

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

Substantive Order Review Hearing

Thursday, 16 April 2020

Virtual Hearing

Name of registrant: Miss Nnalu Choice Fredericks

NMC PIN: 9110754E

Part(s) of the register: Registered Midwife – 2 December 2005
Registered Nurse – Sub-part 1
Adult Nursing – 7 November 1994

Area of Registered Address: England

Type of Case: Misconduct

Panel Members: Wendy Yeadon (Chair, Lay member)
Evette Roberts (Registrant member)
James Hurden (Lay member)

Legal Assessor: Martin Goudie QC

Panel Secretary: Philip Austin

Registrant: Present via telephone, but not represented

Nursing and Midwifery Council: Represented by Zainab Mohamed, NMC Case
Presenter

Order being reviewed: Suspension Order (3 months)

Fitness to Practise: Currently impaired

Outcome: Striking-off order to come into effect at the end
of 25 May 2020, in accordance with Article 30
(1)

Decision and reasons on review of the current order:

This panel decided to impose a striking off order. This order will come into effect at the end of 25 May 2020, in accordance with Article 30 (1) of the Nursing and Midwifery Order 2001 (as amended) (“the Order”).

This is the eighth review of a substantive order. On 29 August 2013, a panel of the Conduct and Competence Committee imposed a conditions of practice order for 18 months. Following five reviews of that order, in which the conditions of practice orders were extended and varied, at the sixth review on 31 January 2019, a panel of the Fitness to Practise Committee (“FtPC”) imposed a suspension order for 12 months. At the seventh review on 17 January 2020, a panel of the FtPC imposed a suspension order for a period of three months. The current order is due to expire at the end of 25 May 2020.

This 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 employed as a Registered Nurse by the Queen Elizabeth Hospital, Kings Lynn NHS Foundation Trust (“the Trust”) between 8 June 2010 and 4 August 2011:

1) On 8 June 2010;

a) in relation to patient A failed to complete:

- i) a care plan*
- ii) an observation chart*
- iii) a fluid balance chart*

b) failed to complete a fluid balance chart for patient B.

c) failed to complete a care plan for patient C.

d) failed to complete an observations chart for patient D.

e) in relation to patient E failed to complete:

i) a care plan

ii) an observation chart

f) in relation to patient F failed to complete:

i) an observation chart

ii) a care plan

2) ...

a) ...

b) ...

3) ...

4) ...

a)...

i) ...

ii) ...

b) ...

5) *On 4 August 2011:*

- a) *prepared to administer paracetamol instead of the prescribed Cocodamol to patient G*
 - b) *set up fluids for patient G when they were prescribed for patient H*
 - c) *...*
 - d) *...*
 - e) *failed to adequately dispose of a used needle*
 - f) *requested a prescription for fluids for patient G when they were not required by her.*
- 6) *...*

And in light of the above, your fitness to practise is impaired by reason of your misconduct.”

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

“The panel considered whether there had been a material change of circumstances since the previous review hearing. The panel noted that you had provided training certificates from your role as a carer with Turning Point. Whilst this provided information about what you have been doing since the previous reviewing panel, and there was training in medicines administration, which was somewhat relevant to the original failings in this case, the panel also noted that most of this training seemed to be undertaken as part of your induction and appeared to be of limited relevance.

The panel noted that you have not provided the information requested from the previous reviewing panel. This included a reflective piece demonstrating insight into the original failings and references or testimonials from any employment you have undertaken. Whilst the panel was disappointed that, having been subject to a suspension order for

almost twelve months, this information had not been provided, it also accepted the explanation given for why this material was not before it. The panel noted Mr Webb's summary of the discussion had with you prior to the hearing, in the presence of the legal assessor and the panel secretary. The panel noted that you have not been represented during these proceedings and accepted that there may have been a lack of understanding on your part as to what is required in order to demonstrate satisfactory evidence of insight and remediation to a future reviewing panel.

However, given the fact that this panel did not have any evidence of developing insight into the failings identified by the previous panel or any substantial evidence of remediation, it considered that a risk remains to patients if you were able to practise without restriction. The panel therefore determined that a finding of impairment remains necessary on the grounds of public protection.

The panel bore 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. In light of the fact that you have not been able to provide the required evidence of insight and steps taken to remediate your practice, the panel considered that a finding of impairment also remains necessary on public interest grounds.

For these reasons, the panel finds that your fitness to practise remains impaired."

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

"The panel then considered whether to impose a further period of suspension. The panel gave careful consideration as to whether a suspension order would serve any useful purpose, in allowing you to demonstrate further evidence of insight and remediation, in order to facilitate your return to safe and effective practice. It noted that today's hearing was the seventh review of a substantive order originally imposed in 2013. At the previous review hearing on 31 January 2019, you were made subject to a 12 month suspension order, with clear recommendations as to what this panel would be assisted by. Despite that, you had not been able to provide this information. The panel

therefore considered whether if it were to impose a further period of suspension, it would in fact serve any useful purpose in these circumstances.

