

Nursing and Midwifery Council

Fitness to Practise Committee

Substantive Order Review Hearing

9 June 2020

Virtual Hearing

Name of registrant: Mrs Anne Philomena Bashford

NMC PIN: 00I2957E

Part of the register: Registered Nurse – Adult (2003)

Area of Registered Address: England

Type of Case: Misconduct

Panel members: Bryan Hume (Chair, lay member)
Kathryn Bergmanski (Registrant member)
Carolyn Tetlow (Lay member)

Legal Assessor: Peter Jennings

Panel Secretary: Melissa McLean

Nursing and Midwifery Council: Represented by Zahra Evans, Case Presenter

Mrs Bashford: Not present and unrepresented

Order being reviewed: Conditions of practice order (12 months)

Outcome: Conditions of practice order extended for 6 months, to come into effect at end of 16 July 2020 in accordance with Article 30(1)

Service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Bashford was not in attendance, nor was she represented in her absence.

The panel was informed that notice of this hearing was sent via email to Mrs Bashford on 1 May 2020. The notice of hearing was sent to Mrs Bashford's email address held on the NMC's register.

The panel was also informed that notice of this hearing was sent to Mrs Bashford's representative at the Royal College of Nursing (RCN) on 1 May 2020. Ms Evans informed the panel that the Nursing and Midwifery Council (NMC) received a response from the RCN stating that they will no longer be representing Mrs Bashford. They said that they have not been able to get in contact with her and therefore have not received any instructions. Ms Evans confirmed that the NMC have the same email contact details as the RCN.

Ms Evans, 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.

The panel took into account that the notice of hearing provided details of the date and time of the hearing and that it was to be held virtually. In the light of the information available the panel was satisfied that notice had been served in accordance with Rules 11 and 34 of the recently amended Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (the Rules).

Proceeding in the absence of Mrs Bashford

The panel next considered whether it should proceed in the absence of Mrs Bashford. The panel had regard to Rule 21 and heard the submissions of Ms Evans who invited the panel to continue in the absence of Mrs Bashford.

Ms Evans submitted that there had been no engagement at all by Mrs Bashford with the NMC in relation to this hearing. She also reminded the panel that the RCN have not been able to contact Mrs Bashford. Ms Evans submitted that there has been no request for an adjournment and that there was no reason to believe that an adjournment would secure her attendance on some future occasion.

Ms Evans informed the panel that the current order is due to expire at the end of 16 July 2020. She submitted that it is in the public interest to review this order.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Bashford. In reaching this decision, the panel has considered the submissions of Ms Evans, and the advice of the legal assessor. It has had particular regard to the relevant case law and to the overall interests of justice and fairness to all parties. The panel noted that Mrs Bashford has not made an application for an adjournment, she has not engaged with the NMC since the last review nor has she responded to any correspondence since then. The panel also noted that there is no reason to suppose that adjourning would secure her attendance at some future date and that there is a strong public interest in the expeditious review of the case. The panel therefore concluded that in these circumstances, it is fair, appropriate and proportionate to proceed in the absence of Mrs Bashford.

Decision and reasons on review of the substantive order

The panel decided to extend the conditions of practice order.

This order will come into effect at the end of 16 July 2020 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a conditions of practice order originally imposed by a Fitness to Practise panel on 14 September 2017 for a period of 9 months. The conditions of practice order was reviewed on 8 June 2018 and extended for a further 12 months. The conditions

of practice order was then reviewed on 6 June 2019 and a conditions of practice order was made with slightly different conditions for 12 months.

The current order is due to expire at the end of 16 July 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:

1. [Not proved/did not amount to misconduct]
 - 1.1 [not proved]
 - 1.2. [did not amount to misconduct]
2. [Not proved/did not amount to misconduct]
 - 2.1. [did not amount to misconduct]
 - 2.2. [not proved]
3. On 23 July 2015 administered insulin to Patient C which was one day past its expiry date.
4. On 10 August 2015;
 - 4.1. [did not amount to misconduct]
 - 4.2. Removed a femoral line from Patient D at 18:55, approximately one hour after having administered Fragmin (Dalteparin), an anticoagulant, which resulted in the patient suffering a bleed.
 - 4.3. [no case to answer]
 - 4.4. [no case to answer]
5. [no case to answer]

