

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

**Substantive Order Review Hearing
Monday 14 August 2023**

Virtual Hearing

Name of Registrant: **Caroline Morrison**

NMC PIN 08I2095S

Part(s) of the register: Registered Nurse – Adult Nursing
Effective – 11 July 2012

Relevant Location: Midlothian

Type of case: Misconduct

Panel members: Rachel Ellis (Chair, Lay member)
Caroline Jones (Registrant member)
Catherine Askey (Registrant member)

Legal Assessor: Sanjay Lal

Hearings Coordinator: Amanda Ansah

Nursing and Midwifery Council: Represented by Laura Holgate, NMC Case Presenter

Mrs Morrison: Present and unrepresented at the hearing

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (9 months) to come into effect at the end of 29 September 2023 in accordance with Article 30 (1)**

Decision and reasons on application for hearing to be held in private

At the outset of the hearing, Ms Holgate on behalf of the Nursing and Midwifery Council (NMC), made a request that this case be held in private on the basis that there will be reference to your health and personal circumstances. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You indicated that you supported the application to the extent that any reference to your health should be heard in private.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined that it was justified and, in your interests, to hear any information relating to your health or personal circumstances in private, as and when they arose, in accordance with Rule 19.

Decision and reasons on review of the substantive order

The panel decided to extend the current conditions of practice order.

This order will come into effect at the end of 29 September in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the fifth review of a substantive conditions of practice order originally imposed as a 12-month suspension order on 31 May 2018. The order was reviewed on 29 May 2019 when it was replaced with a 9-month conditions of practice order. It was reviewed and confirmed again on 20 February 2020. The order was then reviewed on 23 August 2021, when the conditions of practice were confirmed for a further period of 12 months and

reviewed again on 30 August 2022 when it was confirmed for a further period of 12 months.

The current order is due to expire at the end of 29 September 2023.

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:

1) *on 20 April 2016:*

a) *did not conduct checks on Patient A's McKinley pump when it was clinically appropriate to do so, namely at or around:*

i) *00.20*

ii) *04.20*

b) *inaccurately indicated to Ms 1 that you had conducted checks on Patient A's McKinley pump.*

c) *inaccurately recorded on Patient A's infusion chart that you had checked Patient A's McKinley pump at or around 00.20.*

2) *Your actions at charge 1b) were dishonest in that you were seeking to conceal from Colleague A the fact that you had not undertaken clinically appropriate checks of Patient A's McKinley pump at or around 00.20 and 04.20.*

3) ...

4) on 30 April 2016:

a) *did not sign Patient B's kardex to indicate that you had administered Patient B's prescribed Levothyroxine and Metformin at 08.00.*

b) *signed Patient C's kardex to indicate that you had administered Patient C's prescribed Lidocaine patches when you had not done so and/or did not record on Patient C's kardex that you had removed Patient C's prescribed Lidocaine patches during the course of your shift.*

c) *in respect of Patient D*

i) *drew up insulin without a second checker present.*

ii) *drew up an incorrect dose of insulin, namely 25 units when Patient D was prescribed 18 units.*

iii) *left the insulin syringe you intended to use on Patient D in the insulin vial having drawn up a quantity of insulin.*

5) *Between 01 May 2016 and 04 May 2016 retrospectively signed Patient B's drug kardex to indicate that you had administered Patient B's prescribed Levothyroxine and Metformin at 08.00.*

6) *Your actions at charge 5) were dishonest in that you did not make clear that your entry on Patient B's drug kardex was made retrospectively and thereby sought to mislead anyone reading the kardex into thinking it had been signed for contemporaneously.*

7) *On or around 24 December 2015 submitted work to Edinburgh Napier University as part of an academic module you were undertaking which was 60% copied from work previously submitted by another student.*

8) *Your actions at charge 7) were dishonest in that you knew the work you had submitted was substantially copied from another student but nonetheless represented it as your own work.*

9) *Between 04 March 2016 and 03 May 2016 did not inform NHS Lothian that you had deferred your place on the Foundations in Nursing Older People module at Edinburgh Napier University following a finding of plagiarism.*

10) *Your actions at 9) were dishonest in that you had been informed by the Edinburgh Napier University that you must inform your employer of your decision to defer your place following a finding of plagiarism and by not doing so you were seeking to conceal the circumstances of your deferral from NHS Lothian.'*

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

'The panel bore in mind that, although you have been working, you have not worked as a nurse since 2016/2017 and you have not engaged with the conditions of practice order since it was first imposed in May 2019.

