

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

**Substantive Order Review Meeting
Tuesday 23 May 2023**

Virtual Hearing

Name of Registrant: Ms Catherine Helena Healy

NMC PIN 72C0698E

Part(s) of the register: Registered Nurse – Sub Parts 1 and 2
Adult Nursing – level 1, September 2000
Adult Nursing – level 2, March 1972

Relevant Location: Middlesex

Type of case: Misconduct/Lack of competence

Panel members: Rachel Childs (Chair, Lay member)
John McGrath (Registrant member)
Ian Dawes (Lay member)

Legal Assessor: Nigel Pascoe KC

Hearings Coordinator: Anya Sharma

Ms Healy: Not present and unrepresented

Order being reviewed: Conditions of practice order (18 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (18 months)
to come into effect on 11 July 2023 in accordance
with Article 30 (1)**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Ms Healy's registered email address by secure email on 12 April 2023.

Further, the panel noted that the Notice of Meeting was also sent to Ms Healy's representative at the Royal College of Nursing (RCN) on 12 April 2023.

The panel took into account that the Notice of Meeting provided details of the review including the time, dates and the fact that this meeting was heard virtually.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Healy 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 extend the current conditions of practice order for a period of 18 months. This order will come into effect at the end of 11 July 2023 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the seventh review of a substantive conditions of practice order originally imposed at the first review of this case to replace a 9-month suspension order.

The current order is due to expire at the end of 11 July 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, whilst working as a Nurse for BUPA:

1. On 17 January 2013 in relation to Patient C:

1.1 Attempted to administer the wrong amount of medication;

1.2 Did not ensure anti-seizure medication was administered at the correct time;

2. On 8 February 2013 in relation to Patient B, suctioned the patient's tracheostomy tube incorrectly, in that you did not remove the inner tube before suctioning.

3. On 9 June 2013 in relation to Patient G, gave a suppository a day earlier than it was supposed to be administered;

4. On or around 28 September 2013 in relation to Patient D, did not administer controlled medication at the prescribed time and/or at all.

5. Failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a registered nurse in that:

5.1 You failed to pass a care plan assessment between 9 and 11 December 2013 as set out in one or more of the reasons contained in schedule 1;

5.2 You failed to pass a medication administration assessment on 16 December 2013 as set out in one or more of the reasons contained in schedule 2;

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

The panel bore in mind that Ms Healy, through the RCN, [PRIVATE]. It found that until she is able to demonstrate remediation and safe practice in a clinical environment, the risk of harm to the public identified by the previous panel remains. As such, the panel concluded that a finding of current impairment is necessary for the protection of 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. Given that it has considered that Ms Healy is yet to demonstrate that she has remediated her clinical failings, such that she does not pose a risk of potential harm to the public, it determined that, in this case, a finding of continuing impairment on public interest grounds is also required, in order to uphold professional standards and public confidence.

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

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

The panel next considered whether imposing a further conditions of practice order on Ms Healy'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 determined that the current conditions of practice order is appropriate and practicable and would continue to address the failings highlighted in this case. The panel accepted that Ms Healy has been unable to comply with conditions of practice [PRIVATE], but it is also accepted that she has been engaging with the NMC and is willing to comply with any conditions imposed when she is able.

The panel decided that a further conditions of practice order is sufficient to protect patients and the wider public during the period they are in force, and uphold professional standards and the reputation of the profession.

The panel determined that to impose a suspension order would be wholly disproportionate and would not be a reasonable response in the circumstances of Ms Healy's case because it is through no fault of her own that she has not been able to work and therefore not meet the conditions of practice and remediate the risk concerned.

The panel determined that all of the previous conditions of practice will remain in place.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 18 months, which will come into effect on the expiry of the current order, namely at the end of 11 January 2022. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

- 1. 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.*
- 2. a) You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing 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.

