

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

**Substantive Meeting
02 September 2020**

Virtual Meeting

Name of registrant: Linda Mary Sadowski

NMC PIN: 7114203E

Part(s) of the register: RN - Sub part 2 -Adult (23 November 1973)
RN - Sub part 1 - Adult (30 December 2000)

Area of registered address: Berkshire

Type of case: Misconduct

Panel members: Debbie Hill (Chair, Lay member)
Julie Clennell (Registrant member)
Sally Glen (Registrant member)

Legal Assessor: Tracy Ayling QC

Panel Secretary: Roshani Wanigasinghe

Facts proved: All

Fitness to practise: Impaired

Sanction: Suspension order (6 months)

Interim order: Interim Suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that Ms Sadowski was not in attendance and that the Notice of Meeting had been sent to Ms Sadowski on 3 July 2020 to her address by recorded delivery and first class post.

The notice informed Ms Sadowski that the meeting would take place on or after 17 August 2020.

The panel accepted the advice of the legal assessor.

Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (as amended) (“the Rules”) states:

***11A.(1)** Where a meeting is to be held in accordance with rule 10(3), the Fitness to Practise Committee shall send notice of the meeting to the registrant no later than 28 days before the date the meeting is to be held.*

***34.(1)** Any notice of hearing required to be served upon the registrant shall be delivered by sending it by*

(a) a postal service or other delivery service in which delivery or receipt is recorded to, or by leaving it at, the registrant’s address in the register; or

(b) a postal service or other delivery service in which delivery or receipt is recorded to, or by leaving it at, where this differs from, and it appears to the Council more likely to reach the registrant at, the registrant’s last known address; or

(c) electronic mail to an electronic mail address that the registrant has notified to the Council as an address for communications

The panel noted that under the recent amendments made to the Rules during the COVID-19 emergency period, notice of a hearing or meeting can be sent to an email address held for a registrant on the NMC’s register, or an email address which the registrant has informed the NMC is suitable for communication.

The panel took into account that the Notice of Meeting provided details of allegations, the time, date and venue/form of the meeting.

In the light of all of the information available, the panel was satisfied that Ms Sadowski has 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).

The panel further noted that Ms Sadowski had been telephoned on 12 August 2020 and had spoken with the NMC case officer. Ms Sadowski confirmed to him that she had received the papers but that she was not making an application for Voluntary Removal from the Register and had nothing to put before the panel at the meeting.

Details of charge

That you, a registered nurse, between 2014 and July 2018,

1. Failed to complete your mandatory training within a timely manner; **[Found proved]**
2. Failed to complete your competency booklet within a timely manner; **[Found proved]**
3. Failed to complete the clinical competencies in your competency booklet as set out in Schedule 1; **[Found proved]**
4. On one or more occasion/s, carried out clinical procedures while you;
 - 4.1. were not signed off as competent to do so, and/or **[Found proved]**
 - 4.2. without being accompanied by another nurse, and/or **[Found proved]**
 - 4.3. without having completed mandatory training; **[Found proved]**
5. On one or more occasions as set out in Schedule 2, administered medicines to patients intravenously when you:
 - 5.1. were not signed off as competent to do so, and/or **[Found proved]**

5.2. without being supervised by another nurse, and/or **[Found proved]**

5.3. without having completed mandatory training: **[Found proved]**

6. On one or more occasions as set out in Schedule 3, administered controlled drugs to patients when you:

6.1. were not signed off as competent to do so, and/or **[Found proved]**

6.2. without having completed mandatory training; **[Found proved]**

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

Schedule 1

1. Venepuncture
2. Initial assessments including MUST, Waterlow, BMI
3. Equipment assessment
4. Bladder scan assessment
5. POC Machine

Schedule 2

1. 22 March 2014;
2. 28 April 2014;
3. 29 April 2014;
4. 27 May 2014;
5. 09 June 2014;
6. 05 July 2014;
7. 19 October 2014;
8. 23 October 2014;
9. 03 November 2014;
10. 26 November 2014;
11. 18 February 2015;
12. 20 February 2015;
13. 19 April 2015;
14. 16 May 2015;
15. 23 May 2015;

16.26 May 2015;
17.10 June 2015;
18.02 September 2015;
19.26 October 2015;
20.03 December 2015;
21.07 December 2015;
22.08 December 2015;
23.11 December 2015;
24.24 February 2016;
25.17 March 2016;
26.30 March 2016;
27.12 April 2016;
28.22 April 2016;
29.13 May 2016;
30.21 May 2016;
31.05 July 2016;
32.07 July 2016;
33.20 July 2016;
34.29 July 2016;
35.12 August 2016;
36.26 August 2016;
37.09 September 2016;
38.14 September 2016;
39.27 September 2016;
40.04 October 2016;
41.11 October 2016;
42.14 October 2016;
43.20 October 2016;
44.21 October 2016;
45.04 November 2016;
46.10 November 2016;
47.08 December 2016;
48.30 December 2016;
49.14 February 2017;

