

**Nursing and Midwifery Council  
Fitness to Practise Committee  
Substantive Order Review Hearing  
Friday, 6 December 2019**

Nursing and Midwifery Council  
2 Stratford Place, Montfichet Road, London, E20 1EJ

<b>Name of registrant:</b>	Peter Alan Angell
<b>NMC PIN:</b>	05K0568E
<b>Part(s) of the register:</b>	Registered Nurse – Sub Part 1 Mental Health Nursing – 4 August 2006
<b>Area of registered address:</b>	Essex, England
<b>Type of case:</b>	Misconduct and Lack of Competence
<b>Panel members:</b>	Jennifer Laing (Chair, Registrant member) Elaine Biscoe (Registrant member) Dale Simon (Lay member)
<b>Legal Assessor:</b>	James Holdsworth
<b>Panel Secretary:</b>	Oliver Stephens
<b>Nursing and Midwifery Council:</b>	Represented by Feryal Ertan, Case Presenter
<b>Mr Angell:</b>	Not present nor represented in absence
<b>Order being reviewed:</b>	Suspension order (3 months)
<b>Outcome:</b>	Striking-off order to come into effect on 12 January 2020 in accordance with Article 30 (1)

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Mr Angell was not in attendance and that the Notice of Hearing had been sent to Mr Angell's registered address by recorded delivery and by first class post on 5 November 2019.

The panel had regard to the Royal Mail 'Track and Trace' printout which showed the Notice of Hearing was collected from a delivery office on 11 November 2019. It was signed for in the name of 'ANGELL'.

The panel took into account that the Notice of Hearing provided details of the review hearing including the time, dates and venue of the hearing and, amongst other things, information about Mr Angell's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

Ms Ertan, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended (the Rules).

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Angell has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

## **Decision and reasons on proceeding in the absence of Mr Angell**

The panel next considered whether it should proceed in the absence of Mr Angell. The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*'.

Ms Ertan, on behalf of the NMC submitted that there had been no response by Mr Angell to notice of today's hearing. Further, Ms Ertan submitted that there had been total disengagement by Mr Angell with the NMC and any adjournment was unlikely to result in his attendance at a future date.

The panel considered all of the information before it, together with the submissions made by Ms Ertan, on behalf of the NMC. The panel accepted the advice of the legal assessor.

The panel decided to proceed in the absence of Mr Angell. In reaching this decision, the panel has considered the submissions of Ms Ertan and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones and General Medical Council v Adeogba [2016] EWCA Civ 162* and had regard to the overall interests of justice and fairness to all parties. It noted that there had been no adjournment application made by Mr Angell and that there is no reason to suppose that adjourning the proceedings would secure his attendance at a future date. The panel agreed that Mr Angell had disengaged with the NMC. The panel also noted that it was in the public interest to proceed in the absence of Mr Angell and that the expeditious disposal of this matter outweighed Mr Angell's right to attend.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mr Angell.

### **Decision and reasons on review of the current order**

The panel decided to make a striking-off order. This order will come into effect at the end of 12 January 2020 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the fifth review of a substantive order under Article 30(1) of the Nursing and Midwifery Order 2002. This order was originally imposed by a panel of the Conduct and Competence Committee on 19 October 2015. That panel imposed a conditions of practice order for a period of 12 months. The conditions of practice order was then replaced with a suspension order for a period of 12 months at a substantive order

review meeting on 3 October 2016. On 13 October 2017, a review meeting panel replaced the suspension order with a conditions of practice order for a period of 12 months. The third reviewing panel on 7 September 2018 replaced the conditions of practice order with a suspension order for a period of 12 months. On 3 September 2019, the most recent reviewing panel extended the current suspension order for a further period of 3 months. The current order is due to expire at the end of 12 January 2020.

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, whilst employed by North Essex Partnership University NHS Foundation Trust (“the Trust”) as a Band 5 Registered Mental Health Nurse, between March 2011 and June 2014, and in relation to medication administration, failed to demonstrate the standards of knowledge, skill and judgement required to practise without supervision in that you:*

1. *On 12/13 December 2013, administered 120mg Phenobarbital to Patient A when he was prescribed 60mg Phenobarbital;*
2. *On 1 May 2014, during the lunchtime medication round, you:*
  - 2.1 *Did not have adequate or any structure in place in order to keep track of which patients had been given their medication and which had not;*
  - 2.2 *Did not fully check one or more medication cards prior to dispensing medication;*
  - 2.3 *Did not keep the dispensed medication with its respective medication chart;*
  - 2.4 *Did not label a medication pot which contained pre-dispensed medication; **NOT PROVED***
  - 2.5 *Did not prioritise giving medication to patients who could come to collect their medication first; **NOT PROVED***

