

**Nursing and Midwifery Council
Fitness to Practise Committee
Substantive Hearing
Consensual Panel Determination**

31 May 2019

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

Name of registrant:	Ronela Petrila
NMC PIN:	16G0605C
Part(s) of the register:	Sub part 1 RN1: Adult Nurse (12 July 2016)
Area of Registered Address:	England
Type of Case:	Language/Misconduct
Panel Members:	Christopher Morrow-Frost (Chair, Registrant member) Catherine Cooper (Registrant member) Darren Shenton (Lay member)
Legal Assessor:	Susan Monaghan
Panel Secretary:	Aoife Kennedy
Ms Petrila:	Not present and not represented
Nursing and Midwifery Council:	Ben Wild, counsel, NMC Regulatory Legal Team.
Consensual Panel Determination:	Accepted
Facts proved:	All
Fitness to practise:	Impaired
Sanction:	Suspension Order for 6 months
Interim Order:	Interim Suspension Order for 18 months

Service of Notice of Hearing:

The panel was informed at the start of this hearing that Ms Petrila was not in attendance nor represented in her absence.

The panel was informed that notice of the substantive hearing was sent to Ms Petrila on 1 April 2019 via first class post and recorded delivery to his address on the NMC register. Royal Mail Track and Trace shows that notice was delivered to her registered address.

In the light of the information available, the panel was satisfied that notice had been served, as advised by the legal assessor, in compliance and accordance with Rules 11 and 34 of The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (The Rules).

Proceeding in absence:

The panel then considered whether to proceed in the absence of Ms Petrila. The panel was mindful that this was a discretion that must be exercised with the utmost care and caution.

Mr Wild, on behalf of the NMC, invited the panel to proceed in Ms Petrila's absence. He reminded the panel of the public interest in the expeditious disposal of NMC hearings and submitted that it was in the interests of justice to proceed in Ms Petrila's absence today. He drew the panel's attention to the introductory paragraph of the provisional CPD agreement which was signed by Ms Petrila on 29 May 2019, which stated:

“Miss Petrila is aware of the CPD hearing. She is represented by the Royal College of Nursing (“the RCN”). Miss Petrila does not intend to attend the hearing and is content for it to proceed in her and her representative's absence. Further, her RCN representative will be available via telephone on the date of the hearing should clarification on any point be required.”

The panel was satisfied that Ms Petrila had been properly notified of today's hearing and has signed the provisional CPD agreement confirming that neither her nor her representative would be attending the hearing. The panel noted the public interest in the expeditious disposal of NMC hearings. The panel also bore in mind that if it rejected the draft CPD proposed by the NMC and Ms Petrila, the matter would be referred for a full hearing.

Decision and reasons on application to amend the agreement

Mr Wild made an application to make two amendments to the agreement.

The first was to remove the words 'in which' from the end of paragraph 23. He submitted that this was a typographical error which does not make any difference to the meaning of the agreement.

The second amendment was to specify the length of the proposed interim order as 18 months in paragraph 40. Mr Wild told the panel that this had been agreed with Ms Petrila's representative in advance of today's hearing.

Mr Wild submitted that the proposed amendments would ensure clarity and that it would be fair and proportionate to allow the amendments.

The panel accepted the advice of the legal assessor.

The panel was satisfied that there would be no prejudice to Ms Petrila and no injustice would be caused to either party by the proposed amendments being allowed.

Consensual panel determination

Prior to this hearing, a provisional agreement of a consensual panel determination (“CPD”) was reached between the NMC and Ms Petrila. The agreement, which was placed before the panel, sets out Ms Petrila’s full admissions to the facts alleged in the charges, that her actions amounted to misconduct, and that her knowledge of English does not meet the level required to practice safely as a nurse. The agreement sets out that Ms Petrila’s fitness to practise is currently impaired by reason of her misconduct and by reason of her lack of knowledge of English. It is further stated in the agreement that an appropriate sanction in this case would be a 6 month suspension order with a review before expiry.

The panel considered the provisional agreement reached by the parties.

That provisional agreement reads as follows:

Fitness to Practise Committee

Consensual panel determination: provisional agreement

Miss Petrila is aware of the CPD hearing. She is represented by the Royal College of Nursing (“the RCN”). Miss Petrila does not intend to attend the hearing and is content for it to proceed in her and her representative’s absence. Further, her RCN representative will be available via telephone on the date of the hearing should clarification on any point be required.

