

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

**Substantive Order Review Hearing
Friday 3 May 2024**

Virtual Hearing

Name of Registrant: Agnieszka Wroblewska

NMC PIN 14K0348C

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – November 2014

Relevant Location: Warrington

Type of case: Misconduct

Panel members: Caroline Jones (Chair, registrant member)
Jacqueline Metcalfe (Registrant member)
Ray Salmon (Lay member)

Legal Assessor: William Hoskins

Hearings Coordinator: Brenda Eze

Nursing and Midwifery Council: Represented by Hena Patel, Case Presenter

Miss Wroblewska: Present and represented by Mikhael Puar of Counsel, on behalf of the Royal College of Nursing (RCN)

Order being reviewed: Suspension order (6 months)

Fitness to practise: Not Impaired

Outcome: **Order to lapse upon expiry in accordance with Article 30 (1), namely 11 June 2024**

Decision and reasons on review of the substantive order

The panel decided to allow the current order to lapse upon its expiry at the end of 11 June 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 6 months by a Fitness to Practise Committee panel on 10 November 2023.

The current order is due to expire at the end of 11 June 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:

- 1) *'On 22 May 2020 refused to refer Patient A, who had a deteriorating wound, to a Tissue Viability Nurse.*
- 2) *Between 22 May 2020 and 3 June 2020 did not follow the treatment plan prescribed for Patient A, by a Tissue Viability Nurse.*
- 3) *On 25 May 2020, without clinical justification, changed the treatment plan prescribed by a Tissue Viability Nurse for Patient A, and recorded a different treatment plan for Patient A.*
- 4) *Between 13 July 2020 and 20 July 2020 failed to adhere to the Covid-19 infection control measures, in that you allowed family visits in respect of Patient B to take place at the Home when they were prohibited.*
- 5) *On 20 November 2021 you inaccurately told Person A that you had not been subject to an NMC referral or investigation.*

- 6) *On 24 December 2021 you inaccurately told Person B that you were not aware of an NMC investigation into your fitness to practise.*
- 7) *Your conduct at charges 5 and /or 6 above was dishonest in that you intended to mislead your prospective employer about the status of your fitness to practise.*

The original panel determined the following with regard to impairment:

'The panel took into consideration that, whilst there was no known harm caused to patients, there was a risk of harm as a result of your misconduct. The panel finds that your misconduct has breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty serious.

Regarding insight, the panel considered your reflective statements and the oral statement that you made during the hearing. It noted that it did not have an opportunity to ask you any questions. It noted that you are remorseful for your past failings regarding charges 1-3 and have stated that you would only work within the scope of your practise in future. It noted you said that you would raise any issues which you disagreed with in a patient's treatment plan. However, the panel took into account that you have not addressed why what you did was wrong, in letting patient's families in during the 'red' lockdown during the COVID-19 pandemic, and how this conduct impacts negatively on the reputation of the nursing profession. The panel concluded that you have developing insight.

The panel was satisfied that the clinical failings in this case are capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. It noted that whilst you completed some training when the clinical concerns were first raised at the Home, the panel did not have any

evidence of this training or any training you have completed since this incident. The panel took into account that it did not have any evidence of steps you have taken to remediate the clinical concerns identified or any practical work experience you have done since. It noted that your CV did not list any details of employment undertaken since 2020.

The panel considered the oral testimony provided by Colleague 4 who is a registered nurse. It noted that you had previously worked with Colleague 4 at three different care homes. She is also a family friend. It noted that Colleague 4 did not provide any specific detail about your nursing practice or training, and it concluded that she did not say anything to convince the panel that you would not pose a risk to future patients under your care.

The panel also considered the revalidation form from Colleague 5, a Care Home Manager at Parklane Care Home and your line manager. The panel noted that it was not clear if you had worked with Colleague 5 in a permanent role or as an agency nurse. It noted that she had selected boxes to confirm she had seen evidence that you have worked the minimum number of hours required for your nursing registration, that you have completed 35 hours of CPD relevant to your nursing practice and she has seen evidence that you have completed participatory learning relevant to your practice. She provided positive observations of your workplace practice. The panel noted that it did not have the benefit of seeing any of the evidence to which Colleague 5 referred.

The panel is of the view that there is a risk of repetition based on the lack of evidence of strengthened practise regarding your failings relating to your clinical practice. The panel was of the view that your clinical failings were also attitudinal in nature as you knew what steps should be taken but you decided to follow your own judgment. The panel noted you did this by changing the instructions on the wound care plan for Patient A and overriding the Home's policy in relation to admitting patient's families into the Home during the COVID-19 lockdown. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required as you had deliberately told your employer that you were not subject to an NMC investigation when you knew that you were. The panel noted that in your reflective statements you did not address this particular misconduct. The panel took into account that your dishonest conduct failed to promote professionalism, trust and honesty expected by members of the public.

Further, the panel was of the view that patients should be reassured that they can trust a nurse to follow the treatment plan provided for them and it took into account that your conduct as outlined in the charges undermined this position.

The panel therefore concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a suspension order may be appropriate where some of the following factors are apparent:

- A single instance of misconduct but where a lesser sanction is not sufficient;*
- No evidence of harmful deep-seated personality or attitudinal problems;*
- No evidence of repetition of behaviour since the incident;*
- The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel was satisfied all of the sanction guidance above was applicable in your case. The panel did not find that there was any pattern of behaviour in your misconduct and accepted that the three concerns addressed in the charges to be unrelated to each other and each were single instances of the failing. It has been suggested that there have been attitudinal issues in the case, but the panel do not accept that these issues represent deep seated attitudinal concerns. The panel also noted the evidence before it of your developing insight and noted that in the more than two years that have passed since the allegations there has been no repetition of the behaviour.

