Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Order Review Hearing
Friday 16 April 2021

Virtual Hearing

Name of registrant:	Mrs Maddalena Altafini
NMC PIN:	16C0213C
Part(s) of the register:	Registered Nurse – Sub part 1 Adult Nursing – March 2016
Area of registered address:	Devon
Type of case:	Lack of competence
Panel members:	Yvonne O'Connor (Chair, Registrant member) Susan Field (Registrant member) Paul Leighton (Lay member)
Legal Assessor:	John Moir
Panel Secretary:	Monsur Ali
Nursing and Midwifery Council:	Represented by Gemma Noble, Case Presenter
Mrs Altafini:	Not present and unrepresented
Order being reviewed:	Suspension order (6 months)
Fitness to practise:	Impaired
Outcome:	Striking off order to come into effect upon expiry of the current order in accordance with Article 30 (1)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Altafini was not in attendance and not represented. The electronic Notice of Hearing had been sent to her email address which the Nursing and Midwifery Council (NMC) holds for her. The electronic Notice of Hearing was sent to Mrs Altafini's email address on 18 March 2021.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and venue of the hearing and, amongst other things, information about Mrs Altafini's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

Ms Noble, on behalf of the 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.

In the light of all of the information available, the panel was satisfied that Mrs Altafini has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Altafini

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

Ms Noble submitted that there had been no engagement at all by Mrs Altafini, despite numerous attempts being made by the NMC to reach her since 18 March 2021, in relation to these proceedings. As a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Altafini. In reaching this decision, the panel has considered the submissions made by Ms Noble and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones (Anthony William) (No.2) [2002] UKHL 5* and *General Medical Council v Adeogba [2016] EWCA Civ 162* and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment had been made by Mrs Altafini;
- Mrs Altafini has not engaged with the NMC since 30 December 2019 and has not responded to any of the correspondence sent to her about this hearing;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- The expiry of the order is at the end of 25 May 2021; and
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mrs Altafini.

Decision and reasons on review of the substantive order

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect at the end of 25 May 2021 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the fourth review of a substantive suspension order originally imposed for a period of six months by a Fitness to Practise Committee panel on 25 January 2019. This was reviewed on 4 July 2019 and the suspension order was extended for a further six months. On 9 January 2020 the order was reviewed again and the suspension order was extended for a further period of nine months. The order was last reviewed on 21 October 2020 and the suspension order was extended again for another six months.

The current order is due to expire at the end of 25 May 2021.

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:

'That you, while employed as a registered nurse at Royal Devon and Exeter Hospital, between March 2016 and October 2016 failed to demonstrate the standard of knowledge, skill and judgment required to practise without supervision as a Band 5 nurse in that you, but not limited to:

1. *On 15 March 2016 whilst being supervised during a medication round you:*

    a) *Had to be prompted to check patients identification before medication was administered* ***[Proved]***

    b) *Had to be prompted to maintain good hand hygiene between seeing patients* ***[Proved]***

2. *On 12 April 2016 whilst being supervised during morning and lunchtime medication rounds you:*

    a) *Had to be prompted to check patients identification before medication was administered* ***[Proved]***

    b) *Had to be prompted not to sign the medication record until medication had been given* ***[Proved]***

    c) *…*

3. *On 11 May 2016, took too long, namely two hours, to complete the morning medication round* ***[Admitted]***

4. *On 23 May 2016 you:*

    a) *Did not prioritise the need to assess and/or escalate the condition of an unknown cardiology patient who was having chest pains, above that of a patient who was being difficult in respect of his medication* ***[Proved]***

5. *…*

6. *On 7 July 2016, you administered the wrong prescribed dose of warfarin to Patient A, in that he should have been administered 2mg of warfarin but you administered the dose intended for 8th July, namely 3mg warfarin* ***[Admitted]***