The Nursing and Midwifery Council and Miss Ronela Petrila (“the parties”) agree as follows:

Charges

1. Miss Petrila admits the following charges:

That you, a registered nurse

1) *On 9 February 2017;*

a) *At 0930 incorrectly administered 10mg of diamorphine via a intramuscular route to Patient A when the correct prescription was for 2.5-5mg via a subcutaneous route*

b) *At 1830 incorrectly administered 10mg of Midazolam via a subcutaneous route to Patient A when the correct prescription was for 2.5mg via a subcutaneous route*

2) *Do not possess the necessary knowledge of English to practice safely as a registered nurse.*

AND in light of the above, your fitness to practise is impaired by reason of your misconduct in relation to Charge 1 and/or Charge 2 and/or in relation to Charge 3 by reason of your lack of knowledge of English.

Facts

2. The facts are as follows:

2.1 Miss Petrila appears on the register of nurses and midwives maintained by the NMC as a registered nurse – adult (RN1). She commenced work as a Healthcare Assistant at Tamar House Nursing Home (“the Home”) in September 2015. Miss Petrila first registered with the NMC in July 2016 and commenced work as a Registered Nurse at the Home in August 2016.

2.2 This case represents the first time Miss Petrila’s practice has come to the attention of her regulator.

2.3 On 28 March 2017, the NMC received a referral from the Home in relation to Miss Petrila's incorrect dosage and administration of medication to a patient and concerns regarding her ability to communicate clearly and effectively in English.

2.4 On 9 February 2017 at 18:30, Miss Petrila gave the incorrect dosage of medication via the incorrect route to a patient on end of life care. The details are as follows:

- An injection 10mg/ml administered intramuscular which was in conflict with the prescribed dosage and subcut/ stat instruction.
- An injection of Midazolam 10mg administered in conflict with the prescribed dosage and sub cut/stat instruction

2.5 The medication error was highlighted during the shift change when Miss Petrila completed handover with another registrant, Paula Jones.

2.6 The patient was transferred to hospital but passed away the following morning.

2.7 Concerns were also raised regarding Miss Petrila's ability to communicate clearly and effectively in English.

Charge 1

3. Patient A's community prescription indicated that the medication should be administered subcutaneously with a dose of 2.5-5mg. If a syringe driver were to be used the dose should be 10mg over the course of 24 hours. If a syringe driver had been required there would have to have been two qualified nurses in attendance who had attended the syringe driver training course.

4. Ms Petrila handed over to Paula Jones that Patient A had deteriorated on 9 February 2017 and that she had administered the medications to Patient A. Ms Jones attended the Home the following evening at around 19:45 and received a verbal handover from Miss Petrila. Miss Petrila had informed Ms Jones that she had given Patient A a 10mg dose of diamorphine at 09:30 and a 10mg dose of Midazolam at 18:30 which had been documented on the Evaluation sheet.
5. In the Evaluation sheet it could be clearly seen that the medication prescribed for 09:30 on 9 February 2017 was Diamorphine 2.5-5mg. However, Miss Petrila had documented a dose of 10mg and detailed the reason as 'pain'. In addition, the prescribed dose at 18:30 on 9 February 2017 was documented as 2.5-5mg of Midazolam but Miss Petrila had documented a dose of 10mg with the reason given as 'agitation'.
6. When Miss Petrila informed Ms Jones of the doses given, she checked the Controlled Drug book and went to get the MAR Chart and showed Miss Petrila what the prescribed dose was. Ms Jones states that Miss Petrila's face was blank with no expression and that she did not realise the error until it was pointed out to her.

Charge 2

7. Miss Petrilă took her IELTS assessment on 2 December 2017. The NMC has obtained the results. The breakdown of her scores are as follows:

- Listening: Band 5.0
 - Reading: Band 5.0
 - Writing: Band 5.0
 - Speaking: Band 5.0
- Overall: Band 5.5**

8. These scores are also confirmed by a search of the IELTS test results on their website using the provided TRF number.

9. The NMC requires that to practise nursing in the United Kingdom, registrants must demonstrate a good level of knowledge and understanding of written and spoken English language in order to provide the appropriate care expected of a Registered Nurse. The required overall score is 7.0 or higher.

10. Miss Petrilă has scored below 7 in all aspects tested with an overall score of 5.5.

Misconduct

11. In the case of *Roylance v General Medical Council (No.2) [2001] 1 AC 311*, Lord Clyde stated that:

“misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by the medical practitioner in the particular circumstances.”

12. It is agreed that the following paragraphs of *The Code: Professional standards of practice and behaviour for nurses and midwives 2015* (“the Code”), have been breached:

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.2 make sure you deliver the fundamentals of care effectively

6 Always practise in line with the best available evidence

To achieve this, you must:

6.2 Maintain the knowledge and skills you need for safe and effective practice.

13 Recognise and work within the limits of your competence

18 ... administer medicines within the limits of your training and competence...