The panel did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Accordingly, the panel concluded that your misconduct was not fundamentally incompatible with remaining on the register. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

In making this decision, the panel carefully considered the submissions of Ms Butler in relation to the sanction that the NMC was seeking in this case. However, the panel considered that in carefully reviewing the sanction guidance and taking into account the insight you have already demonstrated, that you were not a registered nurse who should be removed from the register. The panel was of the view that a suspension will give you a suitable time frame to strengthen your practice and continue to deepen and demonstrate your insight into the concerns.

In accordance with this, the panel determined that a suspension order for a period of six months was appropriate in this case to mark the seriousness of the misconduct and give you sufficient time to demonstrate your efforts to return to practice without restriction.

At 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:

- Your continued engagement*
- Testimonials from your current employer and any volunteer or paid work you undertake during your suspension*
- Evidence of targeted professional development, including documentary evidence of completion of any courses you undertake*
- A further reflective piece which continues to explore the consequences of your admitted failings in relation to the overarching objectives of the NMC.'*

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, and your on-table bundle. It has taken account of the submissions made by Ms Patel on behalf of the NMC. Ms Patel took the panel through the background of the case and made reference to documents in the on-tables that suggest developing insight to your misconduct. Ms Patel made reference to completed training that address charges 1, 2 and 3 and submitted that there is evidence to your professional development.

Ms Patel made reference to your reflective account where you gave insight to your misconduct by allowing residents' family members to enter the care home when it was in red lockdown during COVID.

Ms Patel submitted that there is little information provided today in relation to charges 5, 6 and 7 which was found proved by way of admission in that you did not tell your employer that you were subjected to an NMC investigation and therefore, your fitness to practice remains impaired. Ms Patel acknowledged that the previous panel found the attitudinal concerns relating to dishonesty was not deep seated, but she submitted that little has been done to remediate your dishonesty. Ms Patel submitted that you joined Florence (the agency) on 23 May 2023, however you did not declare your NMC investigations to your employer until November 2023. Ms Patel submitted that there have been dishonesty concerns previously regarding misleading your prospective employer and one would like to think that a registrant being investigated by the NMC for dishonesty would not wish to repeat such misconduct. Ms Patel therefore submitted that there is a risk of repetition and a risk to the public.

Ms Patel submitted that the current suspension order should be extended for a further 6 months to ensure that the attitudinal misconduct relating to dishonesty is rectified. However, if the panel were not in agreement, then they could consider a conditions of practice order to ensure that you have the opportunity to apply your completed training in a clinical setting and practise safely.

Ms Patel submitted that not imposing any order would not be appropriate given the risk to the public and that there is a public interest. She further submitted that a strike off order at this stage would be inappropriate, given your compliance with undertaking training and your developing insight.

The panel also had regard to your submissions from Mr Paur. Mr Paur made reference to your CV and submitted that you qualified in Poland as a nurse in 2011 and worked in the UK since 2014 and 2015 as a registered nurse. He submitted that this is your first and only referral to a regulator in any country.

Mr Paur submitted that the panel should allow the order to lapse and to allow you to return to practice without any restrictions. He submitted the previous panel's decision was a good start to inform this panel what action to take place today. In regards to the dishonesty concerns, Mr Paur noted to the panel that the previous panel at the substantive hearing found the dishonesty to be at the lower end of seriousness. Mr Paul submitted that you accept that your misconduct was made fully and freely at the first opportunity and provided a reflective piece accepting the sanction. He further submitted that in your reflective piece, you note the suspension has been positive in allowing you to improve your practice and to also reflect on your misconduct.

Mr Paur submitted that you have completed the training, which include CPD certificates from 15 April 2024 targeting the charges against you. Mr Paul made reference to the positive testimonials and your full engagement with the NMC proceedings. Mr Paul also submitted that you have gained further insight and perspective by working as a senior healthcare assistant and told the panel that working in a different role has had a significant impact on your attitude towards work.

Mr Paur submitted that *[PRIVATE]*.

Mr Paur submitted that the 6 months suspension order period though appropriate for the protection of the public and is in the public interest, has been fulfilled by the suspension order.

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 original panel found that you had developing insight. At this hearing your reflective piece demonstrated an understanding of how your actions put the patient at a risk of harm, that you demonstrated an understanding of why what you did was wrong, and how this impacted negatively on the reputation of the nursing profession.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account the extensive training you have undertaken, which address the misconduct found proved in charges 1, 2, and 3. The panel also took into account your reflective piece which described the misconduct and your insight in relation to that.

The original panel determined that you were liable to repeat matters of the kind found proved. Today's panel had received your training certificates, testimonials and your reflective piece. The panel determined that you are no longer impaired from a clinical aspect and took into account your up-to-date training that addresses the misconduct. The panel noted your outstanding reflective piece that addressed the attitudinal concerns regarding dishonestly and the importance of listening to senior nurses. The panel are aware that it is more difficult to evidence strengthened practice in relation to dishonesty but note your explanation of the circumstances in which the dishonesty had occurred and that you have learned from this misconduct. The panel also took into account the previous panel's conclusion that the dishonesty was at the lower end of seriousness. The panel also bore in mind the number of very positive references from senior nurses.

The panel concluded that the risk of repetition is low.

The panel therefore concluded there is no current impairment.

In light of this, this panel determined that you are not liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is not 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 not required.

For these reasons, the panel finds that, although your fitness to practise was impaired at the time of the incidents, given all of the above, your fitness to practise is not currently impaired.

In accordance with Article 30(1), the substantive suspension order will lapse upon expiry, namely the end of 11 June 2024.

This will be confirmed to you in writing.

That concludes this determination.