

# **Nursing and Midwifery Council**

## **Voluntary Removal Decision**

**Registrar – 12 May 2022**

**Registrant:** Susan Elizabeth Schoen

**PIN:** 08A0165W

**Part(s) of the register:** Registered Nurse – Adult Nursing

**Area of Registered Address:** Wales

**Type of case:** Misconduct and Lack of Competence

### **REGISTRAR'S DECISION**

A decision has been made by the Registrar to approve the application for voluntary removal based on the assessment of the relevant criteria. The reasons for the decision to grant voluntary removal from the Register are below.

#### **Details of Regulatory Concerns ('RC')**

RC1. Unsafe practice in medicine administration/ management

RC2. Lack of competence – failure to demonstrate the standards of knowledge, skill and judgement required to practise without supervision as a band 5 nurse

### **REGISTRAR'S REASONS**

The following documents were considered when assessing this voluntary removal application:

- Voluntary removal application form dated 1 March 2022
- Covering letter from Mrs Schoen's representative dated 1 April 2022
- Supporting documents from Mrs Schoen, namely evidence of claiming pension
- CE decision letter dated 7 March 2022
- Undated Statement of Mrs Schoen relating to incident on 27 October 2017
- Notes of meeting with Mrs Schoen on 08 December 2017 relating to the incident on 27 October 2017
- Notes of meeting with Mrs Schoen on 21 June 2018 relating to the incidents on 01 June 2018 and 05 June 2018
- Email from Mrs Schoen dated 03 August 2018 to the colleague investigating the incidents from October 2017 and June 2018
- Statement of Case dated 29 November 2018

- Disciplinary Outcome letter to Mrs Schoen dated 29 November 2018
- Statement of Case for Appeal hearing dated 19 February 2019
- Letter to Mrs Schoen from the Trust with the Appeal against disciplinary sanction decision
- Work related Stress risk assessment dated 7<sup>th</sup> June 2019
- Mrs Schoen's reflective piece (first month of capability)
- Mrs Schoen's reflective piece dated 17 May 2019
- Mrs Schoen's reflective piece (undated)
- Mrs Schoen's reflective piece (undated) – having spent 4 months on RDU
- Formal Capability hearing notes 3<sup>rd</sup> September 2019
- Letter to Mrs Schoen re Capability hearing dated 26 November 2019
- Appeal letter to the Trust dated 4 December 2019
- Letter to Mrs Schoen re: appeal outcome 14 January 2020
- Voluntary removal application form received 2 April 2020

## **Background**

Mrs Schoen joined the NMC register in March 2008, and later that same year began working at Velindre University NHS Trust ('the Trust'). From 2008-2017 no concerns were raised regarding Mrs Schoen's practice.

The Trust referred Mrs Schoen to the NMC on the 28 November 2019. The referral related to concerns raised by the Trust about incidents that occurred on 27 October 2017, 1 June 2018 and 5 June 2018. The Trust concerns expanded to include wider issues around Mrs Schoen's competence as a nurse.

The first incident occurred on 27 October 2017, when Mrs Schoen set up and administered a controlled drug syringe driver for a patient without a current valid prescription. A disciplinary hearing for this incident occurred in February 2018 and Mrs Schoen received a final written warning.

On 1 June 2018 Mrs Schoen dispensed medication to a patient without checking the patient details. On 5 June 2018 Mrs Schoen set up an IV infusion of Gentamicin for a patient with impaired renal function, without checking the correct levels to be administered.

Following these incidents, Mrs Schoen was subject to a disciplinary process which resulted in her being dismissed on 29 November 2019. Mrs Schoen appealed this decision, and on appeal, Mrs Schoen was supported by the Trust to return to a nursing role by way of the capability process, on 19 February 2019.

Concerns were raised regarding Mrs Schoen's competence and her ability to carry out the duties of a Band 5 nursing role.

Concerns were identified including:

- concentration and attention to detail
- infection control
- tasks, such as cannulation
- your management of vulnerable patient such as those receiving chemotherapy

- use of the NEWS scores
- use of adjuncts, such as infusion pumps

Mrs Schoen returned to a supernumerary position at the Rhosyn Day Unit ('RDN'), an outpatient department providing chemotherapy, which was a different environment to the ward where the previous incidents had taken place. Mrs Schoen undertook various assessments and underwent competency supervision between March and September 2019. Several of these assessments were not passed by Mrs Schoen. When assessments were passed, concerns were raised that Mrs Schoen was not able to competently carry out the procedures afterward. Mrs Schoen passed onto Stage 3 of the capability process, failing Stages 1 and 2.

A capability hearing occurred on 15 November 2019, after which Mrs Schoen was dismissed from her role at the Trust. Mrs Schoen appealed the decision.

The appeal hearing occurred on 13 January 2020 and the dismissal decision was upheld.

Mrs Schoen became subject to an Interim Conditions of Practice Order in December 2019. This was replaced by an Interim Suspension order in May 2021.

### **Public interest considerations**

On 20 December 2021, the Case Examiners referred the concerns to the Fitness to Practise Committee having decided there's a realistic prospect of impairment on the grounds that Mrs Schoen presents a current risk to the health, safety or wellbeing of the public.

Our voluntary removal guidance explains that the only circumstances in which we'll accept applications for voluntary removal are where:

- the nurse, midwife or nursing associate accepts the regulatory concern(s);
- the regulatory concerns are not so serious that they are fundamentally incompatible with being a registered professional; and
- the nurse, midwife or nursing associate provides evidence that they do not intend to continue practising.

*Does the nurse accept the regulatory concerns?*

Mrs Schoen has admitted the facts and current impairment in the voluntary removal forms dated 1 March 2022. Mrs Schoen's application contains a signed declaration that she admits to the facts of the allegation against her and that her fitness to practise is impaired.

