

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

**Substantive Order Review Meeting
Tuesday 10 May 2022**

Virtual Meeting

Name of registrant: Donna Antoinette Pickford

NMC PIN: 89D0547E

Part(s) of the register: Registered Nurse – Sub Part 1
RN1: Adult Nursing – 25 May 1992

Relevant Location: Blackpool

Type of case: Lack of competence

Panel members: Debbie Hill (Chair, Lay member)
Sandra Lamb (Registrant member)
Nicola Strother Smith (Lay member)

Legal Assessor: Graeme Sampson

Hearings Coordinator: Dilay Bekteshi

Order being reviewed: Conditions of practice order (2 years)

Outcome: **Suspension order (12 months) to come into effect at the end of 19 June 2022 in accordance with Article 30(1)**

Decision and reasons on service of Notice of Meeting

The panel considered whether notice of this meeting has been served in accordance with the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (as amended) (“the Rules”).

The panel noted that the Notice of Meeting had been sent to Mrs Pickford’s registered email address on 4 April 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 Pickford 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 current order

The panel decided to replace the conditions of practice order with a suspension order. This order will come into effect at the end of 19 June 2022 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of two years by a Fitness to Practise Committee panel on 21 May 2020.

The current order is due to expire at the end of 19 June 2022.

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, between 20 October 2015 and 20 October 2018 failed to demonstrate the standard of knowledge, skill and judgement required to practice without supervision as a band 5 nurse in that you:

- 1) *On 20 October 2015 administered Tazocin to patient A on 2 occasions when patient A was allergic to Tazocin. [PROVED]*
- 2) *On 01 May 2016 failed to administer a Fentanyl patch to patient VJ when patient VJ was prescribed a Fentanyl patch. [PROVED]*
- 3) *On 01 May 2016 failed to administer Paracetamol to patient VJ when patient VJ was prescribed paracetamol, alternatively; [PROVED]*
- 4) *...*
- 5) *On 01 May 2016 failed to record and sign for the completion of a blood transfusion given to patient VJ. [PROVED]*
- 6) *On 15 June 2016 failed to administer Dexamethosane to patient AH when patient AH was prescribed Dexamethosane, alternatively; [PROVED]*
- 7) *...*
- 8) *On 23 April 2017 failed to administer:*
 - a. *Amoxicillin*
 - b. *Gentamicin*
 - c. *Metronidazole*

To patient SE when patient SE was prescribed those medications. [PROVED]

- 9) *On 23 April 2017, having administered Pheytoin to patient SE failed to record the administration on patient SE's medication administration record. [PROVED]*

10) On 07 June 2017 whilst undertaking a supervised medication administration round, failed to check the allergy status of each patient. **[PROVED]**

11) On 02 July 2018 failed to administer a Hyoscine patch to patient BF when patient BF was prescribed a Hyoscine patch. **[PROVED]**

12) On 02 July 2018 having administered Levothyroxine to patient BF, failed to record the administration on patient BF's medication administration record. **[PROVED]**

13) On 08 July 2018 failed to administer Warfarin to patient PM when patient PM was prescribed Warfarin, alternatively; **[PROVED]**

14) ...

15) On 19 October 2018 administered a Fentanyl patch to patient MT when the prescriber had not signed Patient MT's medication administration record confirming the prescription of a Fentanyl patch to patient MT. **[PROVED]**

16) On 20 October 2018 administered intravenous Pabrinex to patient AL when patient AL was not prescribed intravenous Pabrinex. **[PROVED]**

17) On 20 October 2018 having administered:

- a. St. Marks solution
- b. Ensure Compact

To patient AB, failed to record the administration on patient AB's medication administration record. **[PROVED]**

18) ...

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

The original panel determined the following with regard to impairment:

'The panel next went on to decide if as a result of the lack of competence, Mrs Pickford's fitness to practise is currently impaired.'

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. 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 judgment of Mrs Justice Cox in the case of CHRE v NMC and Grant 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 considered that the first three limbs of the Grant “test” are clearly engaged in this case. Mrs Pickford’s lack of competence previously put patients at a risk of harm, breached fundamental tenets of the nursing profession (in respect of patient care), and brought the nursing profession into disrepute.

The panel bore in mind the repeated nature of the errors which led to its finding of lack of competence in respect of Mrs Pickford’s practice; they were of a similar nature within a similar clinical frame. It considered that these errors were remediable, by their nature.

Mrs Pickford has not engaged with the NMC in respect of these regulatory proceedings; she has provided no information as to any attempts at remediating her practice, any relevant training she has undertaken, or any references from previous or current employers as to the level of her clinical competence. Aside from the limited levels of insight demonstrated in the reflective pieces undertaken by Mrs Pickford at a local level, the panel has also no information as to Mrs Pickford’s current level of insight into her actions. The panel determined that, in the absence of such information, a risk of repetition of Mrs Pickford’s failings remains live.

The panel therefore decided that a finding of impairment is necessary on the grounds of public protection. The panel did not consider it to be necessary, within the particular circumstances of this specific case, to make a finding of impairment on public interest grounds.’

The original panel determined the following with regard to sanction:

'The panel first considered whether to take no action or impose a caution order but concluded that these courses of action would be inappropriate in the light of its finding of impairment on public protections grounds. To take no action or to impose a caution order would not effectively protect the public; Mrs Pickford is currently not safe to practice without restriction on her practice.