50.21 February 2017;
51.22 February 2017;
52.22 March 2017;
53.28 March 2017;
54.11 April 2017;
55.12 April 2017;
56.30 April 2017;
57.01 May 2017;
58.10 May 2017;
59.17 May 2017;
60.23 Jul 2017;
61.20 August 2017;
62.28 August 2017;
63.30 August 2017;
64.25 October 2017;
65.08 November 2017;
66.29 November 2017;
67.08 January 2018;
68.03 February 2018;
69.16 April 2018;
70.03 May 2018;
71.16 May 2018;

Schedule 3

1. 14 June 2016;
2. 24 June 2016;
3. 04 January 2017;
4. 22 March 2017;
5. 24 March 2017;
6. 20 July 2017;
7. 17 December 2017

Background

Ms Sadowski was first admitted to the NMC Register in November 1971 and is qualified as an adult registered nurse.

At the relevant time, Ms Sadowski was working as a Band 5 community staff nurse in the Windsor District Nursing Team ('the Team'), King Edward VII Hospital ('the Hospital'). The Hospital was where the Team was based and is run by Berkshire Healthcare NHS Foundation Trust ('the Trust'). The Team Leader referred Ms Sadowski to the NMC on 1 August 2018.

Ms Sadowski retired from her employment at the Trust for pension purposes in October 2014. Ms Sadowski then returned to work at the Trust in November 2014 and due to her recommencing employment, was required to complete mandatory training and a competency booklet. Ms Sadowski failed to do this by 2018 and a referral was made to the NMC. There were no concerns about Ms Sadowski's conduct prior to this.

On 14 May 2018, it was noted by the Team Leader that Ms Sadowski had only complied with 27.3% of her mandatory training, which was considered very low. In her statement the Clinical Lead gives evidence that staff members would be expected to complete all training within 12 months of commencing their employment; Ms Sadowski commenced in November 2014.

On 24 May 2018, a meeting was held between Ms Sadowski, the Team Leader and the Clinical Lead. The Clinical Lead gives evidence that staff members took two to three days to complete their outstanding training before returning to clinical duties in the same month. Ms Sadowski was given time to complete her training of three working weeks (nine days) to achieve 80% compliance however Ms Sadowski did not do so and compliance was at 40% by 31 May 2018.

The Clinical Lead gives evidence that despite support being available for Ms Sadowski she did not come to speak with her about any issues or if she was having any difficulties.

In June 2018 an investigation was started regarding the Ms Sadowski's compliance and

because some of Ms Sadowski's competency booklet had been signed off at level 1 (which indicated that she was not competent) by Ms Sadowski's Supervisor. The Supervisor has since given evidence to the NMC that she signed the competency booklet at level 1 in error and felt that it was more likely to have been at level 3 or 4, depending on the exposure Ms Sadowski had received to certain conditions.

In July 2018, Ms Sadowski had raised her compliance to 80%. The training compliance documents exhibited by the Team Leader show that Ms Sadowski was not compliant with her mandatory training at the time of the referral.

In her statement, the Supervisor gives evidence that there were areas that the Registrant was not signed off in as she considered that Ms Sadowski required more practical exposure to these areas of practice. This included, Patient Point of Care Machines, monitoring INR bloods and use of bladder scanners. She also gives evidence that she did not sign Ms Sadowski off as competent in MUST and Waterlow assessments because she did not witness her undertake these assessments. Ms Sadowski's supervisor confirms that she did not have concerns about Ms Sadowski's capabilities in her role and did not feel that she posed any risk to patient safety.

Ms Sadowski is said to have attended patients in their home and undertook certain procedures when she was not signed off as competent to undertake those procedures including taking blood (venepuncture), administering medicine via a syringe pump, how to carry out Waterlow or MUST assessments and did not know how to order equipment.

The evidence shows visits were undertaken by Ms Sadowski when she was the most senior person present. This includes visits to patients who had syringe pumps on 24 June 2016, 4 January 2017, 22 March 2017 and 17 December 2017.

