

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

**Substantive Order Review Meeting
24 November 2020**

Virtual Hearing

Name of registrant: Mr Anthony Martin Oram

NMC PIN: 06A0123E

Part of the register: Registered Nurse – Sub Part 1
Adult Nursing – 28 August 2006

Area of Registered Address: England

Type of Case: Misconduct

Panel members: David Crompton (Chair, lay member)
Kathryn Smith (Registrant member)
June Robertson (Lay member)

Legal Assessor: Nigel Mitchell

Panel Secretary: Leigham Malcolm

Order being reviewed: Conditions of Practice Order (12 months)

Fitness to practise: Impaired

Outcome: Striking-off Order, to come into effect at the end of 7 January 2021 in accordance with Article 30 (1)

Decision and reasons on service of Notice of Meeting

The panel noted that the Notice of Meeting had been sent to Mr Oram via email on 21 August 2020. The panel noted that the Notice of Meeting provided details of the substantive order being reviewed and the timeframe in which it would be reviewed, on or after 23 November 2020.

The panel accepted the advice of the legal assessor who observed that there was no email address on the NMC register, however, the NMC did have on file an email address that Mr Oram had used to contact them in the past.

As advised by the legal assessor, the panel had regard to the guidance issued during the Covid-19 pandemic. The guidance stated that the NMC were able to send notice to an email address which the nurse in question had used for communication in the past. The panel noted that the email address used by the NMC had been used by Mr Oram in the past.

In the light of all of the information available, the panel was satisfied that Mr Oram had been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Decision and reasons on review of the substantive order

The panel decided to replace the current conditions of practice order with a striking-off order

This order will come into effect at the end of 7 January 2021 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the fourth effective review of a conditions of practice order originally imposed by a Conduct and Competence Committee on 5 March 2014. The order was reviewed and the conditions of practice order was extended for a further 24 months on 1 March 2016. A

further review was scheduled in April 2018 which Mr Oram attended, however this review was not effective due to a shortage of hearing time and the panel extended the order for 3 months to allow for an effective review on the next occasion. The order was again reviewed on 02 July 2018 and the conditions of practice were varied and imposed for 18 months. The last review was on 20 November 2019 at which the conditions of practice order was continued for a period of 12 months. The current order is due to expire at the end of 7 January 2021.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved at the substantive hearing in March 2014 were as follows:

“That whilst employed by the Dudley NHS Trust (‘the Trust’) as a registered nurse at Russells Hall Hospital, Dudley, West Midlands (‘the hospital’):

1. *In relation to Patient A, on 15 December 2008 when you became aware that she was in possession of Tramadol that was not prescribed by the hospital, you:*
 - a. *Did not report this to your colleagues;*
 - b. *Allowed her to keep this medication to take home.*
2. *In relation to Patient B, on 17 December 2008 you:*
 - a. *Gave her a box of 10 tubes of ‘Hypostop’ medication when she was only prescribed one tube;*
 - b. *Told her to self-administer the medication if she felt that her blood sugar was low, contrary to her prescription.*
3. *In relation to Patient C, between 30 May 2009 and 1 June 2009 you failed to carry out hourly urine measurements as required.*

4. *In relation to Patients D and E, on 4 June 2009 you:*
 - a. *Incorrectly checked the personal details on Patient D's Patient Transfusion Record against the Blood Bank record card for Patient E;*
 - b. *Asked staff at the hospital Blood Bank to change the details on Patient E's record card to those of Patient D.*

5. *In relation to Patient F, on 11 June 2009 you:*
 - a. *Did not administer her Morphine Sulphate as prescribed;*
 - b. *Indicated in her prescription chart that you had administered Morphine Sulphate when you had not.*

6. *In relation to Patient G, on 13 July 2009 you:*
 - a. *Failed to document in his notes that his relatives told you that he had been given Oramorph before being admitted to the ward;*
 - b. *Failed to inform Ms 1 prior to the administration of morphine to him that Patient G had been given Oramorph before being admitted to the ward;*
 - c. *Failed to inform Ms 1 that you were transferring Patient G to her;*
 - d. *Failed to complete the following documentation in respect of Patient G following his admission to the ward:-*
 - i. *admission sheet care plan*
 - ii. *continuation sheet*
 - iii. *process sheet*

- e. *Incorrectly completed the controlled drug register to indicate that you had administered intravenous morphine when it was in fact administered by another nurse;*
 - f. *Administered intravenous morphine to him in a ward setting when this should only have been carried out by a doctor or by the Acute Pain Team;*
 - g. *...*
 - h. *In relation to 6(f) above made a retrospective entry in his prescription sheet without indicating that the entry had been made retrospectively;*
 - i. *Failed to carry out adequate observations of him prior to and following the administration of morphine;*
 - j. *Failed to ensure that he was wearing an identity bracelet.*
7. *In relation to Patient J, on 1 February 2010 you failed to:*
- a. *Record any urinary output from 23:00 on 1 February 2010 as required;*
 - b. *Discuss the urinary output recording with the nurse in charge of the next shift.*
8. *On 1 and 2 February 2010, on ward B1 you failed to:*
- a. *Check the controlled drug register as required;*
 - b. *Check the cardiac arrest and defibrillator trolley as required.*
9. *In relation to Patient H:*
- a. *Between 1 and 4 February 2010 you failed to:*

