

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

**Substantive Order Review Hearing
Monday 18 September 2023**

Virtual Hearing

Name of Registrant: **Patricia Boyle**

NMC PIN 82Y0152S

Part(s) of the register: Registered Nurse - RN7 -General Nurse
(level 2)– 30 November 1983
RNA, Adult Nurse (level 1) – 24 April 2013

Relevant Location: East Renfrewshire and North Lanarkshire

Type of case: Misconduct

Panel members: Rachel Ellis (Chair, lay member)
Claire Matthews (Registrant member)
Yousuf Rossi (Lay member)

Legal Assessor: Marian Gilmore

Hearings Coordinator: Rene Aktar

Nursing and Midwifery Council: Represented by Jonathan Deans, Case
Presenter

Ms Boyle: Present and represented by Gary Burton,
Solicitor for Anderson Strathern

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (12 months)
varied to come into effect at end of 6
October 2023 in accordance with Article 30
(1)**

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 at the end of 6 October 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the fourth review of a substantive conditions of practice order originally imposed for a period of six months by a Fitness to Practise Committee panel on 6 December 2019. This was reviewed on 29 May 2020 whereby a Fitness to Practise Committee panel determined to extend and vary the conditions of practice order for a period of 9 months. The penultimate panel extended and varied conditions of practice order for a period of 18 months. The last reviewing panel reviewed and varied the conditions of practice order for a period of 12 months.

The current order is due to expire at the end of 6 October 2023.

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:

At Greenlaw Grove Care Home:

1. ...
2. *On 14 December 2017 while conducting the medication round on the Lethington Unit:*
 - a) *You missed two signatures on the MAR Chart for the morning medication for resident SU5. **Proved by admission***

- b) *You missed signature(s) and/or added the running total(s) incorrectly on the MAR Chart(s) for the morning medication(s) for a number of unknown residents. **Proved by admission***
- 3. *You failed to administer Simvastatin to resident SU2 on:*
 - a) *21 December 2017 **Proved by admission***
 - b) *22 December 2017 **Proved by admission***
- 4. *On 28 December 2017 you administered Paracetamol to resident SU3 but signed the MAR Chart indicating it had been administered on 29 December 2017. **Proved by admission***
- 5. *On 28 December 2017 you failed to administer an antibiotic to resident SU6. **Proved by admission***

At Millbrae Care Home:

- 6. *On 9 February 2018 you failed to complete an incident form after you found resident SU1 lying on the floor with a head wound. **Proved***
- 7. *On 10 February 2018 you failed to inform and/or handover to Colleague A that you found resident SU1 lying on the floor with a head wound. **Proved***
- 8. *You failed to indicate that your entry dated 9 February 2018 in resident SU1's Daily/Nursing Notes was written retrospectively on 11 February 2018. **Proved by admission***
- 9. *On the night shift 9/10 February 2018 you left the medication trolley open in the dining room. **Proved by admission***
- 10. *On the night shift 9/10 February 2018 you misplaced the medication pod keys. **Proved by admission***

11. On the night shift 9/10 you took 4 and a half hours to complete the medication round for both floors. **Proved by admission**

12. You signed over the signature(s) of Colleague B for the morning and/or tea time medication(s) for resident SU4 on 10 and/or 11 February 2018. **Proved by admission**

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

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

'The panel considered whether Ms Boyle's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Ms Boyle had received positive feedback from her current employer with no concerns raised. The panel noted that there is no evidence to suggest that Ms Boyle has strengthened her practice and remediated the failings in her practice and concluded that there remains a risk of repetition and a consequent risk of harm to patients. In light of this, this panel determined that Ms Boyle remains 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 Ms Boyle's fitness to practise remains impaired.'

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

'Having found Ms Boyle'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 panel's finding of impairment on grounds of public protection. The panel decided that it would be neither proportionate nor in the public interest to take no further action; such a course of action would not adequately protect the public.

It then considered the imposition of a caution order but again determined that an order that does not restrict Ms Boyle's practice would not be appropriate in the circumstances. The panel decided that it would not be appropriate to impose a caution order.