To achieve this, you must:

18.1 ... provide medicines or treatment, including repeat prescriptions (only if you are suitably qualified) if you have enough knowledge of that person’s health and are satisfied that the medicines or treatment serve that person’s health needs

20 Uphold the reputation of your profession at all times

To achieve this, you must:

20.1 Keep to and uphold the standards and values set out in the Code

13. Not every breach of the Code and not every falling short in the particular circumstances will amount to misconduct. It be serious, or as Elias LJ put it in the case of *R (on the Application of Remedy UK Ltd) v GMC [2010] EWHC 1245*

(Admin), “sufficiently serious... that it can properly be described as misconduct going to fitness to practise.”

14. Miss Petrila accepts that the facts in charge 1 are sufficiently serious so as to amount to misconduct as the medication errors were a serious departure from the standards expected of a registered nurse. They involved failings in basic fundamental nursing practice. Miss Petrila administered the incorrect dosage of medication, two controlled drugs, and via the incorrect route to a vulnerable resident. Although no actual harm was caused to the resident, Miss Petrila’s medication errors put the resident at significant risk of harm.

Lack of Knowledge of English

15. It is agreed that the following paragraphs of the Code have been breached:

7 Communicate clearly

To achieve this, you must:

7.5 be able to communicate clearly and effectively in English.

16. Miss Petrila accepts that the facts in charge 2 amount to her lack of knowledge of the English language as she failed to meet the required overall score of 7.0 in the IELTS test, scoring below 7 in all aspects tested and with an overall score of 5.5.

Impairment

17. Miss Petrila accepts that her fitness to practise is impaired by reason of both her misconduct and her lack of knowledge of English.

18. The parties have considered the questions formulated by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of *CHRE v Grant & NMC* [2011] EWHC 927 (Admin) (*Grant*) by Cox J. They are as follows:

Do our findings of fact in respect of the doctor's misconduct, deficient

professional performance, adverse health, conviction, caution or determination show that his/her fitness to practice is impaired in the sense that s/he:

- 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. ...*

19. The parties have also considered the comments of Cox J in *Grant* at paragraph 101:

The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case.

20. In light of the above, while there is no evidence that Miss Petrila has caused harm to Patient A, the parties agree that, due to her misconduct, she is liable in the future to put patients at unwarranted risk of harm were she to practise without any restrictions.

21. The parties also agree that the reputation of the nursing profession would be damaged if Miss Petrila were to be permitted to practise unrestricted: the public expect nurses to administer prescribed medication correctly and to be able to communicate well and effectively in the English language.

22. The parties also agree that medication administration are core nursing skills and that, in light of her failings and lack of knowledge of English, Miss Petrila accepts that a finding of current impairment is necessary to declare and uphold proper standards.

23. Miss Petrila is engaging with the NMC and has demonstrated insight by way of her full acceptance of the charges and that her fitness to practise is currently impaired by reason of her misconduct and lack of knowledge of English. She also provided a detailed reflective piece.

24. Miss Petrila's agreement to this provisional agreement is itself evidence of insight and evidence that she is committed to remedying the deficiencies in her practice and obtaining the required standard and knowledge of English to enable her return to work as a registered nurse.

25. In *Cohen v GMC [2007] EWHC 581 (Admin)*, the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment:

1. Whether the conduct that led to the charge(s) is easily remediable
2. Whether it has been remedied
3. Whether it is highly unlikely to be repeated

26. The three questions set out in *Cohen* (above) can be answered as follows:

1. The regulatory concerns in this case are capable of remediation by way of training and satisfactory performance in medication administration and completion of the IELTS test to demonstrate that Miss Petrila has developed the necessary knowledge of English to enable her to practise safely.
2. The misconduct has not yet been remedied: Miss Petrila has not been practising as a registered nurse since the medication incident. She has

been working as a Healthcare Assistant. While working as HCA she completed training in Medication Administration. However, Miss Petrila has not worked as a nurse; her skills have therefore not yet been tested and she has not specifically addressed concerns in relation to administering via subcutaneous routes. Further, Miss Petrila has not achieved the standard and knowledge of English required as she has not yet met the required overall score of 7.0 in the IELTS test. The RCN have provided evidence in relation to Miss Petrila's hearing difficulties and her plan to retake the IELTS in July 2019 to allow for the adjustments to be put in place.

3. At present, the concerns are highly likely to be repeated should Miss Petrila be permitted to practise on an unrestricted basis.

