

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

**Substantive Order Review Hearing
Tuesday, 12 March 2024**

Virtual Hearing

Name of Registrant: Alison Walker

NMC PIN 11H0306E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing - July 2011

Area of Registered Address: England

Type of case: Misconduct

Panel members: David Lancaster (Chair, lay member)
Esther Craddock (Registrant member)
Caroline Taylor (Lay member)

Legal Assessor: John Bromley-Davenport

Hearings Coordinator: Audrey Chikosha

Nursing and Midwifery Council: Represented by Rosalind Young, Case Presenter

Miss Walker: Present and not represented at the hearing

Order being reviewed: Conditions of practice order (24 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (18 months) to come into effect at the end of 6 April 2024 in accordance with Article 30 (1)**

Decision and reasons on application for hearing to be held in private.

At the outset of the hearing, Ms Young, on behalf of the Nursing and Midwifery Council (NMC) made a request that this case be held partly in private [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You supported the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session as and when any reference to [PRIVATE] is made [PRIVATE].

Decision and reasons on review of the substantive order

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

This order will come into effect at the end of 6 April 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive conditions of practice order originally imposed for a period of 18 months by a Fitness to Practise Committee panel on 4 September 2019. This was first reviewed on 24 February 2021 when the conditions of practice order was confirmed for a further 12 months. On 21 February 2022 the order was reviewed again and confirmed for a further 24 months.

The current order is due to expire at the end of 6 April 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 20 August 2015, in relation to the administration of Fentanyl infusion:*
 - a. *Administered this via an intravenous line rather than a subcutaneous line;*
 - b. *Administered this without a second check or countersignature by another registered nurse, or a doctor.*
2. *On 21 September 2015 attached the wrong identification labels to blood samples taken from two different patients.*
3. *On 20 November 2016 administered Tazocin to the wrong patient.*
4. *On 23 July 2017 dispensed and gave a patient 3 x 3mg tablets of Warfarin instead of the 3 x 1mg prescribed.*

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

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

'The panel took into account that Miss Walker has not practised as a nurse since March 2019 and therefore the conditions of practice have yet to be engaged. The panel also noted that there has been no evidence of any steps having been taken by Miss Walker regarding insight or remediation. The panel acknowledged that both of these may have been due to her health condition.

The last reviewing panel determined that Miss Walker was liable to repeat matters of the kind found proved. In light of the information before this

reviewing panel, it determined that there remains a risk of repetition of the 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.

[PRIVATE]:

'[PRIVATE]'

[PRIVATE]

For these reasons, the panel finds that Miss Walker's fitness to practise remains impaired.'

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

'The panel next considered whether imposing a further conditions of practice order on Miss Walker's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

[PRIVATE].

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest. In this case, the conditions previously imposed remained proportionate, measurable and workable and would be sufficient to protect patients and also satisfy the 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 Miss Walker's case. Further, it took into account an email from Miss Walker to the NMC, dated 17 February 2022, wherein she tells the NMC that she intends on returning to nursing once her health improves.

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 6 April 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. At any time that you are administering medication you must place yourself and remain under the direct supervision of a registered nurse;*
- 3. 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. Accuracy of record keeping*
 - b. Medicines management and administration*
- 4. You must meet with your line manager, mentor or supervisor (or their nominated deputy) once a month to discuss the standard of your*

performance and your progress towards achieving the aims set out in your personal development plan;

- 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 send a report 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 the NMC prior to any review hearing or meeting;*
- 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. You must within 7 days of accepting any post of 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;*
- 10. You must within 7 days of entering into any arrangements required by these conditions of practise provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement;*
- 11. 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 (10) 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 a course (at the time of application).*

The period of this order is for 24 months. The panel determined that 24 months would be appropriate in order to allow Miss Walker to address her health condition and address these conditions of practice to enable her to return to nursing.'

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, your written submissions and oral evidence you gave today under oath.

