

# Nursing and Midwifery Council

## Voluntary Removal Decision

24 September 2020

**Registrant:** Barbara Maria Josephine Graham

**PIN:** 69Y0121S

**Part(s) of the register:** Registered Nurse - Adult  
Nursing

**Area of Registered Address:** Scotland

**Type of case:** Misconduct

### REGISTRAR'S DECISION

- A decision has been made by the Registrar to approve the application for voluntary removal based on the assessment of the relevant criteria. The reasons for the decision to grant voluntary removal from the Register are below.

#### Details of charge

That you, a registered nurse, whilst employed by Eastwood Court Care Home on 19 April 2019:

- 1 Upon being made aware that Resident A had suffered a controlled fall did not:
  - 1.1 conduct a clinically appropriate examination of Resident A.
  - 1.2 conduct clinically appropriate observations of Resident A.
- 2 Did not attempted CPR on Resident A and or call the emergency services when it would have been clinically appropriate to do so.
- 3 Told Colleague A (KR) that you would not be mentioning Resident A's controlled fall in your:
  - 3.1 handover
  - 3.2 records
- 4 Said in the presence of Colleague B (LM) that you would not be mentioning Resident A's controlled fall.

- 5 Your actions at charge 3a and/or 3b and/or 4 were dishonest in that by making Colleague A and/or B aware that you were going to cover up the events preceding Resident A's death you intended to involve them in and/or ensure they would not expose said cover up.
- 6 Provided an inaccurate oral handover to Colleague C (RM) in that:
  - 6.1 you told her that night staff had carried out personal care for Resident A at c.06.00.
  - 6.2 you did not handover that Resident A had suffered a controlled fall.
  - 6.3 you did not handover your involvement with Resident A subsequent to her suffering a controlled fall.
- 7 Created inaccurate records in respect of Resident A in that:
  - 7.1 you did not record that Resident A had suffered a controlled fall prior to passing away.
  - 7.2 you did not record your involvement with Resident A subsequent to her suffering a controlled fall.
- 8 Your actions at charges 6a and/or 6b and/or 6c and/or 7a and/or 7b were dishonest in that you intended to provide a misleading impression of the circumstances surrounding Resident A's death and by so doing justify your failure to attempt CPR and/or called the emergency services

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

## **REGISTRAR'S REASONS**

The following documents were considered when assessing this voluntary removal application:

- Statement of events from Mrs Graham dated 19 April 2019
  - CE decision letter dated 24 March 2020
  - Voluntary removal application form dated 12 May 2020
  - Voluntary removal application form dated 14 May 2020
  - Charges
  - Copy of Mrs Graham's pension certificate
  - Reflections from Mrs Graham received 10 September 2020
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- The registrant, Barbara Maria Josephine Graham, submitted an application to be voluntarily removed from the NMC register.
  - Mrs Graham is currently the subject of a fitness to practise matter.

- The fitness to practise case relates to misconduct allegations.
- Mrs Graham is currently subject to an interim suspension order.

## **Background to the allegations**

- The events in question allegedly occurred during an overnight shift at Eastwood Court care home on 19 April 2019, where Mrs Graham was working at the time.
- Patient A had a long term neurological condition and was relatively well up to the 18 April 2019. During a night shift of 18/19 April 2019, Mrs Graham was the lead nurse and directly responsible for Patient A's care. At about 06:30 on 19 April 2019, the patient suddenly and unexpectedly became unwell. The patient was described as sweaty and not acting in their usual way. The patient had an episode of collapse, with a drooping face and a period of unresponsiveness and then fell to the floor, guided by a Health Care Assistant (HCA). The HCA called for help. Mrs Graham arrived along with an agency nurse to assist. The HCA stated that no examination was undertaken, although the agency nurse contends that they did examine Patient A. Either way no concerns were raised. Mrs Graham then, with the assistance of the agency nurse, assisted Patient A to a chair and then to bed. It appears no further examination or actions were undertaken and the Registrant left the room.
- A few minutes later the HCA and agency nurse returned to Patient A's room and were so concerned with how the patient presented that the emergency buzzer was pulled. Mrs Graham re-attended, only to leave again to briefly get Patient A's records. At or around this time Patient A is thought to have died. Patient A was for resuscitation, but no resuscitation efforts were discharged. Mrs Graham did not call for help from the emergency services or out of hour's doctor, only calling Patient A's family to advise them of the death and calling NHS 24 to arrange for help to verify the death.
- Then at handover misleading/incomplete information was provided in that Mrs Graham stated that personal care occurred at 06:00 and Patient A died at 07:00. The collapse that preceded the fall was not mentioned. Nor were the signs and symptoms displayed by the stricken Patient A discussed.
- 24 April 2019 was the last day that Mrs Graham practised as a nurse.
- A local investigation began on 25 April 2019, in which Mrs Graham denied any wrongdoing. Mrs Graham resigned from her employment position at this point.
- On 1 May 2019 the NMC received a referral from the manager of Eastwood Court care home.