The panel was sympathetic to the difficult personal circumstances that you have been experiencing. You acknowledged your past misconduct and expressed remorse. However, you did not demonstrate insight or evidence that you had strengthened your practice. You did not follow the recommendation of the previous panel to provide a reflective statement on the impact of your misconduct upon patients, colleagues, and the reputation of the nursing profession. You told the panel that you had done some training in your Band 2 and Band 3 roles but did not provide any documentary evidence of this. You also did not provide any references or testimonials.

The panel therefore considered there to be no information before it to evidence that the concerns in your case had been addressed and that the risks previously identified had reduced. The panel thus 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 your fitness to practise remains impaired.'

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

'Having found your 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 public protection issues identified. 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 your 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 your 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 further conditions of practice order on your 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 accepted that you have been unable to work under conditions of practice as you have not worked as a registered nurse since the conditions have been in place. It also bore in mind the difficult personal circumstances and health issues you have had, particularly since the previous review of your case. The panel noted that you continue to engage with the NMC and participate in proceedings and show a clear willingness to engage with any further conditions imposed.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that there was no evidence of general incompetence and no deep-seated attitudinal problems.

The panel was of the view that a 12-month conditions of practice order would allow you time to demonstrate significant progress. 12 months should be sufficient time for you to secure a nursing role, engage with the conditions, prepare a reflective statement, obtain references and testimonials, address the concerns in your case and strengthen your nursing practice.

The panel was of the view that to impose a suspension order or a striking-off order at this stage would be wholly disproportionate and would not be a reasonable response in the circumstances of your case because whilst both orders would protect the public, neither orders would support your return to safe and effective nursing practice.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a revised conditions of practice order for a period of 12 months, which will come into effect on

the expiry of the current order, namely at the end of 29 September 2022. It decided to impose the following conditions which it considered 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 not administer medication unless directly supervised by another registered nurse, until deemed competent to do so unsupervised, by your line manager, mentor or supervisor (or their nominated deputy) or another appropriate identified healthcare professional.*
- 2. You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan designed to address, as a minimum, the concerns about the following areas of your practice:
 - a) Medicines administration;*
 - b) Record keeping.**
- 3. You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least monthly to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.*
- 4. You must forward to the NMC a copy of your personal development plan within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.*

5. *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC prior to any NMC review hearing or meeting.*
6. *You must notify the NMC within 7 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.*
7. *You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.*
8.
 - a) *You must within 7 days of accepting any post or 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 7 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;*
9. *You must immediately inform 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 (8) 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);*
- c) *Any prospective employer (at the time of application) where you are applying for any nursing appointment; and*
- 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 such a course (at the time of application).'*

Decision and reasons on current impairment

The panel has considered carefully whether your 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, and the training records you shared in the hearing. It has taken account of the submissions made by Ms Holgate on behalf of the NMC. She submitted that you have not provided a report from your new employer, or a personal development plan as stipulated by the current conditions however this is due to only recently returning to work, rather than any unwillingness or disregard for the conditions.

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Ms Holgate submitted that you have undertaken some mandatory training since returning to work and some training that you stated you undertook in your own interest. Ms Holgate further submitted that despite the positive steps you have taken in returning to nursing, you have only very recently returned to work following a significant period of absence from nursing practice, therefore there has not yet been enough time for you to demonstrate

remediation of the concerns raised and engage with the current conditions of practice. Given the time that you have been out of a nursing role you have not yet had an opportunity to put any learning into practice or demonstrate a prolonged period of safe practice. Ms Holgate submitted that considerable time will be necessary for you to settle back into work as a Registered Nurse and start to work towards meeting the conditions of practice. The charges found proved in this case are serious and wide ranging, and in the absence of any evidence that you have strengthened your practice or shown sufficient remediation, a risk of repetition and subsequently a risk of harm to the public remains, should you be able to practise without restriction.

Ms Holgate told the panel that there is no evidence before it that suggests the risk has reduced and no information at this stage, which undermines the previous panel's decision. She submitted that you remain impaired by reason of your misconduct and that a finding of current impairment on the grounds of public protection remains necessary. As a result, an order also remains necessary in the wider public interest to maintain confidence in the profession and the NMC as regulator, and to uphold proper standards.

