

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

**Substantive Order Review Hearing
Friday, 27 October 2023**

Virtual Hearing

Name of Registrant: Oluwafemi I Adedeji

NMC PIN: 02K04830

Part(s) of the register: Registered Nurse - Adult
RNA (November 2002)

Relevant Location: Northamptonshire

Type of case: Misconduct

Panel members: Mary Hattie (Chair, Registrant member)
Lisa Lezama (Registrant member)
Robert Fish (Lay member)

Legal Assessor: William Hoskins

Hearings Coordinator: Amie Budgen

Nursing and Midwifery Council: Represented by Maggie Morrissey, Case Presenter

Mrs Adedeji: Not present and was not represented at today's hearing

Order being reviewed: Suspension order (9 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect at the end of 7 December 2023 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Adedeji was not in attendance and that the Notice of Hearing had been sent to Mrs Adedeji's registered email address by secure email on 21 September 2023. The panel noted that the Notice of Hearing was also sent to the Royal College of Nursing (RCN), who had previously represented Mrs Adedeji, on the same date.

Ms Morrissey, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Adedeji's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Mrs Adedeji has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34 of the Rules.

Decision and reasons on proceeding in the absence of Mrs Adedeji

The panel next considered whether it should proceed in the absence of Mrs Adedeji. The panel had regard to Rule 21 and heard the submissions of Ms Morrissey who invited the panel to continue in the absence of Mrs Adedeji.

Ms Morrissey referred the panel to an email from a representative at the RCN dated 26 October 2023, which stated that *'the RCN is no longer acting in this matter'*.

Further, Ms Morrissey submitted that there had been no engagement at all by Mrs Adedeji with the NMC in relation to these proceedings and, as a consequence, there was no

reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Adedeji. In reaching this decision, the panel has considered the submissions of Ms Morrissey, and the advice of the legal assessor. It has had particular regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Adedeji;
- Mrs Adedeji has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Adedeji.

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

Ms Morrissey made a request that this case be held partly in private on the basis that proper exploration of Mrs Adedeji's case involves reference...[PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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.

Having heard that there will be reference...[PRIVATE], the panel determined to hold parts of the hearing in private in order to preserve the details of her private life.

Decision and reasons on review of the substantive order

The panel decided to impose a further suspension order for a period of 6 months.

This order will come into effect at the end of 7 December 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee on 4 February 2022. This was reviewed on 26 January 2023 and the order was extended for a further nine months.

The current order is due to expire at the end of 7 December 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, a registered nurse,

1. On 18 May 2020, whilst attempting to de-escalate a potential altercation:

- a. spat at Patient A on one or more occasions;*
- b. inappropriately attempted to move Patient A away from Colleague A, by pulling on Patient A's bag;*
- c. opened the door of the lounge and spat at Patient A*

2. On 21 May 2020, during an investigatory interview with Colleague B, on more than one occasion you denied the fact that you spat at Patient A.

3. Your actions as set out in charge 2 were dishonest in that you attempted to cover up that you had spat at Patient A.

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:

'The panel considered whether Mrs Adedeji's fitness to practise remains impaired.

The panel noted that the original panel found that Mrs Adedeji had insufficient insight. At the previous hearing Mrs Adedeji demonstrated an understanding of why what she did was wrong, but she was not able to explain why she spat at Patient A and stated that she did not remember spitting at Patient A when interviewed.

Today's panel has heard/received no new information. In light of this, this panel determined that there is insufficient evidence to conclude that Mrs Adedeji is unlikely to repeat matters of the kind found proved at the substantive hearing. In its consideration of whether Mrs Adedeji has taken steps to strengthen her practice, the panel determined that there was no evidence of any steps taken to demonstrate insight...[PRIVATE]. The panel decided that a finding of continuing impairment is necessary on the ground 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 Mrs Adedeji's fitness to practise remains impaired.'

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

'The panel next considered whether a conditions of practice order on Mrs Adedeji's registration would be a sufficient and appropriate response. The panel is

mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Mrs Adedeji's misconduct.

The panel considered the imposition of a further period of suspension. It was of the view that a further suspension order would allow Mrs Adedeji more time to fully reflect on her previous dishonesty. It considered that Mrs Adedeji's need to gain a full understanding of how the dishonesty of one nurse can impact upon the nursing profession as a whole and not just the organisation that the individual nurse is working for. The panel concluded that a further 9 months suspension order would be the appropriate and proportionate response and would afford Mrs Adedeji adequate time to further develop her insight and take steps to strengthen her practice. It would also give Mrs Adedeji an opportunity to approach past and current employers and colleagues to provide testimonials.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 9 months would provide Mrs Adedeji with an opportunity to provide relevant evidence. It considered this to be the most appropriate and proportionate sanction available.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Adedeji'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. It has taken account of the submissions made by Ms Morrissey on behalf of the NMC.