- 5.1. [no case to answer]
- 5.2. [no case to answer]
- 5.3. [no case to answer]
- 6. [did not amount to misconduct];
 - 6.1. [did not amount to misconduct]
 - 6.2. [did not amount to misconduct]
- 7. [not proved]
 - 7.1. [not proved]
 - 7.2. [not proved]
 - 7.3. [not proved]
 - i. [not proved]
 - ii. [not proved]
- 8. On 30 October 2015, without proper clinical justification and/or without authority, chose not to administer prescribed medication to Patient G, namely;
 - 8.1. Levetiracetam; and
 - 8.2. Ranitidine;

9. On 30 October 2015 documented in Patient G's nursing notes that, '18:00 medications given as prescribed orally', when in fact you had omitted to give oral medication.

10. On 1 November 2015, without proper clinical justification and/or without authority, chose not to administer prescribed medication to Patient G, namely;
 - 10.1. Levetiracetam; and

 - 10.2. Ranitidine;

11. On 1 November 2015 documented in Patient G's medication records that, 'All due medication given as prescribed at 13:00 and 18:00', when in fact you had not given all prescribed medication.

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:

'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 had regard to your reflective piece and considered your insight to be developing. The panel noted that your misconduct is remediable. In its consideration of whether you have remedied your practice the panel took into account the training courses that you have undertaken. The panel formed the view that you have taken steps to remediate your misconduct, however, since you have not been working as a registered nurse, it considered that you have been unable to apply your developing insight and learning to your nursing practice. The panel therefore, determined that you have not fully remediated your misconduct. It

decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel had borne in mind that its primary function was 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 bore in mind that you have completed some remediation, and taking into account that the original misconduct spanned a relatively short period of time in 2015, the panel was of the view that it would now be disproportionate to find your fitness to practice impaired on public interest grounds.

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 your fitness to practise remains impaired.'

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

'The panel next considered a conditions of practice order. Mindful that your misconduct relates to your clinical practice, and in the absence of incompetence and attitudinal problems, the panel determined that a conditions of practice order would protect patients. The panel formed the view that the current conditions could and should be modified to enable you to comply with them and to support your return to safe and effective nursing practise.

Accordingly, the panel determined, pursuant to Article 30(1) (c) of the Nursing and Midwifery Order 2001, to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order. 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. *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:*
 - *Medications administration*
 - *Record keeping*
 - *Clinical judgment*
3. *You must not carry out medication administration until you have been assessed and deemed competent to undertake medication administration by your line manager, mentor or supervisor who is a registered nurse of your band or above.*
4. *You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every 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 you taking up employment as a registered nurse.*
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 before any NMC review hearing or meeting.*
7. *You must tell the NMC within 14 days of any nursing or midwifery 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 14 days of you receiving notice of them.*

9.
 - a) *You must within 14 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.*

 - b) *You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.*

10. *You must immediately tell the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures and disclose the conditions listed at (1) to (9) above, to them*
 - a) *Any organisation or person employing, contracting with or using you to undertake nursing work*
 - b) *Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services*
 - c) *Any prospective employer (at the time of application) where you are applying for any nursing appointment*
 - 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).*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Bashford's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In

considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle. It has taken account of the submissions made by Ms Evans on behalf of the NMC.

Ms Evans provided a background to Mrs Bashford's case. She referred the panel to the relevant pages within the documentation. She informed the panel of the charges found proved at the original substantive hearing that amounted to misconduct. Ms Evans informed the panel that Mrs Bashford has not provided any of the information requested at the last review hearing or any of the documents required by the conditions of practice (if indeed she is working). Ms Evans submitted that Mrs Bashford's fitness to practise remains impaired. She submitted that there is a risk of harm should Mrs Bashford be allowed to practise unrestricted. Ms Evans submitted that no order or a caution order would not adequately protect the public.

Ms Evans submitted that there is no new information in regards to Mrs Bashford. She informed the panel that the NMC are not aware whether or not Mrs Bashford is currently working as a registered nurse. Ms Evans informed the panel that all sanctions are available, including a striking-off order. She submitted that there is no update in relation to insight, or remediation, and invited the panel to consider whether further conditions of practice which require review and recommendations would remain workable.

