

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

**Substantive Order Review Hearing
Thursday 20 July 2023**

Virtual Hearing

Name of Registrant: Dorine Grace Laber

NMC PIN 9716203E

Part(s) of the register: Registered Nurse - Children
RNC (June 2001)

Relevant Location: Cheshire

Type of case: Misconduct

Panel members: Rachel Cook (Chair, Lay member)
Susan Ball (Registrant member)
David Newsham (Lay member)

Legal Assessor: Sanjay Lal

Hearings Coordinator: Hazel Ahmet

Nursing and Midwifery Council: Represented by Katherine Higgs, Case Presenter

Mrs Laber: Present and represented by Thomas Buxton, instructed by the Royal College of Nursing (RCN)

Order being reviewed: Conditions of practice order (24 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (12 months) to come into effect at the end of 28 July 2023 in accordance with Article 30 (1)**

Decision and reasons on review of the substantive order

The panel decided to confirm the conditions of practice order for a period of 12 months.

This order will come into effect at the end of 28 July 2023 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 for a period of 18 months by a panel of Conduct and Competence Committee (CCC) on 25 June 2014. This conditions of practice order was first reviewed and extended by a panel of the CCC on 21 December 2015 for 24 months. A panel of the Fitness to Practise Committee (FtPC) conducted the second review of this matter on 11 December 2017 and extended the current conditions of practice order for a further 24 months. The order was last reviewed by a panel of the FtPC on 14 June 2019 and the conditions of practice order was extended for 24 months.

The current order is due to expire at the end of 28 July 2023.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved by way of admission which resulted in the imposition of the substantive order were as follows:

'That you whilst employed as a Band 6 Staff Nurse at Leighton Hospital by Mid Cheshire Hospitals NHS Foundation Trust:

1. On 26 March 2010 set up an aminophylline infusion for Child A and incorrectly entered:

- a) The Volume given per hour*
- b) The total amount to be delivered*

2. On 16 May 2010

a) did not administer Tazocin at 16.00 to Child B

b) did not record on the MAR chart the reason for not administering Tazocin

That, you, between 10 June 2010 and 30 August 2011, whilst undergoing competence assessment, failed to demonstrate the standards of knowledge, skill and judgement required to practise as a Band 6 Staff Nurse in that you:

3. Failed to pass drug assessments on the following dates:

a) 10 June 2010

b) 13 October 2010

c) 14 December 2010

d) 10 February 2011

e) 3 August 2011

And in light of the above, your fitness to practise is impaired by reason of your misconduct (charges 1 and 2) and/or your lack of competence (charge 3)'

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

'The panel considered whether your fitness to practise remains impaired.

The panel noted that the last reviewing panel found that you had demonstrated insight. At this hearing the panel had regard to your reflective pieces and your oral evidence. The panel noted that you demonstrated insight and remorse into your failings and noted that you have demonstrated commitment into securing a RtP course. However, it noted that you accept that you made drug errors and your fitness to practise remains impaired.

The panel noted that despite your attempts and commitment to secure a RtP course, and although you have been working as a health care assistant, you have not practised as a registered nurse for prolonged period of time and have been unable to address any of the concerns or remediate your failings. It noted that there remains a real risk of repetition and a consequent risk of harm. 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 considered that a member of the public would be concerned if a nurse who had been out of practice for some ten years was allowed to practise unrestricted. 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 your fitness to practise remains impaired.'

The fourth 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 considered whether to take no action or to impose a caution order, but concluded that, due to the seriousness of the case, the public protection issues identified, and that you have not practiced as a registered

nurse for a significant period of time, 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 therefore decided that it would be neither proportionate nor in the public interest to take no action or 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 accepted that you have made several unsuccessful attempts to secure a RtP course and/or clinical placement and noted that you attributed this to your conditions of practice order. It also noted that you have been unable to comply with conditions of practice order due to the difficulties you have had trying to secure a clinical placement. The panel had regard to your positive reference from your current employer and it noted that, although you have been working as a healthcare assistant, you continue to demonstrate your determination to return to nursing. The panel also noted that you have demonstrated insight and have been engaging with the NMC and are willing to comply with any conditions imposed.

The panel was of the view that, a further and varied conditions of practice order is sufficient to protect patients and the wider public interest, noting that there was no deep seated attitudinal problems and you have demonstrated insight and remorse into your previous failings. In this case, there are conditions that could be formulated which would protect patients during the period that they are in force. The panel was of the view that conditions could be varied to allow you better chance of gaining a place on a RtP course or gaining a clinical placement.