Ms Holgate submitted that a conditions of practice order remains the appropriate and proportionate order to address the main concerns. Such an order would protect the public whilst the conditions are enforced and would satisfy the public interest in reflecting the seriousness of the case. Further, conditions of practice would also support you in these early stages of returning to nursing, and indeed, having spoken to you in the preliminary meeting prior to the hearing, you recognised that you would benefit from a further period of conditions to help you with your return to nursing practice. Ms Holgate invited the panel to confirm the current order for a further period of 12 months.

The panel also had regard to your oral evidence under affirmation, and the training documents you shared during the hearing. You submitted that you had not been working as a Band 5 Nurse previously because you did not feel comfortable, and therefore you were working as a Band 2 Healthcare Assistant at your current employer.

You explained that you had recently applied for a Band 5 role again and spoke to management to confirm they would be able to support you in this role. You returned to work as a Band 5 Nurse on 8 May 2023. You told the panel you felt grateful for being given

the opportunity to go back to working as a Nurse although it is early days, and you are still developing your confidence.

You submitted that you agree with the NMC's submissions that a further 12 months of conditions of practice will allow you to build your confidence.

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 your fitness to practise remains impaired.

The panel noted that the last reviewing panel found that you had insufficient insight. At this hearing, the panel was of the view that this position had not changed. You have not provided any evidence of sufficient insight and you have not provided a reflective piece as you were recommended by the previous reviewing panel. The panel noted that you are technically in breach of the current conditions of practice as you have not complied with conditions 4 and 5 in failing to provide a personal development plan within 28 days of taking up employment as a Registered Nurse and failing to provide a report from your line manager, mentor or supervisor prior to this review. The panel has not been informed of any reason why these documents have not been provided and the panel considered that 3 months should have been sufficient time for you to have provided the information required under conditions 4 and 5 of your conditions of practice order.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account the training certificates you provided and noted that you have been keeping some relevant training such as medicines management and record keeping up to date. However, it was of the view that you are yet to put this training into practice and be objectively assessed as being competent in medications administration and record keeping.

The last reviewing panel determined that you are liable to repeat matters of the kind found proved. Today's panel has heard no new information that undermines this. The panel was of the view that you could have provided a reflective piece that demonstrates your insight prior to this review. In light of this, this panel determined that you are 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 your fitness to practise remains impaired.

Decision and reasons on sanction

Having found your 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 and the public protection issues identified. 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 your 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 your 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 further conditions of practice order on your 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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case.

The panel concluded that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that there was no evidence of general incompetence and no deep-seated attitudinal problems. In this case, there are conditions that could be formulated which would protect patients during the period they are in force.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case because this would go beyond what is necessary.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 9 months, which will come into effect on the expiry of the current order, namely at the end of 29 September 2023. It decided to impose the following existing conditions which it considered remain 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 not administer medication unless directly supervised by another registered nurse, until deemed competent to do so unsupervised, by your line

manager, mentor or supervisor (or their nominated deputy) or another appropriate identified healthcare professional.

2. You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan designed to address, as a minimum, the concerns about the following areas of your practice:
 - a) Medicines administration;
 - b) Record keeping.
3. You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least monthly to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.
4. You must forward to the NMC a copy of your personal development plan within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.
5. You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC prior to any NMC review hearing or meeting.
6. You must notify the NMC within 7 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.
7. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.

8. You must within 7 days of accepting any post or 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;
 - a) You must within 7 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;

9. You must immediately inform 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 (8) 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);
 - 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 such a course (at the time of application).

The period of this order is for 9 months. The panel decided that, as you had already been working as a Registered Nurse for the past 3 months, a further period of 9 months would provide sufficient time for you to demonstrate that you had strengthened your practice in the areas of medicines administration and record keeping.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 29 September 2023 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Your attendance;
- Copies of any online or face-to-face learning you have completed to keep your nursing skills and knowledge up to date, particularly in relation to medicines administration and record keeping;
- Up-to-date references / testimonials from any paid and/or unpaid work;
- A reflective piece from you in which you address your previous misconduct, how this impacted on your patients, colleagues and the wider profession, and how you would do things differently in the future.

This will be confirmed to you in writing.

That concludes this determination.