Mrs Patangan in writing.

That concludes this determination.