The panel was of the view that, to impose a suspension order or a striking-off order would be wholly disproportionate at this stage and would not be a reasonable response in the circumstances of your case because of your expressed commitment and determined effort to contact universities in order to secure a clinical placement on a RtP course and given your continued engagement with the NMC.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 24 months, which will come into effect on the expiry of the current order, namely at the end of 28 July 2021.

'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. While undertaking any Return to Practice course or clinical placement you must not administer any medication without a second check from another registered nurse of Band 5 or above until you have been deemed competent.

2. 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 in relation to medicine administration and record keeping to the NMC at least 14 days before any NMC review hearing or meeting.

3. You must notify the NMC within seven days of any nursing or midwifery appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.

4. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within seven days of you receiving notice of them.

5. You:

a. You must within seven 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 seven 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.

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 (5) above, to them:

a. Any organisation or person employing, contracting with, or using you to undertake nursing or midwifery 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)

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 24 months.'

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 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. It has taken account of the submissions made by Ms Higgs on behalf of the NMC and Mr Buxton, on your behalf.

Ms Higgs submitted that the NMC believe your fitness to practice remains impaired, and that an order is required in order to protect the public. She further submitted that the current interim conditions of practice order remains necessary, and that the conditions should be extended in their current form.

Ms Higgs submitted that the allegations against you are serious and could have had significant impact on those involved. If such allegations were to be repeated, there could be significant consequences. Ms Higgs submitted that it has been a long period of time since you have worked as a nurse in the same circumstance as the one whereby the allegations occurred, therefore, a repetition of the allegations is more likely.

Ms Higgs submitted that if a member of the public were aware of the circumstances of this case, they would expect a restriction to be placed on your practice in order to uphold faith in the NMC as a regulator.

Ms Higgs submitted that there has been no significant change of remediation or evidence that you have improved your practice, based on the evidence provided. Ms Higgs did recognise that there is a reference in relation to your practice contained in the bundle, alongside a reflective piece which makes reference to your having undertaken a Return to Practice Course. However, Ms Higgs submitted that there is no evidence that you made

the course provider aware of your current order, nor that you have completed the Return to Practice Course. The NMC were not provided with any details of the organisation who had offered this course to you.

The NMC's position is that there may have been a breach of condition 2, as you did not provide sufficient evidence to support what you stated in your reflective piece. Ms Higgs further submitted that conditions 5a, 6c, and 6d may also have been breached. It was submitted that you did not provide details to the NMC of the institution where you had applied to and undertaken the Return to Practice Course in sufficient time; on the basis that you were undertaking a clinical placement, a report from your line manager, mentor, or supervisor and taking into account a reference to a job offer, you have not provided evidence that you declared the conditions of practice order to your prospective employer.

The panel also had regard to the submissions from your representative.

You chose to give an affirmation, and to give oral evidence to the panel.

You stated that since the last review you applied for a place on a Return to Practice Course (the Course) with Northampton University in January 2023. You submitted that you did declare to this institution that you were subject to a conditions of practice order. You submitted that you were on a clinical placement, as part of the Course, at the Royal Berkshire Hospital, for which you underwent an interview and declared the conditions placed on your PIN.

You stated that during the time of your placement, you underwent and completed a total of 84 competencies; one of which was medicines administration and management. As part of these competency assessments, you administered an Intramuscular Injection which was checked by two nurses and the preparation and administration was supervised by a Band 6 Nurse. You were also assessed for other competencies such as ensuring the correct medication, to the correct patient, at the correct time, and at the correct dosage. You submitted that your mentor has signed off all of your clinical competencies. You completed this clinical placement on 18 June 2023. You stated that you will be submitting three written assignments and your fully completed competency booklet to the University on 26 July 2023.

You submitted that you thought the Royal Berkshire Hospital and Northampton University would inform the NMC regarding your course and placement and acknowledge this was a mistake on your behalf. You stated that following an interview for a Registered Nurse Band 5 role, you are expecting the Royal Berkshire Hospital to send you a formal job offer. You said that you hope to begin working at the Hospital in September 2023. You stated that you hope to continue working within the same ward where you had undertaken your clinical placement. The panel had sight of an email dated 11 July 2023 addressed to you from occupational health which includes the phrase '*Congratulations on being offered the post of Staff Nurse...*'

You submitted that you are continuing to work as a Healthcare Assistant at the Brandon Trust and have been doing so at this location for nine years. You stated that you have not provided an updated testimonial from your current employer as there have been no changes to your position.