3. *At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the supervision of a workplace line manager, mentor or supervisor nominated by your employer, such supervision to consist of working at all times under the indirect supervision of a registered nurse of at least 12 months post qualification experience. "Indirect supervision" means "working at all times on the same shift as, but not necessarily under the direct observation of a registered nurse who is physically present in or on the same ward, unit, floor or home that you are working in or on". During this supervision period you will formulate a Personal Development Plan specifically designed to address the deficiencies in the following areas of your practice:*

- a. Medication management*
- b. Documentation*
- c. Care planning*
- d. Risk assessments*

This supervision period will continue until you have been signed off as safe to practise without supervision by your manager, mentor or supervisor.

4. *During the supervision period, you must also meet with your line manager, mentor or supervisor (or their nominated deputy) at least every 4 weeks to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.*
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 in advance of any NMC review hearing or meeting.*

6. *You must immediately inform the following parties that 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 (6) above, to them:*

1. *Any organisation or person employing, contracting with, or using you to undertake nursing work;*
2. *Any agency you are registered with or apply to be registered with (at the time of application);*
3. *Any prospective employer (at the time of application);*
4. *Any educational establishment at which you are undertaking a course of study connected with nursing, 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 Ms Healy'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 and correspondence from Ms Healy's representative at the RCN, in particular an email dated 22 December 2022 which confirms that Ms Healy is happy for the review to take place at a meeting.

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 Ms Healy's fitness to practise remains impaired.

The panel noted the decision and reasons of the previous reviewing panel in regard to impairment. It took into account that Ms Healy through her representative at the RCN has informed the NMC that [PRIVATE]. The panel also noted that Ms Healy's [PRIVATE] has prevented her from attending a Return to Practice Programme in the past. The panel was of the view that there is no evidence before it to suggest that the original regulatory concerns have not been resolved, given that Ms Healy is unable to demonstrate that she has taken the necessary steps to remediate and strengthen her practice due to [PRIVATE], and a risk of repetition therefore remains. 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 considered that it has no information before it that Ms Healy has remediated the regulatory concerns and the risk of harm has reduced. The panel therefore determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Ms Healy 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 Ms Healy'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 Ms Healy'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 further conditions of practice order on Ms Healy'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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that Ms Healy has been unable to comply with conditions of practice [PRIVATE] condition but is continuing to engage with the NMC via her representative at the RCN.

The panel was of the view that a further conditions of practice order is sufficient to protect patients, the wider public interest and uphold professional standards. In this case, there are conditions 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 Ms Healy's case because [PRIVATE] she has been unable to comply with conditions of practice and address the regulatory concerns.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 18 months, which would provide Ms Healy with the opportunity to secure a place on a Return to Practice Course, should she decide to do so, or alternatively to consider her options in regard to her nursing career. This condition of practice order will come into effect on the expiry of the current order, namely at the end of 11 July 2023. 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 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.

2. a) You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing 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.

3. At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the supervision of a

workplace line manager, mentor or supervisor nominated by your employer, such supervision to consist of working at all times under the indirect supervision of a registered nurse of at least 12 months post qualification experience. "Indirect supervision" means "working at all times on the same shift as, but not necessarily under the direct observation of a registered nurse who is physically present in or on the same ward, unit, floor or home that you are working in or on". During this supervision period you will formulate a Personal Development Plan specifically designed to address the deficiencies in the following areas of your practice:

- a. Medication management
- b. Documentation
- c. Care planning
- d. Risk assessments

This supervision period will continue until you have been signed off as safe to practise without supervision by your manager, mentor or supervisor.

4. During the supervision period, you must also meet with your line manager, mentor or supervisor (or their nominated deputy) at least every 4 weeks to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.

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 in advance of any NMC review hearing or meeting.

6. You must immediately inform the following parties that 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 (6) above, to them:

1. Any organisation or person employing, contracting with, or using you to undertake nursing work;
2. Any agency you are registered with or apply to be registered with (at the time of application);
3. Any prospective employer (at the time of application);
4. Any educational establishment at which you are undertaking a course of study connected with nursing, 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 18 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 11 July 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 Ms Healy has 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:

- Ms Healy's continued engagement with the NMC
- Evidence of Ms Healy's employment
- Evidence of Ms Healy's commencement of a Return to Practice Course
- etc...

This will be confirmed to Ms Healy in writing.

That concludes this determination.