Ms Morrissey referred the panel to the background of the case, including the details of the charges found proved at the original substantive hearing on 4 February 2022.

Ms Morrissey informed the panel that there has been no correspondence with Mrs Adedeji since she travelled to Africa after the last substantive review hearing on 26 January 2023. She submitted that therefore there have been no updates regarding Mrs Adedeji's current employment status.

Ms Morrissey invited the panel to impose a further substantive suspension order for a period of 6 months in order to provide Mrs Adedeji a final opportunity to engage with the NMC in relation to these proceedings, provide an update on her employment status and evidence of her compliance with the recommendations of the last reviewing panel on 26 January 2023. The last reviewing panel made the following recommendations:

- *'A further reflective statement demonstrating your insight. This should address the impact of your misconduct on the patients, the public and the wider nursing profession. You may wish to further reflect on and explain the reason for your misconduct (your spitting and dishonesty).*
- *Further evidence of you working in a healthcare setting, for example as a carer, without repeating the kind of misconduct found proved.*
- *Evidence of ongoing continued professional development.*
- *Continued engagement with the NMC and attendance at any review hearing.'*

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 Mrs Adedeji's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that there had been no evidence put before it to demonstrate that Mrs Adedeji had developed her insight. At this hearing, the panel determined that there have still been no new material changes in circumstances which could evidence that Mrs Adedeji has developed her insight into the failings.

In its consideration of whether Mrs Adedeji has taken steps to strengthen her practice, the panel noted that there has been no new documentation put before it which can be viewed to demonstrate that Mrs Adedeji has strengthened her practice.

The last reviewing panel determined that Mrs Adedeji was liable to repeat matters of the kind found proved. Today's panel determined that there have been no new material changes in circumstances which can be viewed to have altered the risk of repetition and the consequential risk of harm to the public. Further, the panel noted that Mrs Adedeji has not engaged with the NMC in relation to the proceedings and therefore the panel has not received an update on her personal circumstances, nor her current employment status. In light of this, this panel determined that Mrs Adedeji remains liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing 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 determined that, in this case, a finding of continuing impairment on public interest grounds also remains necessary.

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

Decision and reasons on sanction

Having found Mrs Adedeji'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 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 Mrs Adedeji'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 Mrs Adedeji'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 on Mrs Adedeji's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel considered that Mrs Adedeji has not been engaging with the NMC proceedings, nor has she provided the panel with evidence of her compliance with the recommendations of the previous panel on 26 January 2023. Therefore, the panel was not satisfied that it could formulate conditions of practice that would protect the public and adequately address the concerns relating to Mrs Adedeji's misconduct.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mrs Adedeji more time to fully reflect on her previous dishonesty and failings. It considered that Mrs Adedeji needs to gain a full understanding of how the dishonesty of one nurse can impact upon the nursing profession as a whole and not just the organisation that the individual nurse is working for. The panel concluded that a further 6-month suspension order would be the appropriate and proportionate

response and would afford Mrs Adedeji adequate time to further develop her insight and take steps to strengthen her practice. It would also give Mrs Adedeji an opportunity to approach past and current health professionals to attest to her honesty and integrity in her workplace assignments since the substantive hearing.

In light of Mrs Adedeji not engaging with the NMC proceedings, not providing the NMC with update on her personal circumstances and current employment status and failing to evidence her compliance of the previous panel's recommendations; the panel considered whether the imposition of a striking-off order would now be the appropriate sanction. However, the panel noted that, at the time of the previous hearing, Mrs Adedeji informed the NMC that...[PRIVATE]. Whilst the panel has not received any new information of this matter, nor an update as to whether Mrs Adedeji has returned from Africa and wishes to return to nursing practise, the panel determined that it would be fair and proportionate to give Mrs Adedeji a final opportunity to engage with the NMC proceedings.

The panel did however note that a future panel may consider the imposition of a striking-off order if Mrs Adedeji were to continue to not engage with the NMC and provide updates as to her current position and her intentions with regard to future practice.

In all the circumstances, the panel determined that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined that a further suspension order for the period of 6 months would provide Mrs Adedeji with an opportunity to engage with the NMC, provide evidence of her compliance with the panel's recommendations and update the NMC of her current circumstances and future plans for her nursing career. It considered this to be the most appropriate and proportionate sanction available.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 7 December 2023 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- A further reflective statement demonstrating Mrs Adedeji's insight. This should address the impact of her misconduct on the patients, the public and the wider nursing profession. She may wish to further reflect on and explain the reason for her misconduct (her spitting and dishonesty).
- Further evidence of her working in a healthcare setting, for example as a carer, without repeating the kind of misconduct found proved.
- Evidence of ongoing continued professional development.
- Continued engagement with the NMC and attendance at any review hearing.
- An indication of Mrs Adedeji's future plans for her career and if she wishes to return to working as a registered nurse.

This will be confirmed to Mrs Adedeji in writing.

That concludes this determination.