

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

**Substantive Order Review Meeting
Monday 22 November 2021**

Virtual Meeting

Name of registrant: Dr Filippo Carretta

NMC PIN: 15L0146C

Part(s) of the register: Registered Nurse
Adult Nursing (1 December 2015)

Area of registered address: Middlesex

Type of case: Misconduct/Lack of knowledge of English

Panel members: David Crompton (Chair, Lay member)
Jane Jones (Registrant member)
David Lancaster (Lay member)

Legal Assessor: Nigel Mitchell

Panel Secretary: Teige Gardner

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Strike off order to come into immediate effect
in accordance with Article 30 (2)**

Decision and reasons on service of Notice of Meeting

The panel noted that the Notice of Meeting had been sent to Dr Carretta's registered email address on 12 October 2021.

The panel took into account that the Notice of Meeting provided details of the substantive order being reviewed, that the meeting would be heard no sooner than 22 November 2021 and if Dr Carretta wanted a hearing, he could request for one.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Dr Carretta 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).

Decision and reasons on review of the substantive order

The panel decided to impose a strike off order with immediate effect.

This order will come into effect immediately in accordance with Article 30(2) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 6 June 2019. This was reviewed on 22 May 2020 and the suspension order was extended for a further 12 months. This was reviewed again on 17 May 2021 when that panel extended the suspension order for a further 6 months.

The current order is due to expire at the end of 5 January 2022.

The panel is reviewing the order pursuant to 30(2) of the Order.

The charges found proved which resulted in the imposition of the substantive order were as follows:

'That you, a registered nurse:

1. *On 19 January 2017 you*
 - a. *Prepared/commenced treatment of Patient 2 with a Naso-gastric tube when you were not permitted to do so*

2. *On 20 December 2016, you:*
 - a. *administered Digoxin to Patient 1 who had a heart rate of 52;*

 - b. *did not document why it had been administered.*

3. *On 20 January 2017 you:*
 - a. *Disposed of a cannula into normal waste rather than a sharps bin for clinical waste;*

 - b. *...*

4. *On an occasion, between 19 January 2017 and 26 January 2017 in relation to Patient 4, who had been vomiting, you administered/intended to administer Patient 4 oral cyclizine rather than IV cyclizine. (Amended)*

5. *...*

6. *On 24 May 2017 gave medical records relating to Patient 7 to a different Patient*

7. *Do not have the necessary knowledge of English to practise safely and effectively.*

AND in light of the above, your fitness to practise is impaired by reason of your misconduct in relation to one or more of charges 1 to 6 and your lack of knowledge of the English language in relation to charge 7.'

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

"The panel considered whether Dr Carretta's fitness to practise remains impaired. The panel took into account the charges found proved against Dr Carretta and noted that they were serious, wide ranging and relate to misconduct, lack of knowledge of English and attitudinal issues. It noted that although Dr Carretta previously engaged with the NMC, he has not meaningfully engaged in any way since the suspension order was imposed including later when it had been reviewed nor has he provided any evidence of reflection into his failings. Further, the panel has no evidence from Dr Carretta of his compliance with the recommendations made by the last reviewing panel as to what today's panel would be assisted by.

The panel noted that there was no information before it to indicate that Dr Carretta had now passed an NMC approved English language course. There is also no information to show that he has addressed the numerous and varied clinical issues identified. The panel considered that there has been no material change of circumstances since the last review. The panel took into account that the last reviewing panel found Dr Carretta not to have demonstrated insight into his failings. This reviewing panel had no new information before it today regarding Dr Carretta's level of insight or remorse.

The panel noted that while Dr Carretta's misconduct and lack of knowledge of English are remediable, his lack of engagement meant that the panel had no evidence of any reflection or remediation. The panel noted that Dr Carretta has not taken any steps to remedy the concerns raised about his fitness to practise.

In the absence of any new information the panel could not be satisfied that Dr Carretta has met the standard of English language required to practise safely and effectively as a registered nurse nor has he provided evidence that he has remedied his clinical failings. The panel was of the view that there remains a risk of

repetition. The panel was also of the view that in light of the lack of remediation, the public would remain at risk of harm if Dr Carretta was able to practise without restriction. For these reasons, the panel 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 Dr Carretta's fitness to practise remains impaired."