27. For the reasons above, the parties agree that Miss Petrila's fitness to practise is currently impaired, both on the grounds of public protection and the wider public interest.

Sanction

28. The parties agree that the appropriate sanction in this case is a **Suspension order for a period of six months with a review.**

29. In reaching this agreement, the parties considered the current edition of the NMC's Sanctions Guidance ('the guidance'), bearing in mind that it provides guidance and not firm rules. In coming to this view, the parties have kept in mind the principle of proportionality and the principle that sanctions are not intended to be punitive. It is agreed that the proposed sanction is a proportionate one that balances the risk to public protection and the public interest with the Registrant's interests.

30. The aggravating features of the case are as follows (non-exhaustive):

- Miss Petrila's medication errors were serious departures from the standards expected of a registered nurse and involved basic fundamental nursing practice.
- Miss Petrila's failings placed a resident at a substantial risk of unwarranted harm.

31. The mitigating features of the case are as follows (non-exhaustive):

- No other concerns have been raised regarding Miss Petrila's practice.
- No actual patient harm as a result of the incidents leading to the referral.
- Miss Petrila has made full admissions to the charges and accepted current impairment.
- Miss Petrila has taken steps towards remedying the deficiencies in her practice, such as completing training in Medication Administration.
- There is a positive reference from Miss Petrila's current employer.

32. The parties first considered whether to take no action. However, given that Miss Petrila has yet to remedy the deficiencies in her practice and that these deficiencies are liable to put patients at unwarranted risk of harm, the parties agree that this would be inappropriate. It would leave the public exposed to an unwarranted risk of harm and would not satisfy the public interest.

33. Similarly, as a Caution Order would not restrict Miss Petrila's practice, it would not provide any protection to the public against the risks that arise from Miss Petrila's misconduct and lack of knowledge of English. A Caution Order would therefore be fundamentally incompatible with the NMC's overarching objective, which includes the need to protect the public, declare and uphold proper professional standards and maintain public confidence in the nursing profession.

34. With regard to a Conditions of Practice Order, while it would be possible to formulate conditions to safeguard the risks associated with Miss Petrila's medication errors, it would not be sufficient to mitigate the risks associated with the language concerns. For this reason, the parties agree that a conditions of practice order would not be appropriate or proportionate in this case.

35. The parties agree that a Suspension Order would be the most appropriate and proportionate order in this case to protect the public and satisfy the public

interest. It will allow Miss Petrila the time and opportunity to retake the IELTS tests with adjustment for her hearing impairment which she did not have before. She is due to retake the test on 6 July 2019.

36. The parties agree that the Suspension Order should be for a period of six months. This will provide Miss Petrila sufficient time to undertake the IELTS test and provide evidence of her successful completion to a future reviewing panel.

37. A Striking-off Order is not available at this point in time in relation to charge 2 as it relates to language impairment. With regard to charge 1, the medication errors although serious, do not warrant permanent removal from the register. The misconduct in this case and the public interest can be rightfully served by a lesser sanction. A Striking-Off order would be disproportionate and unduly punitive. For reasons given above, a suspension order would suitably protect the public and satisfy the public interest.

Interim Order

38. Finally, given that the parties agree that there is a risk that patients would be placed at an unwarranted risk of harm and the public interest would be engaged should Miss Petrila be permitted to practise without any restrictions, the parties agree that an interim order is necessary in this case.

39. It is agreed that the likelihood of Miss Petrila appealing this determination is remote, given it has been reached by agreement. Furthermore, the public would not expect a nurse who had admitted the conduct which is the subject of these charges to frustrate the process by appealing the order.

40. For these reasons, the parties agree that an Interim Suspension Order for a period of 18 months, for the same reasons as the substantive order is necessary on the grounds of public protection and otherwise in the public interest. In the event no appeal is made, the interim order will fall away once the 28-day appeal period has elapsed, and the substantive order will take effect.

Review

41. The parties invite the panel to direct a review of the Suspension order before expiry. The protection of the public and upholding the public interest demands

that a panel assess Miss Petrila's fitness to practise at that date.

42. The parties understand that this provisional agreement cannot bind a panel and that the final decision on findings of fact, impairment and sanction is a matter for the panel. The parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts (set out above) may be placed before a differently constituted panel that is determining the allegation.

Appendix 1 – Reflective piece (undated)

Appendix 2 – Employment reference dated 16 May 2019

Appendix 3 – Medication Administration certificate

Here ends the provisional agreement between the NMC and Ms Petrila. The provisional agreement was signed by Ms Petrila on 29 May 2019 and by the NMC on 31 May 2019.

