

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

**Substantive Order Review Hearing
Wednesday, 14 February 2024**

Virtual Hearing

Name of Registrant: Neo Dando

NMC PIN: 03Y0395O

Part(s) of the register: Registered Nurse – RN1
Adult Nurse (September 2003)

Relevant Location: Bristol

Type of case: Misconduct

Panel members: Nicholas Rosenfeld (Chair, lay member)
Mary Karasu (Registrant member)
Kevin Connolly (Lay member)

Legal Assessor: George Alliot

Hearings Coordinator: Muminah Hussain

Nursing and Midwifery Council: Represented by Teri Howell, Case Presenter

Mrs Dando: Present and represented by Silas Lee, instructed by Mountford Chambers

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

Fitness to practise: Impaired

Outcome: **Varied conditions of practice order (4 months) to come into effect on 25 February 2024 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 25 February 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 27 January 2021. This was reviewed on 7 February 2022 and the order was replaced with a conditions of practice order for a period of 12 months. This was reviewed on 24 January 2023 and the conditions of practice order was varied for a period of 12 months.

The current order is due to expire at the end of 25 February 2024.

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

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

'That you, a registered nurse,

1. *On 18 February 2015, did not,*
 - a) *Identify that patient K had not had his previous two doses of Parkinson's medication.*
 - b) *[...]*
 - c) *Escalate patient K's refusal to take his medication, namely, Co-Careldopa, at 11.00 hours and/or 14.00 hours and 17.00 hours.*
 - d) *Escalate patient K's refusal of oral fluids at 8.00 hours and/or 11.00 hours, 13.00 hours and 17.00 hours.*
 - e) *Accurately record what had happened during the shift on patient K's nursing sheet, in that your entry contained insufficient detail regarding Patient K's condition and the care provided to him.*

2. On 1 December 2016,
 - a) [...]
 - b) [...]
 - c) *Dispensed Paracetamol to patient G but did not sign for this on patient G's drugs chart.*
 - d) *Did not give patient H her prescribed water and/or medication, namely, Levetiracetam.*
 - e) *Did not give patient I her prescribed medication, namely, Clopidogrel, Bumetanide, Glandosane, Sando-K and Movicol.*
 - f) *Did not give patient J her prescribed medication, namely, Paracetamol.*

3. On 26 May 2017, *did not get a second checker to check and sign patient B's evening dose of insulin.*

4. On 27 May 2017,
 - a) [...]
 - b) *Informed colleague 1 that you had noticed that patient A's NGT had slipped and turned off the feed.*
 - c) *Recorded in patient A's notes that you realised the tube was almost out.*
 - d) *Dispensed Tramadol from the controlled drugs cupboard on your own.*
 - e) *Did not give patient C her 8.00 hours medication, namely, Furosemide, Bisoprolol, Digoxin and Ferrous Sulphate.*
 - f) *Inaccurately recorded in patient C's MAR chart that you had given patient C her 8.00 hours medication.*
 - g) *Did not give patient D her morning medication, namely, Fortisip Compact, Paracetamol, Laxido/ Molative, Lansoprazole and Cetraben.*
 - h) *Did not get a second checker to check and sign patient E's 8.00 hours dose of insulin.*
 - i) *Did not give patient F her 8.00 hours dose of Apixaban.*
 - j) *Left the medication trolley unattended whilst it had open boxes of medication on it.*

5. *Your conduct at charge 4 (b) was dishonest in that you did not notice that patient A's NGT had slipped or turn off the feed but you intended to mislead Colleague 1 into believing that you had.*
6. *Your conduct at charge 4 (c) was dishonest in that it was not you who realised that patient A's NGT was almost out but you intended to mislead your colleagues by recording it was you in patient A's notes.*
7. *[...]*
8. *On 14 April 2018, did not,*
 - a) *Escalate patient L's NEWS score of 6 at 11.10 hours or 18.50 hours,*
 - b) *Switch patient L's observation frequency to every hour,*
 - c) *Place an emergency response sticker on patient L's notes,*
 - d) *Check patient L's pupil size.'*

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

'The panel considered whether your fitness to practise remains impaired. The panel considered the test for impairment first propounded by Dame Janet Smith in the Fifth Shipman Report, and subsequently endorsed by Cox J in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant [2011] EWHC 927 (Admin), (Grant) and concluding, has the registrant in the past and/or is liable in the future to do any of the following:

- a) *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

At this hearing given the information before the panel it considered that only a) was engaged at this stage.

