

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

**Substantive Order Review Meeting
Friday 15 March 2024**

Virtual Meeting

Name of Registrant: Thomas Richard Price

NMC PIN 77C1390E

Part(s) of the register: Registered Nurse – Sub parts 1 & 2
RN2 Adult Nursing - June 1979
RN1 Adult Nursing – May 1999

Relevant Location: Gibraltar

Type of case: Misconduct

Panel members: Dr Katharine Martyn (Chair – Registrant member)
Hannah Harvey (Registrant member)
James Carr (Lay member)

Legal Assessor: Ian Ashford-Thom

Hearings Coordinator: Vicky Green

Order being reviewed: Conditions of practice order (9 months)

Fitness to practise: Impaired

Outcome: **Striking-Off order to come into effect at the end of
29 April 2024 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 (the Notice) had been sent to Mr Price's registered email address by secure email on 18 January 2024.

The panel also noted that the NMC sent the Notice by first class post and recorded delivery to Mr Price's registered address on 18 January 2024. This Notice was returned to the NMC on 30 January 2024 indicating that Mr Price no longer resides at that postal address. Following the Notice being returned, the NMC sent an email to Mr Price on 7 March 2024 requesting that he provide his new address but no response was received. The NMC attempted to contact Mr Price by telephone on 7 March 2024, however, the call did not connect.

The panel took into account that the Notice provided details of the review meeting and that the review would be held no sooner than 12 March 2024. The Notice invited Mr Price to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In light of all of the information available, the panel was satisfied that Mr Price has been served with the Notice 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 impose a striking off order. This order will come into effect at the end of 29 April 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of a substantive conditions of practice order originally imposed for a period of 9 months by a Fitness to Practise Committee panel on 11 November 2022. This was reviewed on 31 July 2023 by a panel of the Fitness to

Practice Committee, the reviewing panel decided to impose a conditions of practice order for a further period of 9 months. The current order is due to expire at the end of 29 April 2024.

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, a registered nurse:

At the Royal Marsden Hospital

1. *On the night shift of 16/17 February 2019:*
 - a. *Did not ensure that blood tests were taken for Patient A between 2100 hours and 0600 hours; **[PROVED]***
 - b. *Incorrectly recorded Patient A’s analgesia administration at:*
 - i. *2100 hours; **[PROVED]***
 - ii. *2200 hours; **[PROVED]***
 - iii. *2300 hours; **[PROVED]***
 - iv. *0100 hours. **[PROVED]***

At Blackpool Victoria Hospital

2. *On the night shift of 9/10 August 2019:*
 - a. *Did not respond in a timely way to a choking patient; **[PROVED]***
 - b. *Demonstrated inadequate knowledge of making up 10mg morphine in 1ml of solution. **[PROVED]***
3. *On a nightshift on or around 19 September 2019:*
 - a. *Left medication unattended in the presence of a patient; **[PROVED]***
 - b. *Signed for the administration of IV antibiotics to a patient which:*

- i. You had made up but not yet administered; **[PROVED]**
- ii. You had made up without a second nurse present to check. **[PROVED]**

4. On the night shift of 20/21 September 2019:

- a. Did not carry out observations, or did not record on the patient records that you had carried out observations, for one or more patients; **[PROVED]**
- b. Did not complete all admissions paperwork for patients admitted during your shift. **[PROVED]**
- c. In relation to a female patient noted by you to have a grade 2 pressure sore to the sacrum:
 - i. Did not accurately record the extent of her pressure sores; **[PROVED]**
 - ii. Did not hand over the need to make a referral to a dietician and/or tissue viability nurse; **[PROVED]**
 - iii. Did not hand over the need to take a swab of the pressure sores; **[PROVED]**
 - iv. Did not hand over the need to complete an incident report. **[PROVED]**

At Medway Hospital

5. On the nightshift of 4/5 October 2019:

- a. Signed for the administration of IV medication to a patient who had not been cannulated; **[PROVED]**
- b. Administered IV potassium to a patient without:
 - i. Setting up a pump; **[PROVED BY ADMISSION]**
 - ii. Connecting a cardiac monitor. **[PROVED]**

AND in light of the above your fitness to practise is impaired by reason of your misconduct.'

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

'This panel noted that the original panel found that Mr Price's insight had not fully developed. This panel further noted that at the substantive hearing, the original panel had regard to training undertaken by Mr Price and his responses to the incidents but on that date, it could not be satisfied that Mr Price had demonstrated full insight. Today's panel has not had any evidence of developed insight or training undertaken by Mr Price. It did not have any information before it to determine that, since the original hearing, Mr Price has taken responsibility for his failures or developed any understanding of why what he did was wrong and how this could have impacted negatively on his patients and on the reputation of the nursing profession.

The panel next considered whether Mr Price has taken steps to strengthen his practice since the original substantive hearing. This panel did not have any documentary evidence before it which shows that Mr Price has undertaken additional training in the relevant areas of concern, nor has he provided evidence that a clinical manager has assessed him for competence in the areas of record keeping and medicines management.

The original panel determined that Mr Price was liable to repeat matters of the kind found proved. Today's panel has not received any information to undermine this decision. In light of this the panel determined that Mr Price is 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 Mr Price's fitness to practise remains impaired.'

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

'The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the charges found proved. 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 charges found proved, and the public protection issues identified, an order that does not restrict Mr Price'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 Mr Price'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 Mr Price'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 concluded that there are conditions which could be formulated which would protect patients during the period they are in force. The panel considered that the existing conditions of practice should be varied to ensure there is clarity for Mr Price about what he needs to do to demonstrate that he has strengthened his practice and provide evidence to a future panel about his insight and competence in relation to record keeping and medicines management.