## **Admission of facts and/or impairment**

- Barbara Maria Josephine Graham, in their response to the charges dated 14 May 2020, in two VR application forms dated 12 May 2020 and 14 May 2020, and in a reflective statement received by the NMC on 10 September 2020:

- admitted all the facts of the allegation and admits that their fitness to practise is impaired

## **Public interest considerations**

- It could be argued that Barbara Maria Josephine Graham's actions, while undoubtedly very serious, were an isolated lapse in judgment rather than a pattern of behaviour. It can also be argued that the evidence that the NMC has obtained also shows that Mrs Graham's behaviour in relation to these allegations was not premeditated and was a reaction to the speed of events. These are very serious and displaying poor judgment, but it could be said not planned or calculated.
- On 19 April 2019, Mrs Graham wrote a statement explaining her version of what happened. This is not a detailed account, however Mrs Graham did display some reflection on the events. In particular Mrs Graham admitted she was at fault for not completing an accident form and offered her reason for this in stating that she was advised that it was a controlled fall.
- Further correspondence was received by the NMC on 10 September 2020, where Barbara Maria Josephine Graham displayed greater insight into, and reflection on, the incident.
- Mrs Graham has a previously untarnished record in her nursing and midwifery career. There have not been any previous sanctions imposed on the registrant by a panel of the Fitness to Practise Committee. Mrs Graham was on the nursing register for 47 years.

## **Comments from the maker of the allegation**

- We wrote to the maker of the allegation on 21 May 2020 to invite their comments, but have not received a response.

## **Interests of the registrant and registrant's future plans**

- The available evidence suggests there is little likelihood that Barbara Maria Josephine Graham will make an application for readmission to the register in the future. The reasons are as follows:
  - Barbara Maria Josephine Graham has signed a declaration stating that they will not apply for readmission to the Register for at least 5 years.
  - Barbara Maria Josephine Graham has been practising for 47 years and last practised in 2019.
  - Barbara Maria Josephine Graham has confirmed that they have permanently retired from the profession, is in receipt of a pension and is physically unable to return to practice. She has now provided documentary proof that she is receiving the pension.

It can be argued that this was an isolated incident and the first of any concerns raised with the NMC in relation to Barbara Maria Josephine Graham's clinical practice over a

lengthy career. The allegations are very serious, but there does not appear to be any pattern to this behaviour. In addition the available evidence does not give any indication that the registrant's behaviour was premeditated.

If a panel was to impose a suspension order should the case proceed to a substantive hearing, it could be argued that this would be ineffective considering that Barbara Maria Josephine Graham is no longer practising and has no intention of returning to practice. At the same time, a contention could be made that the granting of voluntary removal, including a signed declaration to state that readmission to the register would not be possible for five years, would protect the public, satisfy the public interest and uphold confidence in the NMC performing its statutory duty.

The public interest in having a panel make a decision does not outweigh the public interest in the immediate removal of Barbara Maria Josephine Graham from the register; it is best for all parties concerned that this matter is dealt with by way of voluntary removal.