The panel noted that the last reviewing panel found that that you had demonstrated sufficient insight into the concerns found proved in a reflective piece written by you.

The panel found that you had developing insight, as you have demonstrated sufficient insight into your current ability to carry out your duty as a registered nurse, as you accept that you are not yet confident to work independently. Notwithstanding this, the panel could not be satisfied that you had full insight as you had not provided an up to date reflective piece that outlines how your practice has developed and what skills and knowledge you may have acquired since commencing your role as a registered nurse at the Home. The panel noted that it did have before it the reflective piece provided to the previous panel which does demonstrate your remorse, however, it found that this was limited as it was centred on you working in a capacity of a Health Care Assistant.

The panel had regard to the reference provided by your current employer and found that it was full and frank addressing the regulatory concerns.

In its consideration of whether you had taken steps to strengthen your practice, the panel considered the short period the of time that you have been working as a registered nurse at the Home and noted that during this time you have evidenced compliance with your conditions of practice order. It also noted the additional training undertaken relating to medications management and that you have now been deemed as competent to administer medications. The panel also noted that you had completed your PDP and that you had undertaken and completed the following training courses between November-December 2022:

- Autism Awareness*
- Bed Rails*

- *Dementia Awareness*
- *Dysphagia*
- *Fall Prevention*
- *Fluid and Nutrition*
- *Pressure Ulcer Prevention*
- *Positive Behaviour Support*
- *Person- Centred Approach*
- *Learning Disabilities*
- *Medication Awareness*

The last reviewing panel determined that you were liable to repeat matters of the kind found proved as you had not practised as a registered nurse since 2018. That panel considered that there was no evidence before it to show that you had been able to practise safely. Today's panel accepted that you are now working as a registered nurse and have been at the Home since October 2022. In light of this, however, when considering the submissions of Ms Fletcher-Smith and the reference provided by your current employer, the panel finds that you have not yet gained the confidence to carry out your duties safely and independently as a registered nurse.

In light of this, this panel determined that there is a risk of repetition if you were to return to unrestricted practice at this time and, therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

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

The second reviewing panel determined the following with regard to 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 risks identified and requirement for a monitored return to safe and effective practice. 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 public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances.

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 relevant, proportionate, measurable and workable.

The panel determined that it would be possible to formulate appropriate and proportionate conditions which would address the risks highlighted in this case. The panel accepted that you have been deemed as competent in medication administration and therefore this condition is no longer necessary. It also noted that you had addressed some areas in your PDP as outlined in the conditions of practice order. The panel also took into consideration the proposed conditions submitted by Ms Fletcher-Smith.

The panel was of the view that a varied conditions of practice order is sufficient to protect patients and the wider public interest. 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.

Accordingly, the panel determined, pursuant to Article 30(1), to make a conditions of practice order for a period of 12 months to allow enough time to address the matters identified and properly meet the conditions, which will come into effect on the expiry of the current order, namely at the end of 25 February 2023. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

- 1. You must restrict your employment to Oakee Meadows Care Home.*

- 2. You must work with a mentor, who is another registered nurse approved your employer to act as a mentor, to update your personal development plan (PDP). Your PDP must address the concerns about:*
 - a) Patient observation.*
 - b) Recognition, management, and escalation of deteriorating patients.*
 - c) Clinical documentation.*

You must:

- i. Send your case officer an updated PDP which addresses the concerns outlined in a), b) and c) above, prior to the next review hearing.*
- ii. Meet with your mentor every month to discuss your progress towards achieving the aims set out in your PDP.*
- iii. Send your case officer a report on your progress towards achieving your PDP goals from your mentor every 3 months.*

3. *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.*

4. *You must immediately give a copy of these conditions to:*
 - a) *Your current employer.*
 - b) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*

5. *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.*

6. *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 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 Howell on behalf of the NMC. She submitted that the order should be extended for a period of four months.