*Are the regulatory concerns so serious that they are fundamentally incompatible with being a registered professional?*

I've considered whether the concerns are so serious they're fundamentally incompatible with being a registered professional. The seriousness of the concerns will be a key factor in considering whether voluntary removal is suitable or whether we need to take action in the public interest.

I have considered the fact that there is more than one type of regulatory concern and that it is alleged that Mrs Schoen's fitness to practise is impaired because of both misconduct and lack of competence. I have made an overall assessment of the seriousness of the concerns.

Our second category of seriousness is called serious concerns which could result in harm to patients if not put right. This category of seriousness may include concerns such as not maintaining the knowledge and skills for safe and effective practice; failing to recognise and work within the limits of competence; failing to advise, prescribe or administer medicines in line with training, law and guidance and where a nurse is unable to communicate clearly and work cooperatively. Our guidance explains that a pattern of incidents is usually more likely to show risk to patients or service users, requiring us to act.

In such cases the misconduct may be so serious that it's fundamentally incompatible with being a registered professional. For this reason our guidance makes clear that we will need to consider whether patients were put at risk by the nurse's conduct or failings in the past, and what harm did or could have happened to patients because of those failings. We will need to assess how likely the nurse is to repeat similar conduct or failings in the future, and if they do, if it is likely that patients would come to harm, and in what way.

I have carefully considered the concerns raised in relation to Mrs Schoen's practice. The concerns regarding unsafe practice in medicine administration/ management are in relation to three incidents on 27 October 2017, 1 June 2018 and 5 June 2018. No harm came to the patients involved in these incidents, however there was a risk of harm by virtue of Mrs Schoen's conduct.

However, I have given consideration to Mrs Schoen's account of these incidents during the disciplinary process contained within the notes of the meetings on 08 December 2017 and 21 June 2018, and in her email dated 03 August 2018. I have identified that Mrs Schoen has demonstrated insight and a high level of remorse. Mrs Schoen acknowledges the risk of harm that her conduct posed to the patients.

Concerns have also been raised in respect of Mrs Schoen's lack of competence. Our guidance on Voluntary Removal explains that where the nurse accepts that their fitness to practise is impaired through lack of competence and where the nurse has already stopped practising and doesn't intend to return to practice, voluntary removal may be appropriate.

Having carefully considered the sanctions guidance, were this case to go to a panel of the Fitness to Practise Committee, there is unlikely to be a real risk of a striking off order being made in respect of the misconduct concerns. These are not concerns that would be considered more difficult to put right. A striking off order cannot be used in a case where a nurse's fitness to practise is impaired due to lack of competence, until they have been on either a suspension order or a conditions of practice order for a

continuous period of two years. Therefore a striking off order would not be available to the Fitness to Practise Committee if they considered Mrs Schoen to be impaired on the grounds of lack of competence.

For this reason I don't consider the concerns about Mrs Schoen to be so serious that they are fundamentally incompatible with being a registered professional. As such it doesn't require a Fitness to Practise Committee decision in order to uphold the public interest based on the seriousness of the allegations.

*Has the nurse provided evidence that they do not intend to continue practising?*

Our voluntary removal guidance also explains that the only circumstance in which voluntary removal applications will be accepted is where the nurse, midwife or nursing associate provides evidence that they do not intend to continue practising.

Mrs Schoen has confirmed that she has not practised as a nurse since November 2019. Her application for voluntary removal contains a signed declaration confirming she won't reapply to the NMC register for a period of at least 5 years.

Mrs Schoen initially applied for Voluntary Removal in April 2020 and has admitted the allegations and that her fitness to practise was impaired from very early on in the NMC process. Mrs Schoen has maintained her position since 2020 that she no longer wishes to practise as a nurse and that she intended to retire.

Mrs Schoen has confirmed that she retired on 12 June 2021, and has provided evidence to show that she is in receipt of both the State Pension and an NHS Pension.

Mrs Schoen has also confirmed that she doesn't intend to return to practice as a result of her current health, stating that she suffers from anxiety and depression. Mrs Schoen has not provided any evidence of any health concerns that she is suffering from and so I have not considered this any further.

Voluntary removal would mean that Mrs Schoen would be immediately removed from the register and would not be able to work as a nurse. This would remove the risk to the public.

Following voluntary removal, Mrs Schoen would not be able to seek employment or practise as a nurse. Voluntary removal would protect the public and as explained above the concerns themselves are not so serious that they need the Fitness to Practise Committee to consider them in order to uphold the public confidence in the professions. Were Mrs Schoen to reapply to the register in the future, a Registrar would be able to consider the original concerns about Mrs Schoen and reasons for readmission. Mrs Schoen would have to show that she is able to practise safely and effectively.

In summary I consider that the public interest is met by the publishing of this decision and the immediate removal of Mrs Schoen from the register. As Mrs Schoen is subject to an Interim Suspension Order this will take place once that order is revoked.

### **Comments from the maker of the allegations**

The NMC contacted the maker of the allegations for their comments on Mrs Schoen's voluntary removal from the register. The original maker of the allegations is currently on a secondment and so the NMC have written to an alternative point of contact. No response has been received.

### **Registrar's decision**

I'm satisfied that Mrs Schoen accepts the concerns and doesn't intend to work as a registered nurse again in the future. Approving Mrs Schoen's application would immediately remove any future risk and address the public protection issues. The concerns don't involve the type of conduct that is fundamentally incompatible with being on the register. I've therefore decided to accept Mrs Schoen's application for voluntary removal from the register, subject to the panel's decision to revoke the Interim Suspension Order.