The panel has taken account of the submissions made by Ms Young. She reminded the panel that the burden is on you to show that your fitness to practise is no longer impaired. She cited *Abraham v GMC* [2008] which states that the persuasive burden is on the

practitioner to demonstrate that they have fully acknowledged why their past professional performance was deficient and how through insight, application, education, supervision or other achievements these past impairments have now been addressed. Ms Young also reminded the panel that its role today is to protect the public and meet public interest and declare and uphold the standards of conduct and performance in the nursing profession.

Ms Young invited panel to consider all documents before it in its review and assessment of your current impairment and fitness to practise. She acknowledged that there is new information today before the panel that you have provided which the previous panel did not have. Although you had largely complied with the recommendations put forward by the previous reviewing panel, you had not yet shown any evidence of safe work-based practice.

Ms Young then asked the panel to hand over to you to provide evidence under oath to allow you to expand further on the provided documentation before she concluded with the NMC's submissions.

You firstly explained to the panel that in relation to the first concern, there were two of you that handled the Fentanyl. You explained that you had used the electronic prescribing and medication administration (EPMA) system and forgot to get your colleague to sign and that is why it appeared that you administered the controlled drug on your own. You maintain that this is the true story however you acknowledge that it was your responsibility to make sure it was done correctly and therefore take full responsibility for the error.

You also informed the panel why you had not previously attended any review hearings. You told the panel that during the pandemic your email address changed, and the paperwork had been sent to the email address that had previously been registered with the NMC. [PRIVATE].

By way of addressing the details of the background to this matter, you told the panel that you received a verbal warning for your first medication mistake, a written warning for the second, a formal warning for the third along with 18 months' probation and it was during this probation that the fourth error occurred which resulted in the NMC referral.

[PRIVATE]. You submitted that you were devastated at what had happened and realised the seriousness of your misconduct and the risk to life it could have caused which is something that still sits with you today.

[PRIVATE]

In response to questioning, you informed the panel that between March 2019 and January 2024 you completed an IV medication course and other training courses but have not yet put this learning into practice because you have not been employed as a nurse.

You told the panel that you haven't worked as a registered nurse since March 2019 and that after the review hearing of 24 February 2022 you have had two job interviews for nursing positions. You said that one of the employers was interested but the location was too far away for you to take the role. You said that the other didn't take you on and that you suspected it was due to your current conditions of practice order.

You also submitted that you had tried to enrol on to a return to practise course. You said that you applied to three different institutions in 2022 and could not secure a place because you were still on the register and two of the institutions said they could not accommodate the supervision requirements in your current conditions of practice order while on placement.

[PRIVATE]

[PRIVATE]

You submitted that you do want to return to practice. However, you currently find it difficult to secure employment that will take you on a flexible basis and is willing to help meet your conditions of practice order. You said that you would like to undertake as much additional training as possible as you have not worked as a registered nurse for a long time and for your own general confidence.

You informed the panel that at any new place of employment you will have to be supervised in the initial stages while administering medication. As such you asked the

panel to consider removing the supervision requirement in your current conditions of practice order to remove this barrier as you look for employment. You told the panel that now you have worked on yourself and undertaken additional training, you feel ready to return to employment.

After hearing your evidence, Ms Young submitted that the recommendations set by the previous panel have in part been met. She referred the panel to your reflective piece and submitted that it shows significant insight and a detailed reflection on what you have learned in the last five years in relation to the misconduct.

However, Ms Young submitted that as you have yet to return to practise you have not had an opportunity to demonstrate this insight and additional learning in practice. She also submitted that you also have not had an opportunity to return to work as a registered nurse while abstaining from alcohol.

Ms Young submitted that the panel does not have sufficient information before it today that you are now safe to work unrestricted as there is no evidence of prolonged safe practise. She acknowledged that you have submitted multiple training and CPD certificates however maintained that the difficulty is for this to be put into practice.

Ms Young next addressed your current employment status. She submitted that you have not been actively applying for registered nursing roles since 2022 and so it is currently unknown as to whether the flexibility you seek can be accommodated by employers or not.