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 Mrs Bashford's fitness to practise remains impaired.

The panel noted that at the previous review hearing Mrs Bashford informed the panel that she had a job offer for a nursing position. However the panel had no further information

before it to ascertain whether she is employed as a registered nurse or if she is complying with the current conditions of practice order. The panel noted that the last reviewing panel found that Mrs Bashford had developing insight. At this hearing the panel determined that it had no further evidence of her level of insight, particularly as she has not provided an updated reflective piece indicating a level of understanding into her failings.

In its consideration of whether Mrs Bashford has remedied her practice, the panel took into account that at the previous review hearing, Mrs Bashford had provided evidence of completion of a drug administration course. However, at this hearing this panel noted that there is no new information in relation to Mrs Bashford's remediation. The last reviewing panel determined that Mrs Bashford was liable to repeat matters of the kind found proved. Today's panel has received no new information to suggest that there is no longer a risk of repetition. In light of this, this panel determined that Mrs Bashford remains liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that the public interest in this case has been marked by the previous orders imposed and that a finding of continuing impairment on public interest grounds is not required.

For these reasons, the panel finds that Mrs Bashford's fitness to practise remains impaired on public protection grounds only.

Decision and reasons on sanction

Having found Mrs Bashford's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the NMC's Sanctions Guidance (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate. The panel noted that the charges found proved were serious. It also took into account that taking no action would not provide protection for patient safety. The panel concluded that taking no action would not allow Mrs Bashford's practise to be restricted and would not ensure that Mrs Bashford's areas of deficiencies were being addressed in a clinical environment. 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 Mrs Bashford's practice would not be appropriate in the circumstances.

The panel next considered whether extending the conditions of practice order on Mrs Bashford's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel noted that it would have been assisted by information and attendance from Mrs Bashford. The panel did however note that the current conditions of practice require Mrs Bashford to be supervised and also require Mrs Bashford to inform any future employer of the conditions imposed on her practice. The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case and provide protection to the public.

The panel did consider replacing the conditions of practice order with a more restrictive order, but noted that this would not allow Mrs Bashford to remedy her failings or to develop further insight. The panel was also 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 Mrs Bashford's case as she has previously demonstrated a level of insight and engaged with the NMC. The panel also concluded that a conditions of practice order would adequately protects the public.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to extend the conditions of practice order for a period of 6 months, which will come into effect on the expiry of the current order, namely at the end of 16 July 2020. The panel concluded that a 6 month order will allow Mrs Bashford to provide a reflective piece, remediate her misconduct and

provide evidence of any personal circumstances that may explain or mitigate her disengagement with the NMC. The panel also noted that a 6 month order will allow Mrs Bashford time to consider whether she wishes to re-engage with the NMC and whether she wishes to remain in the nursing profession.

The panel decided that the public would be suitably protected by the continuation of the following conditions of practice:

‘For the purposes of these conditions, ‘employment’ and ‘work’ mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, ‘course of study’ and ‘course’ mean any course of educational study connected to nursing, midwifery or nursing associates.’

1. 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. 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:
 - Medications administration
 - Record keeping
 - Clinical judgment
3. You must not carry out medication administration until you have been assessed and deemed competent to undertake medication administration by your line manager, mentor or supervisor who is a registered nurse of your band or above.

4. You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every 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 you taking up employment as a registered nurse.
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 before any NMC review hearing or meeting.
7. You must tell the NMC within 14 days of any nursing or midwifery 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 14 days of you receiving notice of them.
9.
 - a) You must within 14 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.
 - b) You must within 14 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.
10. You must immediately tell the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures and disclose the conditions listed at (1) to (9) above, to them

- a) Any organisation or person employing, contracting with or using you to undertake nursing work
- b) Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services
- c) Any prospective employer (at the time of application) where you are applying for any nursing appointment
- 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 six months.

Before the end of the period of the order, a panel will hold a review hearing to see how well Mrs Bashford 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 with another order.

This will be confirmed to Mrs Bashford in writing.

That concludes this determination.