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

"The panel first considered whether to take no action but concluded that this would be inappropriate in this case. The panel was of the view that taking no action would be insufficient to mark the seriousness of the charges. It was also of the view that taking no action would not address the issues around Dr Carretta's lack of knowledge of English. In addition, it would be inadequate to protect the public and address the wider public interest considerations arising from the nature and circumstances of Dr Carretta's failings. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

For the same reasons, the panel considered that imposing a caution order would not mark the seriousness of the charges and the public protection issues identified, an order that does not restrict Dr Carretta's practice would not be appropriate in the circumstances. The panel considered that Dr Carretta's misconduct and lack of knowledge of English 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 a conditions of practice order on Dr Carretta'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 Dr Carretta's failings are broad and wide ranging. It also noted that Dr Carretta has not meaningfully engaged with the NMC nor has he demonstrated any evidence of insight or remediation. The panel was of the view that Dr Carretta has not demonstrated in any way that he would be willing to comply with conditions of practice should they be imposed and therefore concluded that a conditions of practice order would be unworkable. The panel bore in mind the seriousness of the facts found proved and in light of the misconduct and Dr Carretta's deficiencies in relation to the English language, the panel concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was therefore not able to formulate conditions of practice that would adequately address the wide ranging concerns.

The panel considered the imposition of a further period of suspension. The panel considered whether a further period of suspension would be appropriate given all of the circumstances. The panel noted that the misconduct and lack of knowledge of English in this case are serious. It also noted that Dr Carretta has not meaningfully engaged with the NMC, demonstrated any insight or shown any remediation. Further, the panel bore in mind that Dr Carretta has not provided any information for this review meeting detailing whether he has met the standard of English language required to practise safely and effectively as a registered nurse or whether he has remedied his clinical failings.

The panel therefore concluded that that a further period of suspension for a period of 6 months would be the appropriate and proportionate response and would afford Dr Carretta adequate time to show his intention to engage and start to address his failings, meet the standard of English language required to practise safely and effectively as a registered nurse and to meaningfully engage with the NMC. The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest.

This panel noted that the last reviewing panel mentioned the possibility of a striking-off order being imposed at the next review. However this panel took into account the advice of the legal assessor. She advised the panel that as the charges found proved related to misconduct and a lack of knowledge of English and as it has not yet been two years since the substantive suspension order was imposed, the option of a striking-off order was not available to the panel. The panel wishes to highlight that a future reviewing panel will have all sanctions available, including a striking-off order.”

Decision and reasons on current impairment

The panel has considered carefully whether Dr Carretta’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. 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.

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 Dr Carretta’s fitness to practise remains impaired.

The panel took into account the charges found proved against Dr Carretta and noted that they were serious, wide ranging and relate to misconduct and lack of knowledge of English. It noted that although Dr Carretta previously engaged with the NMC, he has not engaged since April 2020. Further, the panel had no evidence from Dr Carretta of his compliance with the clear recommendations made by the last reviewing panel as to what

today's panel would be assisted by. The panel noted that there has been no material change in the circumstances of this case. It was of the view that there has been no insight or remorse offered by Dr Carretta into the charges. In addition, the panel was of the view that Dr Carretta has had sufficient time to retake his English test and pass to the level required of a registered nurse. The panel therefore determined that Dr Carretta is 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, in this case, a finding of continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Dr Carretta 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 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 Dr Carretta'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 Dr Carretta'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 a conditions of practice order on Dr Carretta'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 the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order could not adequately protect the public or satisfy the public interest. Furthermore, the panel noted that Dr Carretta has not engaged with the NMC process for 18 months, therefore it was not satisfied that he would engage with any conditions imposed on his practise.

The panel next considered imposing a further suspension order. The panel noted that Dr Carretta has not shown any remorse for or insight into his misconduct nor, it would seem, has he made any efforts to take and pass an approved English language test. The panel was of the view that considerable evidence would be required to show that Dr Carretta no longer posed a real risk to the public. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances, as Dr Carretta has not engaged with the NMC for 18 months.

The panel was of the view that the regulatory concerns about Dr Carretta and his continued lack of engagement with the NMC raised fundamental questions about his professionalism. The panel determined that it was necessary to take action to prevent Dr Carretta from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will replace the current suspension order with immediate effect in accordance with Article 30(2).

This decision will be confirmed to Dr Carretta in writing.

That concludes this determination.