3. On 1 May 2014, during the evening medication round, you:
  - 3.1 *Did not have adequate or any structure in place in order to keep track of which patients had been given their medication and which had not;*
  - 3.2 *Did not label a medication pot which contained pre-dispensed medication; **NOT PROVED***
  - 3.3 *Did not prioritise the dispensing of PRN medication for Patient B's agitation, as required;*
  - 3.4 *Prior to dispensing PRN Lorazepam did not conduct the necessary checks to ascertain whether this medication could be administered to Patient B;*
  - 3.5 *Prepared insulin for an unidentified patient without checking her blood sugar levels;*
  - 3.6 *Did not fully check one or more medication cards prior to dispensing medication;*
4. On 2 May 2014, during the lunchtime medication round, you:
  - 4.1 *Did not have adequate or any structure in place in order to keep track of which patients had been given their medication and which had not;*
  - 4.2 *Did not fully check medication cards for allergies and/or one off medication doses;*
  - 4.3 *Did not know what Levomopromazine would be dispensed for; **NOT PROVED***
5. On 15 May 2014, during the lunchtime medication round, you:
  - 5.1 *Did not have adequate or any structure in place in order to keep track of which patients had been given their medication and which had not;*
  - 5.2 *Did not prioritise giving medication to patients who could come to collect their medication first; **NOT PROVED***

- 5.3 *Did not check whether an unidentified patient's depot injection needed to be administered once this query had been identified to you by [Ms 8]; **NOT PROVED***
6. *On 28 May 2014, during the lunchtime medication round, you:*
- 6.1 *Did not have adequate or any structure in place in order to keep track of which patients had been given their medication and which had not;*
- 6.2 *Did not conduct an adequate assessment of Patient B's need for PRN medication before preparing to administer 1mg Lorzaepam;*
7. *On 28 May 2014, during the lunchtime medication round, and in relation to Patient C's complaint of chest pains, responded inadequately in that you:*
- 7.1 *Did not administer Patient C's GTN spray until prompted;*
- 7.2 *Did not check Patient C's vital signs until prompted;*
8. *On 28 May 2014, during the lunchtime medication round and in relation to Patient A, you:*
- 8.1 *Prepared to dispense Patient A's medication without checking to see if he had already been given his medication to self-administer;*
9. *On 28 May 2014, during the evening medication round you:*
- 9.1 *Did not have adequate or any structure in place in order to keep track of which patients had been given their medication and which had not;*
- 9.2 *Did not check whether Patient B's stock of ibuprofen liquid had been delivered to the Ward, prior to preparing to record "unavailable" as the reason for not administering this medication.*
- 9.3 *Did not take any or appropriate steps to manage Patient D's need for insulin prior to preparing to record 'omitted' on his medication chart.*

*That you, whilst employed by North Essex Partnership University NHS Foundation Trust (“the Trust”) as a Band 5 Registered Mental Health Nurse between March 2011 and June 2014:*

*10. On 16 December 2013, assisted in the administration of medication, contrary to the management instruction given to you by [Ms 5].*

*And in light of the above, your fitness to practise is impaired by reason of your lack of competence in relation to charges 1-9 and misconduct in relation to charge 10.”*

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

*“The panel considered whether Mr Angell’s fitness to practise remains impaired. In deciding this, the panel had careful regard to what, if anything, had changed since the original finding of impairment which might enable it to conclude that Mr Angell’s fitness to practice is no longer impaired.*

*In making its decision, this panel noted that there was no evidence placed before it today that would enable it to conclude that Mr Angell’s fitness to practice is no longer impaired. Further, there was no evidence before the panel to suggest that Mr Angell has developed any further insight and has yet remedied his practice in relation to the specific concerns relating to the his lack of competence and misconduct.*

*In addition, the panel had regard to Mr Angell’s email correspondence dated 16 August 2019, in that he stated:*

*“After a lot of thought, I really just can’t see me returning to nursing... I have been debating how I could impress this council and get my career re-started. But it’s not realistic. I would never be able to cope. Please tell them to cross my off the register, it’s for the best.”*

*The panel had regard to the NMC case officer’s advice, stating:*

*“Thank you for responding to me today and letting me know your position. I am sorry you feel that you won’t be able to return to nursing, and can imagine it may not be an easy decision to take.*

*If you feel this would be the right outcome from your review meeting, I'd recommend taking a look through the following list of documents – if you were able to provide any of these (even just the last two), the panel might be more likely to take this decision. Please let me know if you're intending to send anything else (you don't have to) – I can always ask that your review is put on hold for perhaps a few days to a week, if you need more time.*

- *Evidence of new employment (or that you are seeking employment in a new field)*
- *Letters from medical professionals evidencing a long term health condition that would prevent you from returning to work*
- *Documents to show you have retired (such as pension payslips)*
- *A signed declaration stating that you will not apply for readmission to the register for at least 5 years*
- *A detailed statement clearly setting out your current situation and your future intentions focusing specifically on work as a registered nurse or work in any other area which does not require registration with the NMC.*

*I should let you know that if you were to decide to re-join the register after this point, you would need to be able to prove that your fitness to practise was no longer impaired.”*