The panel next considered whether placing conditions of practice on Mrs Pickford's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

It determined that a conditions of practice order would adequately protect patients and allow Mrs Pickford an opportunity to re-engage with the regulatory process and address the remediable clinical concerns within her practice. The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case.

The panel was of the view that to impose a suspension order would be disproportionate and would not be a reasonable response in the circumstances of the case at this point in time; such a sanction would not permit Mrs Pickford an opportunity to address the concerns within her clinical practice. The panel also noted that, as this is a lack of competence case, a striking-off order is not available to it.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will adequately protect the public, as well as marking the importance of maintaining public confidence in the profession - sending to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions are appropriate and proportionate in this case:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.'

1. *You must ensure that you are supervised by a registered nurse any time you are working, with such supervision to consist of:*

a) *direct observation when you are administering medication.*

2. *You must create and maintain an up-to-date reflective piece. This piece will:*

a) *Detail a selection of the cases where you undertake or assist with medication administration*

b) *Set out the nature of the care given*

c) *Address your previous failings which amounted to a lack of competence as found by this panel.*

You must send your case officer a copy of this profile prior to any review hearing or meeting.

3. *You must work with your line manager or supervisor to make a personal development plan (PDP). Your PDP must address the concerns about record-keeping and medication administration. You must:*

a) *Send your case officer a copy of your PDP prior to any review hearing or meeting.*

b) *Meet with your line manager or supervisor at least every fourteen days to discuss your standard of performance (generally and in particular in relation to medication administration) and your progress towards achieving the aims set out in your PDP;*

c) *Send your case officer a report from your line manager or supervisor in respect of your standard of performance, prior to any*

review hearing or meeting.

4. *You must keep us informed about anywhere you are working by:*
 - a) *Telling your case officer within seven days of accepting or leaving any employment.*
 - b) *Giving your case officer your employer's contact details.*

5. *You must keep us informed about anywhere you are studying by:*
 - a) *Telling your case officer within seven days of accepting any course of study.*
 - b) *Giving your case officer the name and contact details of the organisation offering that course of study.*

6. *You must immediately give a copy of these conditions to:*
 - a) *Any organisation or person you work for.*
 - b) *Any agency you apply to or are registered with for work.*
 - c) *Any employers you apply to for work (at the time of application).*
 - d) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
 - e) *Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity*

7. *You must tell your case officer, within seven days of your becoming aware of:*
 - a) *Any clinical incident you are involved in.*
 - b) *Any investigation started against you.*
 - c) *Any disciplinary proceedings taken against you.*

8. *You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these*

conditions with:

- a) Any current or future employer.*
- b) Any educational establishment.*
- c) Any other person(s) involved in your retraining and/or supervision required by these conditions'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Pickford'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 Mrs Pickford's fitness to practise remains impaired.

The panel considered that there was no new information before it, and therefore there had been no real material change of circumstances since the previous hearing. The panel noted that the previous panel, in its determination on 21 May 2022, had provided Mrs Pickford 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 Pickford to demonstrate evidence of insight and strengthened practice. Despite being given such clear information by the previous panel, Mrs Pickford had not meaningfully engaged with these proceedings, and she had not taken up that opportunity. The panel considered that Mrs Pickford had not provided any of the evidence suggested by the previous panel.

The panel therefore considered that there was no information before it to demonstrate that Mrs Pickford had addressed her clinical failings and that she had remediated her lack of competence. The panel also considered that there was no evidence to show the development of any insight on Mrs Pickford's part. The panel had nothing before it to provide reassurance that Mrs Pickford would not repeat her clinical failings in the future. The panel therefore considered that there is a high risk of repetition, and that patients would be placed at a real risk of harm if Mrs Pickford 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 Pickford's lack of meaningful engagement with these proceedings, despite being given further time by the previous panel to engage, and with clear directions as to how she could provide this panel with evidence to demonstrate remediation and insight. The panel considered that Mrs Pickford had a duty to engage with these proceedings and cooperate with the NMC as her regulator, and she had failed to do. 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 Pickford's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Pickford'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 Pickford'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 Pickford'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 Pickford'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 next considered the continuation of the current conditions of practice order. The panel noted Mrs Pickford's lack of meaningful engagement with these proceedings. It considered that there was no evidence to suggest that Mrs Pickford would be willing or able to comply with a conditions of practice order. The panel determined that it would not be possible to formulate workable or practicable conditions, which would suitably protect the public and satisfy the public interest. On this basis, the panel concluded that a conditions of practice order is no longer practicable in this case. The panel concluded that no workable conditions of practice could be formulated which would protect the public or satisfy the wider public interest.

The panel determined therefore that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 12 months which would provide Mrs Pickford 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.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely the end of 19 June 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.

This panel wishes to make it clear that the next reviewing panel will expect to see some tangible evidence of Mrs Pickford's commitment to the nursing profession and strongly advise her to provide the information listed below to the next panel. Should Mrs Pickford not do this and continue to disengage with the NMC, a future panel reviewing this case may take the view that her disengagement with the NMC warrants a striking off order being imposed. A future panel reviewing this case would be assisted by:

- Mrs Pickford's engagement with the regulatory process and attendance at a review hearing;
- Up-to-date testimonials from Mrs Pickford's colleagues or employer, whether in relation to paid or unpaid work.

This will be confirmed to Mrs Pickford in writing.