The Team Leader gives evidence that it is serious that Ms Sadowski completed patient care such as syringe drivers, venepuncture and Peripherally Inserted Central Catheter (PICC lines) without being accompanied by another nurse and that Ms Sadowski had not been signed off as competent to do so. The Team Leader gives evidence that it is serious that Ms Sadowski completed patient care (such as the use of syringe driver, venepuncture and PICC lines) without being accompanied by another nurse. She explains that errors

involving opiate painkillers which are loaded into syringe drivers could be fatal to a patient. She goes on to say that drug errors or poor infection control when administering medication Peripherally Inserted Central Catheter (“PICC”) line can also lead to patient death as the line runs straight to the heart. In regards to venepunctures, she explains that they have the potential to be painful to the patient if performed incorrectly, causing bruising and soreness around the entry site.

The Clinical Lead states that practising when Ms Sadowski was not competent endangered patients she was treating as she may have been using incorrect or out-dated methods.

The Team Leader gives evidence that when Ms Sadowski attended the local meetings, she stated that she was an experienced nurse of many years standing and that she had not been trained to use the e-learning programme. The Team Leader gives evidence that Ms Sadowski had accessed the e-learning system in the past, however had not done so for quite a few years.

Ms Sadowski left the Trust in 2018, and did not complete her revalidation, which was due in November 2018.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account of all of the documentary evidence in this case, which included witness statements, extracts from Patients’ records, documents from the Trust’s local investigation, and responses from Ms Sadowski. The panel also took into account the representations made by the NMC.

The panel heard and accepted the advice of the legal assessor.

The panel carefully considered all the evidence in relation to all the charges individually. It found all the charges 1- 6 in their entirety proved, as there is evidence within the bundle and documents provided which confirms the charges. The panel noted that Ms Sadowski had not completed any training for a long period of time, she admits her lack of training and having breached the code of conduct, and she had continued to make these errors

despite further support from her employer. The panel further noted that Ms Sadowski had provided no alternative evidence and that the charges were not disputed.

The panel therefore finds charges 1-6 proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Ms Sadowski's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Ms Sadowski's fitness to practise is currently impaired as a result of that misconduct.

Decision and reasons on misconduct

The panel then moved on to consider whether the facts found proved amounted to misconduct.

When making its decision, the panel had regard to the NMC's written representations, the advice of the legal assessor and the terms of The Code: Professional standards of practice and behaviour for nurses and midwives (2008) ("the old Code") and The Code: Professional standards of practice and behaviour for nurses and midwives and nursing associates (as amended) (2015) ("the new Code"). It also had regard to the public interest

and accepted that there was no burden or standard of proof at this stage and exercised its own professional judgement.

The panel was of the view that Ms Sadowski's actions fell seriously short of the standards expected of a registered nurse, and that her actions amounted to a breach of the Code in respect of charges. Specifically:

13 Recognise and work within the limits of your competence.

13.3 Ask for help from a suitably qualified and experienced professional to carry out any action or procedure that is beyond the limits of your competence.

13.5 Complete the necessary training before carrying out a new role.

18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations.

18.1 You must prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations.

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Ms Sadowski's failings did fall seriously short of the standards expected of a registered nurse. The panel noted that Ms Sadowski's failures occurred over a period of time despite further training. The panel noted that over a period of 4 years, Ms Sadowski had failed to ensure she was compliant with all mandatory training and that all of her competency booklet had been signed off. She had continued to care for patients and undertake certain procedures in the community to a significant number of patients when not signed off as competent to undertake these and/or without being accompanied by another nurse. The panel was of the view that the misconduct had the potential to seriously harm vulnerable patients.

Taking all the information into account, the panel concluded that Ms Sadowski's actions did fall seriously short of the conduct and standards expected of a registered nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Ms Sadowski's fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones and registered nurses must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession. In this regard the panel considered the judgement of Mrs Justice Cox in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) in reaching its decision, in paragraph 74 she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads 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 practise 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) ...'

The panel found that limbs (a), (b) and (c) were engaged in this case. The panel appreciated that there does not appear to have been actual harm to patients. However, by not undertaking the required training for such a protracted period of time, caring for and administering procedures/medication when not signed off/competent to do so, Ms Sadowski placed patients', as well as the public, at unwarranted risk of harm and brought the nursing profession into disrepute. It also breached fundamental tenets of the profession.

In reaching its decision, the panel considered Ms Sadowski's position. The panel was not in possession of any evidence from Ms Sadowski herself. It noted that although Ms Sadowski's misconduct is remediable, the panel was unable to determine Ms Sadowski's insight into her misconduct. The panel noted that although she had accepted her errors and breach of the code during her local investigation, the panel did not have any further information as to her insight, remorse or any steps towards remediation. It was therefore the panel's view that there is a risk of repetition as the errors were repeated by Ms Sadowski despite further training and assistance from the Trust.