*Mr Angell has not corresponded further with the NMC.*

*In all the circumstances, the panel could not conclude that Mr Angell has addressed his lack competence and/or misconduct. It has therefore found current impairment on the grounds of public protection. The panel considered that a finding of impairment on public interest grounds was required to declare and uphold proper standards or performance and conduct so as to maintain public confidence in the profession and in the regulatory process.”*

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

*“The panel first considered whether to take no action or to impose a caution order, but concluded that these would not protect the public and were inappropriate in view of the risk of repetition identified. The panel decided that it would be neither proportionate nor in the public interest to take no further action or to impose a caution order.*

*The panel next considered the imposition of a conditions of practice order. However, the panel considered that the new information before it indicates some ambivalence on Mr Angell’s part as to whether he wishes to remain on, or be removed from the register. In the light of this, the panel was not satisfied that it could formulate workable conditions that would be sufficient to protect the public. As such, the panel concluded that a conditions of practice order was not practicable, appropriate or a proportionate response to the concerns highlighted in Mr Angell’s practice.*

*The panel therefore determined that a further period of suspension is the only appropriate sanction available to safeguard the public and satisfy the wider public interest given that a risk of repetition and harm remains in this case.*

*The panel concluded that a further three month suspension order would afford Mr Angell adequate time to further develop his insight and remediation, and afford him time to give further consideration as to whether wishes to proceed with his nursing career or bring it to an end.*

*The panel then went on to consider whether a striking-off order would be necessary but it concluded that this order was not appropriate and would be disproportionate, as the public interest would be sufficiently protected and maintained by a further suspension order at this stage.*

*This panel further decided that a future panel reviewing Mr Angell’s case may be assisted by the following:*

- *A clear statement from Mr Angell as to his intentions regarding his nursing career.*

- *Mr Angell providing the information set out in the NMC case officer's email of 16 August 2019, namely:*
  - *Evidence of new employment (or that you are seeking employment in a new field)*
  - *Letters from medical professionals evidencing a long term health condition that would prevent you from returning to work*
  - *Documents to show you have retired (such as pension payslips)*
  - *A signed declaration stating that you will not apply for readmission to the register for at least 5 years*
  - *A detailed statement clearly setting out your current situation and your future intentions focusing specifically on work as a registered nurse or work in any other area which does not require registration with the NMC.*

*And/or:*

- *His attendance at any future hearing.*
- *Current references and testimonials, including from Mr Angell's current employer."*

### **Decision and reasons on current impairment**

The panel has considered carefully whether Mr Angell'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. It has noted the decision of the last panel. However, it 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 a supplementary document consisting of emails from an NMC case officer to Mr Angell from 11 November 2019 to 3 December 2019. The panel noted that there has been no response to these emails by Mr Angell.

Ms Ertan outlined the background to the case. She submitted that there had been total disengagement by Mr Angell with the NMC and that there was no new evidence before the panel which would negate a current finding of impairment. She outlined that Mr Angell had not been forthcoming, had not provided any new information, nor shown any evidence of insight or remediation. Ms Ertan therefore submitted that there is still a risk of repetition and harm to patients and invited the panel to make a finding of impairment on the grounds of public protection and public interest.

Ms Ertan submitted that in regards to sanction, this was a matter for the 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 Mr Angell's fitness to practise remains impaired. In deciding this, the panel had careful regard to what, if anything, had changed since the original finding of impairment which might enable it to conclude that Mr Angell's fitness to practice is no longer impaired.

Today's panel noted that it had not received any new information in relation to Mr Angell's practice. The panel therefore decided that a finding of current impairment on public protection grounds remains necessary.

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 Angell's fitness to practise remains impaired.

## **Decision and reasons on sanction**

Having found Mr Angell'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 or to impose a caution order, but concluded that this would not protect the public and was inappropriate in view of the risk of repetition identified. The panel decided that it would be neither proportionate nor in the public interest to take no further action or to impose a caution order.

The panel next considered the imposition of a conditions of practice order. The panel considered the information before it which was also before the last reviewing panel; that Mr Angell does not intend to return to practise as a nurse. In view of the registrant's intention not to return to nursing, the panel considered that a conditions of practice order would not be workable and would serve no useful purpose. The panel also noted that Mr Angell had failed on previous occasions to comply with a conditions of practice order.

The panel next considered imposing a further suspension order. The panel noted that there was no evidence before it today from Mr Angell of any insight or steps towards remediation since the last review. The panel noted that Mr Angell had disengaged with the NMC and these proceedings. The panel concluded that in these circumstances a further period of suspension would not serve any useful purpose and significant evidence would be required to show that Mr Angell is no longer a risk to the public.

Accordingly, the panel concluded that this behaviour is incompatible with Mr Angell remaining on the NMC register. The panel determined that it was necessary to take action to prevent Mr Angell from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely, at the end of 12 January 2020 in accordance with Article 30(1).

This decision will be confirmed to Mr Angell in writing.

That concludes this determination.