Mr Price has stated in an email dated 21 December 2022 that he no longer wishes to practise as a registered nurse. In light of this, the panel considered

allowing the order to lapse upon expiry. The panel noted that Mr Price's registration is active until December 2023. Further, he has also stated that he would consider a return to practice in healthcare. In all the circumstances, the panel could not be sure he no longer wished to practise as a nurse, nor did it have a clear explanation from him as to his future intentions.

The panel noted that Mr Price has not provided evidence to the NMC showing that he has been assessed in the areas as directed in the conditions of practice order. The panel also noted that Mr Price has not been consistent in his communications with the NMC in the short period since the outcome of his substantive hearing. He appears to have changed his mind from appealing the decision of the original panel, to wanting to work in an occupation away from nursing, albeit in a healthcare setting. In light of this, the panel concluded that imposing a further conditions of practice order would allow Mr Price further time to consider his position, hopefully to return to his original profession as a nurse and to be able to comply with this conditions of practice order to improve his nursing practice.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate at this stage and would not be a reasonable response in the circumstances of Mr Price's case because the public protection concerns and public interest considerations identified can be appropriately addressed by a conditions of practice order.

Accordingly, the panel determined, pursuant to Articles 30(2)(c) and 30(4) to make a conditions of practice order for a period of 9 months, which will come into effect immediately. 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. *As soon as reasonably practicable, you must undertake further training on record keeping. You must improve your practice on record keeping, be assessed to demonstrate proficiency, and be signed off as competent by a clinical line manager.*
2. *As soon as reasonably practicable, you must undertake further training on medications management, including use of IV medications and controlled drugs.*
3. *You must be observed and assessed by a more senior nurse whilst you are undertaking medications management until such time as you are signed off as competent in medicines management by your clinical line manager.*
4. *As soon as reasonably practicable, you must work with your clinical line manager (or their nominated deputy) to create a personal development plan (PDP) designed to address the concerns about the following areas of your practice:*
 - a) *Medicines management*
 - b) *Record keeping*
5. *You must:*
 - *Send your case officer a copy of your PDP 14 days before the next review hearing.*
 - *Meet with your clinical line manager monthly, to start as soon as reasonably practicable, to discuss your progress towards achieving the aims set out in your PDP and your compliance with your conditions of practice order.*
 - *Send your case officer a report from your clinical line manager, (or their nominated deputy) before any NMC review hearing or meeting. This report must show your progress towards achieving the aims set out in your PDP.*

6. *You must keep the NMC 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.*

7. *You must keep the NMC 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.*

8. *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.*

9. *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.*

10. *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.*

The period of this order is for 9 months.'

Decision and reasons on current impairment

This reviewing panel has considered carefully whether Mr Price'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 Mr Price's fitness to practise remains impaired.

The panel noted that since the last review hearing Mr Price has not engaged with the NMC or provided any evidence to demonstrate that he has complied with the conditions of practice order, developed his insight, strengthened his practice or addressed the concerns and misconduct that led to the imposition of a substantive conditions of practice order by the original panel. The panel also noted that Mr Price has not responded to the recommendations of the last reviewing panel. In the light of this and

the seriousness of the charges found proved the panel determined that Mr Price has not demonstrated that he is capable of kind, safe and effective practice as a nurse. Accordingly, the panel found that there is a continuing risk of repetition of the misconduct and a consequent risk of harm to patients if Mr Price was permitted to practise as a registered nurse without restriction. The panel therefore determined that a finding of impairment remains 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 was of the view that Mr Price's continued disengagement with his regulator raises attitudinal concerns and the public would be concerned if a finding of impairment was not made given his disengagement and the seriousness of the charges found proved. The panel therefore determined that, in this case, a finding of continuing impairment on public interest grounds is required to maintain professional standards and confidence in the NMC as the regulator.

For these reasons, the panel finds that Mr Price's fitness to practise remains impaired on both public protection and public interest grounds.

Decision and reasons on sanction

Having found Mr Price'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 and allow the order to lapse but concluded that this would be inappropriate in view of the seriousness of the case and the continuing risk of harm to patients identified. The panel decided that it would be neither proportionate nor in the public interest to take no further action as any order that

does not restrict Mr Price's practice would neither protect the public nor address the public interest in this case.

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 Mr Price'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 Mr Price'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 a conditions of practice order on Mr Price'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 given Mr Price's lack of engagement with the NMC and non-compliance with the conditions of practice order which have been in place for 18 months, it considered that a further conditions of practice order would not be workable and would serve no useful purpose.

The panel next considered imposing a suspension order. The panel noted that Mr Price had previously indicated that he did not intend to return to nursing (although he had not provided any evidence to support this). The panel was of the view that the charges found proved were wide ranging and very serious. Given Mr Price's non-compliance with the conditions of practice order and his lack of engagement with the NMC, it had no information before it that he has addressed the concerns identified in his practice despite being subject to a conditions of practice order for 18 months. In the absence of any evidence of insight or strengthened practice, the panel found that there is a continuing risk of harm to patients if he was able to practice without restriction.

In these circumstances the panel determined that a period of suspension would not serve any useful purpose. The panel decided that Mr Price's disengagement and failure

to demonstrate safe practice and insight into serious misconduct, his conduct is now fundamentally incompatible with remaining on the NMC Register. The panel therefore determined that it was necessary to take action to prevent Mr Price from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order. The panel therefore directs the registrar to strike Mr Price's name off the NMC Register.

This striking-off order will take effect upon the expiry of the current conditions of practice order, namely the end of 29 April 2024 in accordance with Article 30(1).

This will be confirmed to Mr Price in writing.

That concludes this determination.