The panel therefore decided that a finding of impairment is necessary on the grounds of public protection in light of the misconduct in this case.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold and protect the wider public interest, which includes promoting and maintaining public

confidence in the nursing profession and upholding the proper professional standards for members of those professions.

This finding is made to protect the public from harm which might be caused by Ms Sadowski practising without restriction prior to completing her training, which would involve a breach of a fundamental tenet of the profession and result in her bringing the nursing profession into disrepute.

Additionally, the finding is made having regard to the need to uphold proper professional standards and public confidence in the profession, which would be undermined if a finding of current impairment was not made at this time. Therefore, the panel finds Ms Sadowski's fitness to practise impaired on the grounds of public interest in light of the misconduct in this case.

On this basis and in the absence of anything to undermine that evidence, the panel determined Ms Sadowski's fitness to practise is currently impaired by reason of her misconduct.

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of six months. The effect of this order is that the NMC register will show that Ms Sadowski's registration has been suspended.

Decision and reasons on sanction

Having found Ms Sadowski's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the Sanctions Guidance (SG). The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Attitudinal concerns – responses given at local level was that she was an experienced nurse who didn't need to complete training and had no insight into risk to patients;
- Potential risks to vulnerable patients over a significant period of time;
- Did not complete training despite the concerns raised and time given to her to complete her training;
- No evidence of insight, remorse or remediation;

The panel also took into account the following mitigating features:

- Difficulties in accessing e-learning system;
- No previous concerns in long standing career;
- Potentially dealing with personal issues at home;
- Manager has responsibility to check the competencies and training of nurses on their team and ensure the nurse is compliant. Ms Sadowski's non-compliance was not addressed with her until approximately May 2018.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. 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 Ms Sadowski's practice would not be appropriate in the circumstances. The panel considered that Ms Sadowski's misconduct occurred over a protracted period of time despite having received support from the Trust. The panel was of the view that Ms Sadowski's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Ms Sadowski'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 took into account the SG, in particular:

- No evidence of harmful deep-seated personality or attitudinal problems;
- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;
- No evidence of general incompetence;
- Potential and willingness to respond positively to retraining;
- Patients will not be put in danger either directly or indirectly as a result of the conditions;
- The conditions will protect patients during the period they are in force; and
- Conditions can be created that can be monitored and assessed.

The panel is of the view that there are no practical or workable conditions that could be formulated, given the fact that Ms Sadowski was provided further training and support, yet the misconduct was repeated and she continued to care for patients when she was not signed off to do so. The panel was further of the view that conditions of practice would not be workable as Ms Sadowski has stated during her phone call with the NMC on 12 August 2020 that:

“ ...she was not making a VR application and had nothing she would like to put before the panel. “

The panel decided that due to Ms Sadowski having only completed 80% of her training and the lack of any evidence that she will be willing to complete this training, conditions would not be workable or practicable. Accordingly, the panel determined that it would not be appropriate to impose a conditions of practice order.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- a single instance of misconduct but where a lesser sanction is not sufficient
- no evidence of harmful deep-seated personality or attitudinal problems
- no evidence of repetition of behaviour since the incident

- the Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour
- in cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions
- in cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions

The panel was satisfied that in this case a suspension order would protect the public and maintain public confidence in the profession. The panel noted that Ms Sadowski has not shown any insight or understanding of her actions and the impact they had on patients and the profession, due to her non-compliance with the mandatory training. The panel further bore in mind the repeated nature of Ms Sadowski's misconduct despite additional assistance.

The panel noted that the charges found proved in this case related to misconduct. It was mindful in reaching its decision that whilst a striking-off order was open to it in light of the misconduct found proved in this case, it decided that the imposition of a striking off order would be inappropriate and disproportionate at this stage.

The panel noted the hardship such an order may cause Ms Sadowski. However this is outweighed by the public interest in this case.

The panel determined that a suspension order for a period of six months would be appropriate in the circumstances to mark the seriousness of Ms Sadowski's case as well as provide her with additional time to engage and provide any further evidence to the NMC.

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.

Any future panel reviewing this case would be assisted by:

- Engagement with the NMC;
- A structured reflective piece using an accepted model of reflection (e.g. Gibbs) demonstrating insight on how Ms Sadowski's actions impacted on patients and the nursing profession;

This will be confirmed to Ms Sadowski in writing.

Interim order

As the suspension order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Ms Sadowski's own interest until the substantive suspension order takes effect. The panel heard and accepted the advice of the legal assessor.

Decision and reasons on interim order

The panel of its own volition determined an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore determined to impose an interim suspension order for a period of 18 months.

If no appeal is made, then the interim suspension order will be replaced by the substantive suspension order 28 days after Ms Sadowski is sent the decision of this hearing in writing.

That concludes this determination.