Ms Howell informed the panel that since the second review, issues have been raised by your most recent employer about your practice, and that you had also self-reported these to the NMC. Your employment was terminated at Oake Meadows, and Ms Howell referred the panel to the letter from Oake Meadows which set out the allegations to the issues directly related to your compliance with your conditions of practice order.

Ms Howell submitted that the NMC suggested that a four months extension of the order will give it time to obtain witness evidence from your former employer, so the NMC can consider these additional issues at a further finding of fact review hearing.

When asked by the panel if the NMC still considers you impaired, Ms Howell submitted that the issues raised in relation to your conditions demonstrates that you have failed to comply with the conditions of practice, and as a result you remain impaired. She submitted that a risk remains on all grounds.

The panel also had regard to Mr Lee's submissions. He accepted that in the circumstances, there is likely to be a need for an extension of the conditions of practice order. Mr Lee submitted that there is an issue with condition one of the current conditions of practice order, in that as it now stands, it is effectively a suspension in all but name. Mr Lee submitted that the conditions need to be workable and suggested a variation of condition one to read '*You must restrict your employment to one substantive employer.*'

When asked by the panel if you have complied with the conditions imposed, Mr Lee said you had. He informed the panel that there is evidence you worked under a Personal Development Plan (PDP) whilst at Oake Meadows. You had declared all of your conditions at the point of application, and self-declared the new concerns raised to the NMC.

Mr Lee was asked if you had shown any insight into your failings or the seriousness of past misconduct. Mr Lee informed the panel that the position of your insight is unchanged since the last hearing.

The panel asked if you had taken effective steps to maintain your skills and knowledge, to which you informed them that you have undertaken online training and some reading on Parkinson's disease. This training did not continue when you had been dismissed from your employment at Oake Meadows.

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 developing insight. At this hearing, the panel was made aware that nothing had changed in regard to insight since the previous hearing.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account that you had said you had undertaken online training and had read about Parkinson's disease. The panel noted that it had not received any additional evidence in regard to either the breadth, depth or relevancy of any further training you had undertaken to strengthen your practice.

The panel noted that Mr Lee had explained that you could not produce an updated reflective piece because of the new concerns raised about you, however it was of the view that an updated reflection on any additional training and how this would be embedded in your future practice may have been of assistance. The panel determined that evidence of training certificates would have demonstrated that you had strengthened your practice whilst you were not working.

The last reviewing panel determined that you were liable to repeat matters of the kind found proved. Today's panel has received new information that concerns have been raised in relation to the kind found proved at your substantive hearing. In light of this, this panel could not be reassured that you would not be 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 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 was mindful that any conditions imposed must be proportionate, measurable, workable and relevant.

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 you are engaging with the NMC and you have previously complied with conditions that have been imposed.

The panel was of the view that a varied conditions of practice order is sufficient to protect patients and the wider public interest. 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 and that the overarching objectives can be managed by a less restrictive sanction.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of four months, which will come into effect on the expiry of the current order, namely at the end of 25 February 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 restrict your employment to one substantive employer, this must not be an agency.

2. You must ensure that you are supervised by a more senior nurse 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 more senior nurse.
3. You must ensure that you are directly supervised by a senior nurse when administering medication.
4. You must work with a mentor, who is another registered nurse approved by your employer to act as a mentor, to update your personal development plan (PDP). Your PDP must address the concerns about:
 - a) Patient observation.
 - b) Recognition, management, and escalation of deteriorating patients.
 - c) Clinical documentation.You must:
 - i. Send your case officer an updated PDP which addresses the concerns outlined in a), b) and c) above, prior to the next review hearing.
 - ii. Meet with your mentor every month to discuss your progress towards achieving the aims set out in your PDP.
 - iii. Send your case officer a report on your progress towards achieving your PDP goals from your mentor every 3 months.
5. 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.

6. You must immediately give a copy of these conditions and inform the following of any regulatory investigations you are the subject of:
 - a) Your prospective employer.
 - b) 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 four months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 25 February 2024 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:

- Your continued engagement with the NMC and your attendance at the next review hearing.

- Testimonials from your current employer.
- A written reflective piece from you with particular focus on the following:
 - a) Patient observation.
 - b) Recognition, management, and escalation of deteriorating patients.
 - c) Clinical documentation.

This will be confirmed to you in writing.

That concludes this determination.