Decision and reasons on the consensual panel determination:

The panel accepted the advice of the legal assessor.

The panel decided to accept the CPD agreement.

The panel had regard to the NMC's Sanctions Guidance ("SG"). The panel noted that it could accept, amend or outright reject the provisional agreement reached between the NMC and Ms Petrila. Further, the panel should consider whether the provisional agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Ms Petrila, who has been represented by the RCN, admitted the facts of the charges. Accordingly the panel was satisfied that the charges are found proved by way of Ms Petrila's admissions as set out in the signed provisional agreement before the panel.

In relation to misconduct, the panel endorsed paragraph 11-14 of the provisional agreement in that it determined that charge 1, which has been admitted and found proved, amounts to breaches of the standards expected of a registered nurse as set out in the Code.

In relation to lack of knowledge of English, the panel endorsed paragraph 15-16 of the provisional agreement in that it determined that charge 2, which has been admitted and found proved, amounts to a breach of the standards expected of a registered nurse as set out in the Code.

The panel then went on to consider whether Ms Petrila's fitness to practise is currently impaired by reason of her misconduct and her lack of knowledge of English, which she accepts. Whilst acknowledging the agreement between the NMC

and Ms Petrila, the panel has exercised its own independent judgement in reaching its decision on impairment. It considered whether her misconduct and lack of knowledge of English were capable of being remedied and whether they had been remedied. It also had regard to evidence of Ms Petrila's insight into her lack of English and misconduct, and it assessed the risk of repetition. In assessing these matters, the panel had careful regard to all of the relevant information available to it, including Ms Petrila's reflective statement; the positive testimonial dated 16 May 2019 from Ms Petrila's line manager at Malvern House Nursing Home, where she is currently employed as a senior carer; and a certificate for a medication administration course which Ms Petrila successfully completed dated 31 July 2018. In the panel's judgement, Ms Petrila has demonstrated insight into her failings, and has taken positive steps towards remediating her practice through working as a senior carer, training, and reflection. The panel noted that Ms Petrila is currently studying for the IELTS exam.

The panel agreed that Ms Petrila had in the past brought the profession into disrepute and breached fundamental tenets in relation to core nursing skills and standards. The panel accepts the contention in the CPD agreement that Ms Petrila has demonstrated insight, and taken steps taken to remediate. However, the panel considered that Ms Petrila does not yet have the required level of English to practice safely as a nurse. It decided that the need to protect the public, maintain public confidence in the profession, and uphold proper standards would not be served without a finding of impairment.

Having found Ms Petrila's fitness to practise currently impaired the panel went on to consider what sanction, if any, it should impose in this case. The panel bore in mind that any sanction imposed must be appropriate and proportionate. The purpose of any sanction is not intended to be punitive even though it may have a punitive effect. The panel had careful regard to the SG. The decision on sanction is a matter for the panel exercising its own independent judgement.

The panel has considered this case very carefully and has decided to make a suspension order for a period of 6 months. The effect of this order is that the NMC

register will show that Ms Petrilă's registration has been suspended. In this respect, the panel endorsed paragraphs 28 to 31 of the provisional agreement in relation to sanction.

The panel first considered whether to take no action but concluded that this would be inappropriate, endorsing the reasons set out in paragraph 32 of the provisional agreement. The panel also determined that a caution order would be inappropriate, again endorsing the reasons set out in paragraph 33 of the provisional agreement. In addition, the panel considered that a caution order would not satisfy the public interest in this case.

The panel next considered whether to impose a conditions of practice order, but determined that this would not be appropriate at this stage. In doing so, the panel endorsed the reasons set out in paragraph 34 of the provisional agreement.

The panel next considered whether to impose a suspension order. The panel was satisfied that a suspension order was the most appropriate and proportionate sanction in this case, endorsing the reasons set out in paragraph 35 of the provisional agreement.

The panel recognised that a striking-off order was not available at this stage in relation to charge 2, and endorsed paragraph 37 of the provisional agreement in that the medication errors in charge 1 are not so serious as to warrant a strike-off.

The panel was satisfied that a suspension order for a period of 6 months would protect the public and satisfy the public interest in this case, by marking the seriousness of the misconduct, maintaining public confidence in the nursing profession and upholding proper standards of conduct and performance. The panel further considered that it would allow Ms Petrilă the time and opportunity to re-take the IELTS tests.

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.

The panel also decided to impose an 18-month interim suspension order, for the reasons set out in paragraphs 38 to 40 of the provisional agreement.

This decision will be confirmed to Ms Petrila in writing.

That concludes this determination.