

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

**Substantive Order Review Meeting
Friday 1 July 2022**

Virtual Meeting

Name of registrant: Patricia Ann Atkin

NMC PIN: 81J0672E

Part(s) of the register: RN5: Registered Learning Disabilities Nurse –
December 1993
RN6: Registered Learning Disabilities Nurse (Level
2) – December 1983

Relevant Location: Lincolnshire

Type of case: Misconduct

Panel members: Nicola Jackson (Chair, Lay member)
Carol Porteous (Registrant member)
Kevin Connolly (Lay member)

Legal Assessor: Paul Hester

Hearings Coordinator: Dilay Bekteshi

Order being reviewed: Conditions of practice order (6 months)

Outcome: **Suspension order (6 months) to come into
effect at the end of 12 August 2022 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 Mrs Atkin's registered email address on 27 May 2022.

The panel took into account that the Notice of Meeting provided details of the review including the time, dates and venue of the meeting.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mrs Atkin has been served with notice of 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 current order

The panel decided to replace a conditions of practice order with a suspension order for a period of six months. This order will come into effect at the end of 12 August 2022 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the third review of a substantive conditions of practice order originally imposed by a Fitness to Practise Committee panel on 12 July 2019. This order was last reviewed on 7 January 2022 and a conditions of practice order was imposed for a period of 6 months. The current order is due to expire at the end of 12 August 2022.

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

The charge found proved (by way of admission) which resulted in the imposition of the substantive order was as follows:

That you, a registered nurse, having agreed undertakings with the Nursing and Midwifery Council in respect of the regulatory concerns set out in Schedule 1:

1. *breached your undertakings in that you:*
 - a. ...
 - b. *failed to comply with undertaking 6 requiring you to provide the NMC with evidence that you have successfully undertaken and passed a medicine's management competency assessment which was to have included a minimum of ten supervised medication rounds.*

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

Schedule 1 - *That you made multiple errors relating to the management and administration of medication whilst employed as a nurse at Madeira Care Home.*

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

The panel considered whether Mrs Atkin's fitness to practise remains impaired. The panel had no evidence of a material change in circumstances since the last review hearing. The panel determined that there remains a risk of repetition of similar errors and therefore a finding of current impairment continues to be required to protect the public.

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 Atkin's fitness to practise remains impaired.

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

The panel first considered whether to take no action but decided that this would be inappropriate in view of the risk of repetition identified. Taking no further action would not restrict Mrs Atkin's practice and would therefore be insufficient to protect the public. The panel also decided that a caution order would be inappropriate for the same reasons.

The panel next considered a further conditions of practice order. It noted that the concerns in this case relate to an isolated area of Mrs Atkin's clinical practice. It was therefore satisfied that it would be possible to formulate practicable, workable and measurable conditions which would protect the public.

The panel seriously considered imposing a suspension order in this case in view of Mrs Atkin's lack of engagement with the NMC. However, it determined that a suspension order would be disproportionate at this time.

Accordingly, the panel determined, pursuant to Article 30(1) (c) of the Order, to impose a conditions of practice order for a period of six months. This will come into effect on the expiry of the current order at the end of 12 February 2022.

The conditions are as follows:

- 1. You must not undertake medicines management including associated documentation unless supervised by a suitably experienced registered nurse. Such supervision will consist of direct observation of your practice until such time as you are assessed as competent to undertake medicines management, including associated documentation.*

2. *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance, in particular medicines management including associated documentation to the NMC at least 14 days before any NMC review hearing or meeting.*
3. *You must tell the NMC within 14 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.*
4. *You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.*
5.
 - a) *You must within 14 days of accepting any post of 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) *You must within 14 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.*
6. *You must immediately tell 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 5 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) to provide nursing services.*

- c. *Any prospective employer (at the time of application) where you are applying for any nursing appointment.*
- 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 a course (at the time of application).*

...