7. *On 8 July 2016:*

    a) *You did not administer Bisoprolol to an unknown patient or alternatively, you did not record on the medication administration record that you had administered the Bisoprolol* ***[Proved]***

    b) *You did not document on an unknown patient's fluid balance chart that the catheter bag had been emptied* ***[Proved]***

    c) *In respect of Patient B who had not been able to urinate and looked unwell you:*

        i. *Failed to escalate your concerns to the Nurse in Charge or a Doctor* ***[Proved]***
        ii. *Failed to carry out sufficient observations in light of his presentation* ***[Proved]***
        iii. *Failed to carry out a EWS assessment* ***[Proved]***
        iv. *Failed to document any of your concerns in the patient's clinical notes* ***[Proved]***

8. *On 2 August 2016 during a supervised drug round, you:*

    a) *Did not check patients' early warning scores ("EWS") prior to administering medication* ***[Proved]***

    b) *Did not check the expiry date of medication* ***[Proved]***

    c) *Did not check patients identification prior to administering medication* ***[Proved]***

    d) *Had to be prompted to maintain good hand hygiene between seeing patients* ***[Proved]***

9. *On 16 August 2016, during a supervised medication round, you:*

    a) *Did not check the expiry date of medication* ***[Proved]***

    b) *Demonstrated poor general knowledge of drugs* ***[Proved]***

10. *…*

11. *On 25 August 2016, you inappropriately administered an injection of Fragmin when another registered nurse needed to be present to supervise your administration of medication as your permission to do so unsupervised had been rescinded* ***[Proved]***

12. *On 7 September 2016 during a formal assessment of competence in medicines management you:*

    a) *Administered a lunchtime dose of medication to an unknown patient at 8am* ***[Admitted]***

    b) *Demonstrated poor general knowledge of drugs* ***[Proved]***

13. *On 9 September 2016, during a morning drug round, you:*

    a) *Had to be prompted that an unknown patient's medication had been missed* ***[Proved]***

    b) *…*

    c) *Did not check the expiry date on two medications which were to be administered* ***[Proved]***

    d) *Did not ensure you looked up information on a drug which was required to be administered, in circumstances where you had no knowledge of the particular drug* ***[Proved]***

14. *On 12 October 2016 during a medication round, you had to be prompted to check a patient's identification prior to administering medication* ***[Proved]***

15. *On 19 October 2016 during a formal assessment of competence in medicines management you:*

    a) *Did not consistently sign the medication administration record after you had administered medication* ***[Proved]***

    b) *Demonstrated poor general knowledge of drugs* ***[Proved]***

    c) *Did not appreciate that an unknown patient required a reduction in the dosage of Carbocysteine* ***[Proved]***

    d) *Took too long, namely two hours, to complete the medication round* ***[Admitted]***

16. *On an unknown date/s, you were unable to complete records in a timely manner* ***[Admitted]***

AND, in light of the above, your fitness to practise is impaired by reason of your lack of competence'

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

'The panel considered whether Mrs Altafini's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mrs Altafini had shown a limited degree of insight. At this meeting the panel had no new information before it that would show that Mrs Altafini has developed any further insight. It noted that the facts found proved related to fundamental and wide ranging nursing practice that Mrs Altafini was not able to demonstrate and concluded that she will become more deskilled the longer she is suspended. It noted that the last review panels have clearly pointed Mrs Altafini to the information needed, namely a reflective piece, references from any employers or evidence of training or updating undertaken. However, no information was received by the panel today. The panel was therefore of the view that it had no information before it to suggest that Mrs Altafini has gained insight or that she is no longer currently impaired. It concluded that there remains a risk of repetition and 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, in this case, a finding of continuing impairment on public interest grounds is also required.

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

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

'The panel next considered whether placing conditions of practice on Mrs Altafini'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 was in agreement with the previous reviewing panels that Mrs Altafini has yet not demonstrated full insight or reflection into her lack of competence and that it would therefore be difficult to formulate conditions which would address the wide range of clinical failings. The panel concluded that due to the lack of engagement since the last hearing it has no indication of Mrs Altafini's willingness to comply with any conditions imposed. It concluded that, while conditions of practice may become appropriate in the future should Mrs Altafini re-engage with the process, conditions of practice are not appropriate at this stage.

The panel considered the imposition of a further period of suspension. It noted that Mrs Altafini stated in an email, dated 30 December 2019 that she 'miss[ed] nursing desperately' and had hoped '…to do courses online and to write down proper insight about what happened and how [her] actions affect the profession and the risks to the public'. It considered that a further period of suspension would allow Mrs Altafini further time to complete said courses and fully reflect on her previous failings.

