

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

**Substantive Order Review Meeting
Monday, 15 January 2024**

Virtual Hearing

Name of Registrant: Sidney Villaruel

NMC PIN 05H0864O

Part(s) of the register: Registered Nurse – sub part 1
Adult Nursing – Level 1 August 2005

Relevant Location: Swansea

Type of case: Misconduct

Panel members: Dale Simon (Chair, lay member)
Janine Ellul (Registrant member)
Asmita Naik (Lay member)

Legal Assessor: John Donnelly

Hearings Coordinator: Opeyemi Lawal

Mr Villareul: Not present and unrepresented

Order being reviewed: Conditions of practice order (18 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect on 24 February 2024 in accordance with Article 30 (1)**

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 Villaruel's registered email address by secure email on 13 December 2023.

Further, the panel noted that the Notice of Meeting was also sent to Mr Villaruel's representative on 13 December 2023.

The panel took into account that the Notice of Meeting provided details of the review including the earliest date the meeting will be heard.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Villaruel 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 decided to replace the conditions of practice order with a 6-month suspension order. This order will come into effect at the end of 24 February 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the third review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 24 January 2020. This was reviewed on 8 January 2021 and the conditions of practice order was extended for a period of 18 months. The second reviewing panel on 14 July 2022 confirmed the conditions of practice order.

The current order is due to expire at the end of 24 February 2024.

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

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

'That you, a registered nurse,

1. *On 27 July 2017,*
 - a. *Did not amend resident B's MAR chart to reflect the reduction in dosage of Levothyroxine from 125 mcg to 100 mcg daily*
 - b. *Did not get resident B's MAR chart countersigned by another member of staff to confirm the alteration in dosage of Levothyroxine from 125 mcg to 100 mcg daily*
 - c. *Did not handover information about resident B's dosage change of Levothyroxine from 125 mcg to 100 mcg daily to the night nurse*

2. *On 10 & 11 August 2017,*
 - a. *Did not administer Furosemide to resident C*
 - b. *Indicated on the back of resident C's MAR chart that there was no Furosemide in stock, despite there being a stock of 71 tablets*

3. *On 22 August 2017, signed for the administration of ibuprofen gel to resident G but did not administer this to her*

4. *On 24 August 2017, signed for the administration of Diltiazem to resident C but did not administer this to her.'*

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

'The panel noted that the last reviewing panel found that Mr Villaruel had developing insight. At this hearing the panel was of the view that whilst Mr Villaruel has some insight as shown in his reflective piece, it is still at the developmental stage. The panel was satisfied that Mr Villaruel has not yet developed the level of insight that would be expected from a registrant in his position.

In its consideration of whether Mr Villaruel has taken steps to strengthen his practice, the panel acknowledged that given his personal circumstances, Mr Villaruel has not had the opportunity to work as a registered nurse since the imposition of the original order and therefore has not been able to remediate his practice to address the regulatory concerns in his case. The panel also noted that there was no evidence of any contemporary training by Mr Villaruel in the areas of regulatory concern.

The panel took into account what Mr Villaruel detailed in his reflective piece as follows:

'In terms of training, I have been reading my old book and doing some research in the nearby Library on (Medical and Surgical Nursing, Dementia Awareness, Proper Communication and Medications dispensing.) I will try to read and research some more when I have the opportunity again to go in the Library.'

The panel were encouraged that Mr Villaruel has remained engaged and intends to return to practice when his personal circumstances permit. The panel also noted that Mr Villaruel has taken some steps to maintain and develop his nursing knowledge.

The last reviewing panel determined that Mr Villaruel was liable to repeat matters of the kind found proved. Today's panel has received no new information that would decrease the risk of repetition. In light of this, this panel determined that Mr Villaruel 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 Villaruel's fitness to practise remains impaired on the grounds of both public protection and in the wider public interest.'

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

'Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 18 months, which will come into effect on the expiry of the current order, namely at the end of 24 August 2022. The panel was satisfied that an order of this length would give Mr Villaruel an appropriate opportunity to return to nursing practice and demonstrate his remediation through compliance with the conditions. It considered the current conditions of practice order and determined that the conditions set out in that order 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 confine your nursing employment to a substantive post.*
- 2. You must not be involved in the administration or management of medication unless you are working at all times under the direct observation of a registered nurse until you have been signed off as competent by a workplace line manager, mentor or supervisor who is a registered nurse.*
- 3. 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.*

4. *You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan designed to address the concerns about the following areas of your practice:*
 - a. *Medication management and administration,*
 - b. *Record keeping,*
 - c. *Communication.*

5. *You must forward to the NMC a copy of your personal development plan within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.*

6. *You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every week to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.*

7. *You must tell the NMC within 7 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.*

8. *You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.*

9.
 - a. *You must within 7 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/contact details of the individual or organisation offering the post, employment or course of study.*
 - b. *You must within 7 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.*

10. 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 (9) 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; and
- 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 18 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 24 August 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 Mr Villaruel 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 Mr Villaruel'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 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 Villaruel's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mr Villaruel's had developing insight. At this meeting the panel received no new information and found that Mr Villaruel has not developed his insight since the last review.

In its consideration of whether Mr Villaruel has taken steps to strengthen his practice, the panel acknowledged that given his personal circumstances, Mr Villaruel has not had the opportunity to work as a registered nurse since the imposition of the original order and therefore has not been able to remediate his practice to address the regulatory concerns in his case. The panel also noted that there was no evidence of any contemporary training by Mr Villaruel in the areas of regulatory concern.

The last reviewing panel determined that Mr Villaruel was liable to repeat matters of the kind found proved. Today's panel has received no new information that would decrease the risk of repetition. In light of this, this panel determined that Mr Villaruel 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 Villareul's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mr Villareul'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.

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 Villareul'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 Villareul'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 conditions of practice order on Mr Villareul'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 next considered the continuation of the current conditions of practice order.

The panel noted that Mr Villareul has not been able to comply with the conditions of practice order since the order was imposed in 2020 due to his personal circumstances that do not enable him to work.

The panel concluded that a conditions of practice order is no longer practicable in this case as Mr Villareul is not currently able to return to practice due to his personal circumstances.

The panel strongly considered allowing the order to lapse, however, it noted that there has been no clear indication that you no longer wish to return to practice. In those circumstances, it concluded that this option was not available to the panel at this time.

The panel determined therefore that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. The panel also determined that a suspension order for a period of six months would provide Mr Villareul with an opportunity to consider his options. It considered this to be the most appropriate and proportionate sanction available.

The panel considered the imposition of a striking-off order but concluded that this would be entirely inappropriate and disproportionate in the circumstances of this case.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely the end of 24 February 2024 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- A clear indication of Mr Villareul's intentions in respect of returning to practice.

This will be confirmed to Mr Villareul in writing.