Any future panel reviewing this case would be assisted by:

- *further written reflection on the steps Mrs Atkin has taken to move forward and return to practice;*
- *references from employers relating to any paid or unpaid work Mrs Atkin has undertaken, whether in nursing or other fields;*
- *documentary evidence of any relevant training;*
- *Mrs Atkin's re-engagement with the NMC and future attendance at the review hearing.*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Atkin'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. 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 Atkin's fitness to practise remains impaired. The panel considered that there was no new information before it, and therefore there had been no change of circumstances since the previous hearing. The panel noted that the previous panel, in its determination on 7 January 2022, had provided Mrs Atkin with an opportunity to engage with these proceedings, and it had been very clear as to what this panel would be assisted by, in order for Mrs Atkin to demonstrate evidence of insight and strengthened practice.

The panel noted that the previous panel had imposed a conditions of practice order, to give Mrs Atkin the opportunity to remediate the clinical concerns in a nursing setting. There was no information before the panel to suggest that Mrs Atkin had obtained employment within a nursing or any other setting, nor anything to suggest she had been able to comply with the current conditions of practice order. There had been no engagement since May 2020.

The panel therefore considered that there was no information before it to demonstrate that Mrs Atkin had addressed her misconduct. The panel also considered that there was no evidence to show the development of any insight on Mrs Atkin's part. The panel had nothing before it to provide reassurance that Mrs Atkin was capable of working safely and effectively. The panel therefore considered that there is a risk of repetition, and that patients would be placed at a real risk of harm if Mrs Atkin were able to practise without restriction. The panel determined that a finding of impairment remains necessary on the grounds of public protection.

The panel bore 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 had regard to Mrs Atkin's lack of engagement throughout these proceedings since the original substantive order which was made in July 2019. There have been two subsequent reviews and most recently Mrs Atkin was given a further six month conditions of practice order by the previous panel to provide evidence of remediation and insight. The panel considered that Mrs Atkin had a duty to engage with these proceedings and cooperate with the NMC as her regulator. The panel therefore determined that a finding of impairment also remains necessary on public

interest grounds, in order to maintain confidence in the nursing profession and in the NMC as a regulator.

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

Decision and reasons on sanction

Having found Mrs Atkin'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 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 Mrs Atkin'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 Atkin'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 imposing a conditions of practice order on Mrs Atkin'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 noted that Mrs Atkin had not engaged at all with these proceedings. Mrs Atkin had put forward no evidence to demonstrate compliance with the conditions of practice order, nor had she provided any information about her circumstances or any attempts to

demonstrate remediation. In these circumstances, the panel considered that there is no evidence to suggest that Mrs Atkin would comply with conditions, nor that conditions could be imposed which would protect the public. The panel therefore determined that it would not be possible to formulate measurable, practicable, workable and proportionate conditions of practice, which would suitably protect the public and satisfy the wider public interest.

The panel next considered whether to impose a suspension order. The panel considered that a suspension order would protect the public and satisfy the wider public interest. It considered that this would give Mrs Atkin an opportunity to re-engage with these proceedings, and to provide information about what steps she has taken to address her misconduct and to demonstrate evidence of remediation. The panel also considered that it would give Mrs Atkin time to consider her future intentions in relation to working as a nurse, and to provide information about this to a future reviewing panel.

Accordingly, the panel determined to impose a suspension order for the period of six months would provide Mrs Atkin with an opportunity to engage with the NMC and to provide evidence of her strengthened practice. It considered this to be the most appropriate and proportionate sanction available at this stage.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely the end of 12 August 2022 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.

Any future panel reviewing this case would be assisted by:

- Mrs Atkin's engagement with the NMC which can include a discussion with her case officer;
- a structured written reflective piece using a model such as Gibbs Reflective Cycle on the steps Mrs Atkin has taken to move forward and return to practice;

- references from employers relating to any paid or unpaid work Mrs Atkin has undertaken, whether in nursing or other fields;
- documentary evidence of any relevant training;

This will be confirmed to Mrs Atkin in writing.