The panel bore in mind the information put before it at today's hearing. It noted that during the discussion you had with Mr Webb and the legal assessor and panel secretary prior to the hearing, it had become apparent that the lack of material information before it may have been as a result of your lack of understanding as to what has been required of you. The panel noted that you have not been represented in these proceedings. It had regard to the importance in ensuring you have a fair hearing as well as the need to take account of your rights under Article 8 of the ECHR. In these circumstances, the panel considered that a suspension order would give you a further, and perhaps final, opportunity to provide the evidence requested in order to demonstrate such evidence of insight and remediation to a future reviewing panel.

The panel considered whether to impose a striking-off order. Bearing in mind the information as detailed above, it considered that this would be disproportionate at this time.

The panel noted that during today's proceedings it had been made clear to you what a future reviewing panel would need to see evidence of, if this panel were to impose a further suspension order. This was apparent in the discussions had with you prior to the hearing with Mr Webb, the legal assessor and the panel secretary, as well as what the chair had explained to you whilst you were answering questions during your oral evidence. The panel considered that whilst it had not decided to impose a striking-off order today, this was an option that would be available to a future reviewing panel, particularly if such evidence of compliance with recommendations is not forthcoming. The panel therefore determined that a suspension order would be appropriate and proportionate in the circumstances of this case. The panel considered that a suspension order for a period of three months would provide you with sufficient time to properly reflect on your failings, as identified by the original substantive hearing panel in 2013, and to provide evidence of having done so, as well as to provide current and up to date information regarding any relevant work you have been undertaking, paid or voluntary, by way of references or testimonials.

In accordance with Article 30(1) of the Order, this suspension order will come into effect upon the expiry of the current order, namely at the end of 25 February 2020.

Prior to its expiry, this order will be reviewed by another panel. That panel may revoke the order, allow the order to lapse on expiry, extend the order or replace the order with another order, including that of a striking-off order, as set out above.

A future reviewing panel will be assisted by evidence of the following:

- *An up to date reflective piece demonstrating insight into your failings as identified by the original substantive hearing panel in 2013. This should address the impact of your failings, what you have learnt from the incidents and how your practice will be different in the future. This must be provided to the NMC 14 days prior to the next substantive order review hearing;*
- *References and testimonials from employers, colleagues or mentors, for paid or unpaid work, who are aware of these proceedings.”*

Decision on current fitness to practise

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. It has noted the decision of the last panel. However, it has exercised its own judgment as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC hearing bundle, a reflective piece completed by you and three references submitted on your behalf. It has taken account of the oral evidence you gave, and the submissions made by Ms Mohamed, on behalf of the NMC, as well as your submissions, in support of your case.

Ms Mohamed invited the panel to find that your fitness to practise as a registered nurse remains impaired on the grounds of public protection and public interest. She referred

the panel to your oral evidence, your reflective piece, and the three testimonials provided on your behalf.

Ms Mohamed submitted that you have not practised as a registered nurse since October 2011, and have not yet remediated the concerns identified in your nursing practice. Therefore, Ms Mohamed submitted that a real risk of repetition remains in this case, and there continues to be a risk of harm to patients in your care should you be permitted to return to nursing practice without some form of restriction.

Ms Mohamed submitted that it is a matter for the panel as to what sanction to impose. She submitted that in light of the evidence heard by the panel at this hearing, it may be appropriate to impose a conditions of practice order to allow you to return to nursing practice, providing you have shown sufficient insight and a willingness to retrain to address the outstanding concerns in relation to your nursing practice. However, she also invited the panel to take account of the more restrictive sanctions available to it, referencing the significant period of time that it has taken to bring this matter to a conclusion.

You stated that you would like to return to nursing practice without restriction. However, you recognise that before doing so, you would need a period of training, supervision and support.

You told the panel that you have reflected on your misconduct, and that these proceedings have been a salutary lesson for you. You stated that you have learnt to be more observant and will also look to adopt a more cautious approach in future. You also stated that you are now able to communicate with colleagues very well, have reflected on your actions in order to provide better nursing services and that you remain passionate about working as a registered nurse, as you are a caring individual.

You stated that it has been difficult for you to obtain nursing work whilst you have been subject to a sanction which restricts your nursing practice. You informed the NMC that you had tried to obtain work as a registered nurse in a care home setting, but this communication stopped after they contacted the NMC in respect of your restrictions.

You told the panel that you have remained in the healthcare setting by working as a healthcare assistant, and that you have improved your documentation and communication skills during this time. You stated that you are now more confident in your abilities, and that you want to be able to demonstrate to prospective employers that you are a competent nursing practitioner, before being signed off as safe to work without any supervision.

You invited the panel to take account of your reflective piece which you completed in February 2020, as well as the references provided on your behalf. You stated that your current line manager has not been able to provide a reference for you at this time, due to the current circumstances.

You told the panel that although you have not worked as a registered nurse since 2011, you have not lost your nursing skills, as you had worked for a long time as a registered nurse prior to this. You said that even though you will need to be afforded time to adapt to current nursing practices, changes will come naturally to you because you understand what it takes to be a registered nurse.