- i. Maintain her fluid balance chart when fluid balance should have been observed every two hours;*
- ii. Record any pain scores for her as required;*
- iii. Take action to ensure that she was properly positioned in bed, leaving her airways compromised;*
- iv. Record the reason why five of the patient's medications were not administered*

10. In relation to Patient I, on 4 February 2010 you failed to:

- a. Record vital signs as required;*
- b. ...*
- c. .In relation to 10(b) above, record an omission code on the prescription chart as required.*

11. In relation to Patient K, on 4 February 2010 you:

- a. Failed to indicate on the patient's prescription chart the time at which you had administered intravenous antibiotics;*
- b. Incorrectly informed Ms 2 at handover that the patient was due to receive intravenous antibiotics at 12:30 when you had indicated on the prescription chart that this dose had already been administered.*

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

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

This panel has considered carefully whether Mr Oram's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the Nursing and Midwifery Council (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 judgment as to current impairment.

The panel has had regard to all of the documentation before it including a letter from Mr Oram to the NMC dated 09 October 2019 and enclosures.

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.

Mr Oram sent a letter to the panel which was dated 09 October 2019. He explained in this letter that he has been unable to secure a place on a Return to Practice Course (RTPC), but has recently changed employment and is now working as a Senior Care Assistant at Wyndley Grange Nursing Home. Mr Oram stated, "I am unable to comply with the Nursing and Midwifery Council's requirements at this time... Embarking on The Return to Practice Course would enable me to attempt to comply with the NMC's requirements, almost, if not fully."

In the light of Mr Oram's response, the panel was of the view that there has been little change since the last review hearing. The panel took into account that Mr Oram has been unable to comply with the conditions of practice imposed by the last reviewing panel and as such has not yet been able to demonstrate that he has remedied the areas of concern. The panel therefore determined that there remains a risk of repetition and a finding of impairment is still required on the grounds of public protection.

The panel bore in mind the overarching objective of the NMC: to protect, promote and maintain the health safety and well-being of the public; to promote and maintain public confidence in the nursing and midwifery professions and to promote and maintain proper professional standards and conduct for members of those professions. The panel decided, given that several years have elapsed since the initial hearing and the misconduct has not yet been remedied, that a finding of continuing impairment on public interest grounds is required.

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

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

Having found Mr Oram'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(1) of the Order. The panel has also taken into account the NMC's Sanctions Guidance (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the serious and wide ranging nature of the misconduct and the risk of repetition identified.

The panel then considered whether to impose a caution order but concluded that this would not provide adequate public protection.

The panel next considered the imposition of a conditions of practice order. Mr Oram has demonstrated in his letter to the NMC that he is engaging with the regulatory process, appears to be willing to remediate his misconduct and comply with workable conditions of practice. The panel therefore decided that a conditions of practice order would be sufficient to protect patients and the wider public interest.

The panel considered the letter Mr Oram provided and the steps he has undertaken to gain a place on a RTPC. Mr Oram explained in his letter that the Course Lead at Birmingham City University had told him that he was unable to embark on their

RTPC because the university's indemnity insurers were unwilling to provide the cover that Mr Oram would need. The panel noted in a telephone conversation on 10 September 2019 with the NMC case officer that Mr Oram was offered by that officer the opportunity to speak to the university about the sanction but no evidence of this is forthcoming to the panel. However, the panel noted that a RTPC is not a specific requirement of Mr Oram's conditions of practice order, and there may be other ways of satisfying the conditions imposed.

The panel was of the view that the conditions of practice imposed by the last reviewing panel were workable conditions and were the minimum that could be imposed to allow Mr Oram to practice as a registered nurse whilst also ensuring that all aspects of patient safety and the public interest are upheld.

The panel also considered imposing a suspension order as Mr. Oram has had a considerable length of time since his substantive hearing in March 2014 to try to remediate his nursing concerns but still has not done so and very little progress appears to have been made. However, the panel was of the view that given his engagement with the NMC and his demonstrable commitment to returning to nursing practice by obtaining a job in a nursing home, it would be disproportionate to impose a suspension order at this time.