You accepted questions from the panel.

You stated that you wrote your reflective piece on 18 July 2023. You stated that you have had an interview for a potential position as a Registered Nurse at the Royal Berkshire Hospital and are awaiting a formal letter and invitation for the role. You stated that you have received a verbal job offer from Royal Berkshire Hospital which is subject to pre-employment checks.

You stated that '*re-validation*' is a process you are required to go through with the NMC, which will be undertaken once your Return to Practice course has been completed and verified.

You stated that you will not be administering medication at all, in any role, until you complete in-house training as part of the induction in your new role as a Registered Nurse. You stated that you will be working with a preceptor (Senior Band 5 or 6) for a year, who will supervise you, if and when you begin your role at the Royal Berkshire Hospital. You also stated that this was something you had requested at interview and that the Hospital had confirmed that this preceptorship would be in place when you start your new role.

Ms Higgs within her closing submissions, reconfirmed the NMC's request to extend the current conditions of practice order for a period of 18 months. Ms Higgs highlighted that some breaches of these conditions were accepted by you and that the conditions do not restrict you to a level which does not allow you to work.

Mr Buxton submitted that you have been out of practice for many years, and that you have been seen by previous panels to show true effort and commitment to return to practicing. Mr Buxton submitted that you have confidence in your Return to Practice course, and that you aim to re-validate your practice. Mr Buxton stated that you will begin working as a Band 4 nurse at the Royal Berkshire Hospital Trust whilst awaiting your re-entry to the Register.

Mr Buxton submitted that the original concerns against you were from many years ago, and that a conditions of practice order should remain in place. However, Mr Buxton submitted that condition 1 should be removed, or re-worded, as although the conditions do not prohibit you from practicing, they do restrict your ability to secure working, clinical positions. Mr Buxton submitted that 18 months would be far too long to impose an interim conditions of practice order on your practice, he suggested 12 months.

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 the following in relation to your insight;

'At this hearing the panel had regard to your reflective pieces and your oral evidence. The panel noted that you demonstrated insight and remorse into your failings and noted that you have demonstrated commitment into securing a RtP course. However, it noted that you accept that you made drug errors and your fitness to practise remains impaired.'

The panel determined that you have sufficient insight into your lack of competence and misconduct.

In its consideration of whether you have taken steps to strengthen and remediate your practice, this panel considered your reflective piece and your oral evidence. Today's panel has considered that the facts found proved in 2014 were serious. However, you have provided no documentary evidence to confirm remediation or successful completion of the Course. Therefore, the panel determined that there remains a risk 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, there is oral evidence of having remediated the concerns surrounding your practice, but no documentary or written evidence; consequently, a risk of repetition. The panel concluded that there is a finding of continuing impairment on public interest grounds also.

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. 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. Although the panel recognise the technical breaches of certain conditions, it balanced this with your ongoing commitment over many years to return to the nursing profession.

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 deep-seated attitudinal problems. 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 your case.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a 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 28 July 2023. It decided to maintain the current order of conditions which it considered are appropriate and proportionate in this case, with a small amendment to condition 1. The panel removed '*While undertaking any Return to Practice course or clinical placement you*' and added '*and this has been confirmed in writing to the NMC by your line manager, mentor or supervisor.*' The imposed conditions are as follows:

'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 any medication without a second check from another registered nurse of Band 5 or above until you have been deemed competent, and this has been confirmed in writing to the NMC by your line manager, mentor or supervisor.
2. 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 in relation to medicine administration and record keeping to the NMC at least 14 days before any NMC review hearing or meeting.
3. You must notify the NMC within seven days of any nursing or midwifery appointment (whether paid or unpaid) you accept within the UK or elsewhere and provide the NMC with contact details of your employer.
4. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within seven days of you receiving notice of them.
5. You:

a. You must within seven 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 seven 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.

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 (5) above, to them:

a. Any organisation or person employing, contracting with, or using you to undertake nursing or midwifery 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)

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 12 months on the basis that this was an appropriate period for you to produce the required information, as confirmed by your representative.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 28 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 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 will be assisted by the following:

- 1) Your attendance and continued engagement with the NMC;
- 2) Evidence of your compliance with these conditions;
- 3) Evidence of completion of your Return to Practice Course;
- 4) An updated reflective piece written by you.

This will be confirmed to you in writing.

That concludes this determination.