You stated that you are willing to improve your nursing practice, and will look to attend training sessions and study days in order to do so, if permitted to do so. However, you raised your displeasure about these proceedings having continued for a significant period of time.

You disagreed with Ms Mohamed's submission that you are currently impaired, and instead, asked the panel to permit you to return to nursing practice without any restrictions in place.

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 had regard to the documentary and oral evidence it had received. It noted that you have continued to engage with the NMC throughout these proceedings. However, the panel did not consider you to have made the necessary progress in developing your insight or remediating your misconduct since the last review hearing.

In assessing your reflective piece, the panel noted that the only concern that you appear to address in any real detail relates to the administration of intravenous (“IV”) medication, despite there being numerous occasions when your record keeping, medication administration and management skills were found to have fallen below the standard of a registered nurse. The panel considered these areas of nursing relate to basic and fundamental aspects of safe and effective nursing practice, and noted that you do not accept full responsibility for your misconduct as you still seek to deflect blame on to other members of staff.

In considering your oral evidence, you acknowledged that you would need a period of training and supervision before returning to nursing practice without restriction. However, the panel noted that you have not taken sufficient proactive steps in attempting to remediate your nursing practice over a significant period of time, and that you do not consider that you currently pose a risk to patient safety.

Overall, the panel considered you to have only limited insight into your misconduct. It did not consider you to have given any real thought to the impact your actions could have had on patients in your nursing care, or how your actions could have impacted upon the public’s perception of a registered nurse. Whilst you have demonstrated some insight into the concerns, the panel considered this to be largely superficial, and determined that your reflection was insufficient for it to make a finding that your fitness to practise is not currently impaired.

The panel considered you to have had a significant period of time to reflect on your failings and to have remediated your misconduct, yet you have not done so to a sufficient extent. Furthermore, you have not undertaken sufficient relevant training to remediate your failings, but instead, have primarily completed mandatory training given by your employer, relating to your employment as a healthcare assistant.

The panel had regard to the positive reference from your work colleague, but noted that nothing has been provided by your current line manager, attesting positively to the care you provide in the healthcare environment, or as to how your failings have been addressed or remediated.

In light of the above, the panel was of the view that there is still a real risk of repetition of similar events occurring at some point in the future. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel had borne in mind that its primary function was 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 required.

For these reasons, the panel finds that your fitness to practise remains impaired.

Determination 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 risk of repetition identified and the seriousness of the case.

The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered whether to impose a caution order but concluded that this would be inappropriate in view of the risk of repetition identified and the seriousness of the case as this would not place any restrictions on your nursing practice. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered substituting the current suspension order with a conditions of practice order. The panel noted that there are clear identifiable areas of retraining relating to your clinical nursing practice, which had not been addressed. You had been subject of six conditions of practice orders, spanning over a five year period where you had the opportunity to address the concerns identified and you had failed to do so. The panel noted that you said you were unable to find work due to the restrictions on your practice, despite the fact that the conditions imposed were workable and regularly used, appears to indicate a lack of proactivity on your part. As a result, you had not made any significant progress in attempting to remediate the concerns, despite reaffirming your willingness to retrain and engage with conditions. Since that time, you have been suspended from nursing for over a year, and have not utilised this time to try to evidence remediation via your current healthcare role.

Whilst the panel considered these concerns to be capable of remediation in principal, the panel determined that it would not be possible to formulate any other workable conditions to allow you to return to nursing practice. The panel had concerns regarding your lack of insight, remediation, and the length of time it has taken to reach this stage, with the first order being imposed on your registration some nine years ago. The panel was of the view that whilst your failings may have been remediable at the time of the previous hearings, given your lack of recognition of the full extent of your failings, and the time that has now elapsed since you last practised, these are no longer remediable.

In light of the above, the panel was satisfied that a conditions of practice order would not adequately address the public protection concerns and the wider public interest elements of this case.

The panel next considered imposing a further suspension order. The panel noted from its decision on impairment that you have not remediated the concerns identified, nor have you developed your insight significantly since the last review of this hearing. You have not taken the opportunity to provide suitable and applicable information which may have been of assistance to this panel. In taking account of the evidence provided, this panel was of the view that it would not be in the public interest, nor in your own interest to continue these matters indefinitely, and that this should be brought to a conclusion. Therefore, in having regard to the above, whilst a further suspension order would satisfy the public protection concerns, the panel was not satisfied that it would sufficiently address the wider public interest elements of this case.

In the circumstances, the panel determined that a further period of suspension would not serve any useful purpose. You have been afforded many opportunities by previous panels to develop full insight into your clinical failings and you have failed to do so. This inability to recognise your failings and self-direct your own learning to address them demonstrates a lack of understanding and appreciation of the need for reflective practice that is key to safe, professional nursing. This is not compatible with the behaviours expected of a registered nurse. The panel determined that it was necessary to take action to prevent you from practising as a registered nurse in the future and concluded that the only sanction that would adequately protect the public and serve the wider public interest was a striking-off order.

This decision will be confirmed to you in writing.

That concludes this determination.