Ms Young noted that you evidently want to return to practice. She submitted that you are still in the infancy of remediation. She submitted that further work is required by you to find employment and engage with the conditions of practice order.

Ms Young therefore submitted that your impairment has yet to be sufficiently addressed to dispel any public safety and public interest concerns.

Ms Young submitted that letting the order expire would be inappropriate in view of the seriousness of the charges found proved and would not be proportionate nor in the public

interest. She also submitted that a caution order would be inappropriate for the same reasons.

Ms Young therefore invited the panel to extend the order after its expiry on 6 April 2024. She submitted that there is a need to protect the public from risk of harm. Furthermore, Ms Young submitted that at the substantive hearing, you recognised that you would need supervision while administering medications. She submitted that while there is evidence of training, there is no evidence of sustained safe practise to illustrate a strengthening of your practise. She also submitted that there is no evidence that you have applied for any nursing roles since 2022 and therefore there is no evidence that the conditions of practice order pose a barrier to you securing employment.

Ms Young next asked the panel to consider the public interest. She invited the panel to consider how a well-informed member of public would feel to hear that a registered nurse with these charges is allowed to work unrestricted. She submitted that the public would lose confidence in the profession and the NMC as regulator.

[PRIVATE]

Ms Young invited the panel to extend the order for either 12 or 18 months or as long as the panel think is justified to give you an opportunity to find employment, apply the conditions and demonstrate a safe period of practice before it comes to a reviewing panel.

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 insufficient insight. At this hearing the panel noted that you have engaged with the recommendations of the previous panel. It had sight of your reflective statement which demonstrates a high level of insight

and reflection with regards to the root causes of the incidents and the steps you have taken to improve your practice and your personal health and circumstances.

[PRIVATE]

The last reviewing panel determined that you were liable to repeat matters of the kind found proved. Today's panel has received three training certificates from courses you have completed that directly relate to the concerns. However, whilst the panel acknowledged the level of insight you have shown, it bore in mind the fact that you have not practised as a registered nurse since March 2019. As such, the panel had no information before it today to demonstrate that your training and insight has been put into practice in a clinical setting. Therefore, the panel could not be satisfied that you are ready to work kindly, safely and professionally without restriction and 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 further 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 engaging with the process and recommendations provided by the previous reviewing panel. However, it noted that you have not been able to comply with the conditions of practice order due to your current employment status. The panel noted that you have not worked as a registered nurse since March 2019 and have not made any job applications for a registered nurse position since 2022.

[PRIVATE]. It noted that you said today that it is difficult to find employers that can accommodate both the conditions of practice order and your flexible working arrangements. However, the panel had no information before it today to demonstrate the current conditions of practice order is a barrier to you finding employment.

The panel next considered the current conditions of practice order and determined that a variation of condition 2 would be appropriate. It had sight of the training certificates you provided and noted that you are eager to return to practice, but direct supervision when administering medication can be difficult to arrange particularly if you were to work as a bank or agency nurse. It therefore concluded that direct supervision should only be required until you are signed off as competent to administer medication independently by another registered nurse.

The panel was of the view that a further varied conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that the concerns raised were remediable. In this case, there are conditions which 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 because they would not allow you to demonstrate safe practice.

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 6 April 2024. 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. At any time that you are administering medication you must place yourself and remain under the direct supervision of a registered nurse until you are signed off as competent in medicine management by another registered nurse at your place of work.
3. 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. Accuracy of record keeping
 - b. Medicines management and administration

4. You must meet with your line manager, mentor or supervisor (or their nominated deputy) once a month to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan;
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 send a report 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 the NMC prior to any review hearing or meeting;
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. You must within 7 days of accepting any post of 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;
10. You must within 7 days of entering into any arrangements required by these conditions of practise provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement;
11. 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 (10) 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 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 6 April 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:

- Evidence of continued engagement
- Testimonials from any of your employers
- A reflective piece
- Records of any job applications and their outcomes made between now and the next review.
- Records of any training courses completed.

This will be confirmed to you in writing.

That concludes this determination.