The panel concluded that a further six month suspension order would be the appropriate and proportionate response and would afford Mrs Altafini adequate time to re-engage with the NMC process, further develop her insight and provide evidence of remediation. It considered this to be the most appropriate and proportionate sanction.

This suspension order will take effect upon the expiry of the current suspension order, namely at the end of 25 November 2020 in accordance with Article 30(1).

Before 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 noted that the next panel would have all options of sanction available to them, including a striking off order.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Altafini'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 Noble on behalf of the NMC. She submitted that Mrs Altafini has not had any meaningful engagement with the NMC since the initial sanction was imposed. She further submitted that there is no evidence to suggest that the concerns identified have been remediated.

Ms Noble informed the panel that there is no evidence of development of insight by Mrs Altafini into her failings or any further training undertaken by her. There has been no acknowledgement of the former panel's recommendations with regards to what would assist this panel, and there is no reflective piece or references from any employment provided by Mrs Altafini.

Ms Noble reminded the panel that Mrs Altafini has been the subject of a suspension order for over two years now and there is no evidence to show that she has demonstrated any progress in this time. She suggested that Mrs Altafini may have become de-skilled. Due to the lack of remediation and the lack of development of insight, Ms Noble submitted that there remains a risk of repetition of the conduct and her fitness to practise remains impaired on the grounds of public protection and also in the wider public interest.

Ms Noble was neutral in her submission as to the type of order the panel should impose but invited it to consider the public protection issues and the lack of engagement when considering any sanction, should the panel reach that stage, agreeing that there is impairment. She reminded the panel that while there is lack of engagement from Mrs Altafini, the NMC does not know the reason for the lack of contact.

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 Altafini's fitness to practise remains impaired.

The panel determined that there is no evidence before it to demonstrate that there has been any changes in the circumstances since the last review. The panel also noted that there is no evidence before it which shows that Mrs Altafini had complied with any of the recommendations of the previous panel or demonstrated any insight. The panel further concluded that there is no evidence to suggest that Mrs Altafini has taken any steps to remediate the concerns or undertaken any training to maintain her nursing knowledge. It concluded that there is now an increased risk to the public as there is no evidence to demonstrate she has made any effort to keep her nursing skill or knowledge up to date and there has been considerable time since Mrs Altafini last practised as a registered nurse.

The panel has borne in mind that its primary function is to protect the public and maintain confidence in the nursing profession. The panel determined that, in this case, a finding of continuing impairment on the grounds of public protection and public interest is required.

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

Decision and reasons on sanction

Having found Mrs Altafini'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 seriousness of the case. The panel decided that it would not protect the public or be 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 Altafini's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where '*the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Altafini's lack of competence 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 not protect the public or be in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Mrs Altafini'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 bore in mind that Mrs Altafini has not engaged with this hearing, has not provided any information in relation to any employment and as such the panel has concluded that it would not be possible to develop workable conditions of practice that would adequately address the concerns relating to Mrs Altafini's lack of competence.

The panel next considered imposing a further suspension order. The panel noted that Mrs Altafini has not demonstrated further insight into her previous failings and has not engaged with the NMC since 30 December 2019. The panel also noted that Mrs Altafini has not provided any evidence of steps taken to remediate the concerns or shown acknowledgment to the previous panel's recommendations. The panel concluded that Mrs Altafini has a responsibility to stay in contact with her regulator for the purpose of these proceedings but there is no evidence to suggest that she has made any attempts to update the NMC on her current circumstances. The panel further noted that there is no evidence to demonstrate Mrs Altafini's willingness to comply with the recommendations made by the previous panels to remediate the concerns in order for her to demonstrate her willingness to reduce the risks identified.

The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances. Mrs Altafini had been informed by the last reviewing panel that all the sanction options would be available to this panel including a striking-off order. The panel determined that it was necessary to take action to prevent Mrs Altafini from practising in the future and concluded that the only appropriate and proportionate sanction is a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 25 May 2021 in accordance with Article 30(1).

This decision will be confirmed to Mrs Altafini in writing.

That concludes this determination.