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 same conditions as the last reviewing panel which it considered are appropriate and proportionate in this case:

- 1. You must work with your line manager (or their nominated deputy), who must be a registered nurse of at least band 6 or equivalent, to formulate a Personal Development and/or a learning plan specifically designed to address the deficiencies in the following areas of your practice:*
 - a. Record keeping*
 - b. Administration of drugs and blood products*
 - c. Working collaboratively with colleagues*

d. Decision making

- 2. At any time that you are employed or otherwise providing nursing services, you must place yourself and remain at all times under the direct observation of a workplace supervisor (a registered nurse at Band 5 or above) nominated by your employer or educational establishment.*

This direct observation must continue until you are assessed and deemed competent by your line manager (or their nominated deputy), who must be a registered nurse of at least Band 6 or equivalent.

- 3. You must successfully undertake and pass a course(s) covering drug administration and record keeping. You must send a copy of your results to the NMC within 7 days of you receiving them.*
- 4. You must meet with your line manager (or their nominated deputy), who must be a registered nurse of at least band 6 or equivalent, every 14 to 21 days to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development and/or learning plan.*
- 5. You must forward to the NMC a copy of your personal development and/or learning plan within 28 days of the date on which these conditions become effective or the date on which you take up an appointment or course of study, whichever is sooner.*
- 6. You must send a report from your line manager (or their nominated deputy), who must be a registered nurse of at least band 6 or equivalent, setting out the standard of your performance and your progress towards achieving the aims set out in your personal development and/or learning plan to the NMC every 6 months and at least 14 days before any NMC review hearing or meeting.*

7. *You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress towards achieving the aims set out in your personal development and/or learning plan with your line manager (or their nominated deputy), who must be a registered nurse of at least band 6 or equivalent, and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer, and at any educational establishment.*

8. *You must disclose a report not more than 28 days old from your line manager (or their nominated deputy), who must be a registered nurse of at least band 6 or equivalent, setting out the standard of your performance and your progress towards achieving the aims set out in your personal development and/or learning plan to any current and prospective employers (at the time of application) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer, and at any educational establishment.*

9. *You must notify the NMC within 7 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.*

10. *You must:*
 - a. *within 7 days of accepting any post or 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. *within 7 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.*

11. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.

12. You must immediately inform 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 (11) 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)
- c. Any prospective employer (at the time of application)
- 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 such a course (at the time of application)

The panel determined that the length of this order should be twelve months. The panel considered that this was a sufficient period of time to give Mr Oram an opportunity to complete the required training and supervised practice to be able to demonstrate that he has remedied his misconduct. During this period the public will remain protected and public confidence in the nursing profession should be maintained.

In accordance with Article 30 (1) of the Nursing and Midwifery Order 2001 this conditions of practice order will come into effect upon the expiry of the existing order, namely at the end of 7 January 2020

This order will be reviewed shortly before its expiry but can be reviewed earlier by either party if requested. Any future panel may be assisted by evidence of:

- Applications and attempts made by Mr Oram to gain employment in a nursing capacity

- *Mr Oram maintaining his nursing knowledge;*
- *Any training/CPD undertaken by Mr Oram;*
- *Further insight and remediation;*
- *References and testimonials from any employment or voluntary work undertaken*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Oram'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 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 noted that many of the concerns in this case related to medication management/administration. There was no information before the panel to evidence that Mr Oram had addressed any of the concerns with his nursing practice. The panel bore in mind that the substantive hearing of Mr Oram's case concluded in March 2014, and that since then little progress has been made, despite clear directions from the previous reviewing panel. Mr Oram has not responded to recent email from the NMC and has not evidenced that he has complied with the conditions of practice order nor that he has remediated the concerns in this case.

The panel therefore decided that a finding of continuing impairment remains necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required. For these reasons, the panel finds that Mr Oram's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mr Oram'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 in view of the public protection issues identified. 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 registrant's practice would not be appropriate in the circumstances. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

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

The panel bore in mind that the substantive hearing of Mr Oram's case concluded in March 2014, and that since then little progress has been made. The panel did

acknowledge that Mr Oram previously attempted to get on a return to practice course. However, the first instances of misconduct took place as long ago as 2008. Mr Oram has failed to respond positively to the recommendations and direction of the previous reviewing panel. Mr Oram has provided no recent evidence that he has complied with the current conditions of practice order or any information that he has made any effort to address the issues with his nursing practice. The panel therefore had no confidence that a further conditions of practice order would serve any useful purpose.

The panel next considered imposing a suspension order. It considered that a period of suspension would do nothing to support Mr Oram's return to safe and effective nursing practice. In the circumstances of this case, and given the length of time that passed, the panel determined that there was no order which would now serve any useful purpose and that it was now necessary to remove Mr Oram from the Register. The panel therefore directs the registrar to strike Mr Oram's name off the register.

This striking-off order will take effect upon the expiry of the current conditions of practice order, namely the end of 7 January 2021 in accordance with Article 30(1).

This will be confirmed to Mr Oram in writing.

That concludes this determination.