The panel next considered whether imposing a further or varied conditions of practice order on Ms Boyle'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 carefully considered the current interim conditions of practice order and removed condition 6 as it was deemed no longer necessary. It noted that Ms Boyle had received positive feedback from her current employer and that there have been no issues raised since the initial failings on her practice. The panel was of the view that a varied conditions of practice order is sufficient to protect patients and satisfy the wider public interest.

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 this case.

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 6 October 2022. 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.' supervision must consist of working at all times on the same shift as, but not always directly observed by a registered nurse.

1. *You must ensure that you are supervised at any time you are working. Your supervision must consist of working at all times on the same shift as, but not always directly observed by a registered nurse.*
2. *You must not be the only registered nurse on duty.*
3. *You must not be the nurse in charge of a shift.*
4. *You must complete at least four medication rounds where you are directly supervised by a registered nurse who should evidence this in writing. This should demonstrate your competence in administering, storing and recording medication. Written evidence of this must be provided by you to the NMC prior to any review hearing.*
5. *You must work with your line manager to create a development log which must address the concerns identified about your medication management, record keeping and communication. You must meet with your line manager at least once a month to review your performance. Your log must be signed by yourself and your manager at or shortly after each meeting and must contain specific feedback on your performance. Written evidence of this must be provided by you to the NMC prior to any review hearing.*
6. *You must complete further training in record keeping and communication. Upon completion you must also provide dated, written evidence of your*

successful completion together with evidence of the learning objectives covered in this training. Written evidence of this must be provided by you to the NMC prior to any review hearing.

- 7. You must provide written evidence of any completed medication management course that you undertake. Written evidence of this must be provided prior to any NMC hearing.*
- 8. 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.**
- 9. 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.**
- 10. 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**
- 11. 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.**

12. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

- a) Any current or future employer.
- b) Any educational establishment.
- c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 12 months.

The panel was pleased to note that Ms Boyle has obtained a role in a major NHS University teaching hospital as a Band 3, working in Radiology. The panel commend Ms Boyle for this, as the access to the educational staff and facilities within such an environment are better than within the care home sector. The panel encourage Ms Boyle to contact the nurses specialising in education who support newly qualified nurses, to arrange shifts where Ms Boyle is supernumerary on the wards and can complete the medication management requirements of this conditions of practise order and to access the educational facilities within the hospital to complete the training requirements specified in conditions 6 and 7.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 6 October 2022 [sic] 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 Ms Boyle 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.'

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 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, Mr Burton's submissions on your behalf, and the submissions made by Mr Deans on behalf of the NMC.

Mr Deans provided a background to the case, chronology of events and summaries of the outcomes of the previous hearings. He referred the panel to the documents in the master bundle.

Mr Deans submitted that you are currently undertaking a healthcare assistant role (HCA), and that you have not been able to comply with the conditions. He submitted that you were unable to complete training in relation to medication management, record keeping and communication. Mr Deans submitted that you do not currently have an employment that would allow you to fulfil these conditions.

Mr Deans referred the panel to your email correspondence dated 30 April 2023, which stated:

"I have at long last taken advice on asking for a secondment from my current position. On reflection I should have done this way before now. However I have enjoyed my time in radiology.

I have an interview with director of nursing services on Thursday to discuss a secondment supporting me with achieving the lifting of my restrictions on my registration.

I was thinking , any advice you could give me on this discussion. Also could you give me bullet points on what the NMC is looking for me to fulfill. I'm so worried I miss anything out. I just want to make sure I am fully prepared. Hoping this is not too much to ask."

Mr Deans submitted that it is the NMC's request that the current conditions of practice order be extended to allow you to move to a different kind of clinical role.

The panel also had regard to Mr Burton's submissions. He invited the panel to consider a continuation of the current conditions of practice order for a further 12 months. He submitted that you continue to be employed by NHS Lanarkshire whilst working in a Band 3 role within the Radiology Department.

Mr Burton submitted that you have consulted with the Nursing Director, who has put a support plan in place in order to allow you to get to the position where you can achieve and satisfy the conditions that are currently in place.

[PRIVATE] He submitted that you are committed to try and take on a full-time Band 5 position.

Following questions from the panel, Mr Burton clarified that you aim to complete the conditions within your current role in terms of the training that is required. However, he submitted that you hope to return to a Band 5 position eventually. He further clarified that you have not done any training in drug administration or record keeping, and that any training you had done since the last review has been solely around the radiology role.

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 your circumstances have not changed since the last review and that there has not been any further evidence of insight or remediation. Whilst the panel noted that the conditions of practice had not come into effect as you have not been working as a registered nurse since the last review, it took into account that you have been working as

an HCA but that you had not completed any training of the kind required by conditions 5 and 6 or provided any evidence from your employer relating to your clinical practice.

The original panel determined that you were liable to repeat matters of the kind found proved. Today's panel has determined that as you have not addressed the clinical failings in your practice, there is a risk of repetition and thus you are still liable to repeat matters of the kind found proved in respect of your clinical practice which means that there is still the risk of harm. 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 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 required as you have not demonstrated sufficient insight into the failings or remediation of the concerns. For these reasons, the panel finds that your fitness to practise remains impaired on the grounds of public protection and public interest.

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 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 unable to comply with conditions of practice due to your current employment status but are engaging with the NMC and are willing to comply with any conditions imposed.

The panel was concerned that there seemed to have been no progress since the last review in terms of training, which would not require you to be working as a registered nurse. There had also been no testimonials provided from your current employer in relation to your work as an HCA, in particular regarding record keeping and communication. However, notwithstanding this, the panel was of the view that a conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that there was no deep-seated attitudinal problems. In this case, there are conditions that could be formulated which would protect patients during the period they are in force. The panel noted that you were intending to address the concerns whilst working as an HCA. However, it would encourage you to continue trying to find work as a registered nurse in order that you are able to fully comply with the conditions and demonstrate that you have strengthened your practice.

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.

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 6 October 2023. The panel was of the view that this would give you sufficient time to address the concerns.

The panel decided to vary condition 6 and to remove condition 7. It noted that condition 7 had been imposed at the time of the first review on 29 May 2020 as you had said that you had completed some medication management training but had been unable to obtain written evidence of this. Given the time that has passed since then, the panel was of the view that it would be necessary for you to complete further training in medication management in addition to record keeping and communication. This is therefore reflected in the varied condition 6.

The panel 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.' supervision must consist of working at all times on the same shift as, but not always directly observed by a registered nurse.

1. You must ensure that you are supervised at any time you are working. Your supervision must consist of working at all times on the same shift as, but not always directly observed by a registered nurse.
2. You must not be the only registered nurse on duty.
3. You must not be the nurse in charge of a shift.
4. You must complete at least four medication rounds where you are directly supervised by a registered nurse who should evidence this in writing. This should demonstrate your competence in administering, storing and recording medication.

Written evidence of this must be provided by you to the NMC prior to any review hearing.

5. You must work with your line manager to create a development log which must address the concerns identified about your medication management, record keeping and communication. You must meet with your line manager at least once a month to review your performance. Your log must be signed by yourself and your manager at or shortly after each meeting and must contain specific feedback on your performance. Written evidence of this must be provided by you to the NMC prior to any review hearing.
6. You must complete further training in medication management, record keeping and communication. Upon completion you must also provide dated, written evidence of your successful completion together with evidence of the learning objectives covered in this training. Written evidence of this must be provided by you to the NMC prior to any review hearing.
7. 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.
8. 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.
9. 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

10. 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.

11. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

- a) Any current or future employer.
- b) Any educational establishment.
- c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 12 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 6 October 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 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.

Any future panel reviewing this case would be assisted by:

- Reflective piece focusing on the impact of your actions on the risk of harm to patients and the impact on the profession and the public
- References or testimonials from your current employer

This will be confirmed to you in writing.

That concludes this determination.