

Nursing and Midwifery Council

Fitness to Practise Committee

Restoration Hearing

15 October 2020

Virtual Hearing

Name of Registrant Nurse: Taibat Abike Bello

NMC PIN: 0018103E

Part(s) of the register: Registered Nurse (Sub Part 1)
Adult – September 2003
Nurse Prescribing – March 2003
Specialist Practitioner – November 2007

Area of Registered Address: England

Panel Members: Anne Owen (Chair, Registrant member)
Lucie Moore (Registrant member)
June Robertson (Lay member)

Legal Assessor: Attracta Wilson

Panel Secretary: Amira Ahmed

Nursing and Midwifery Council: Represented by Alastair Kennedy, Case
Presenter

Mrs Bello: Present and represented by Marc Walker,
What's Rights

Outcome: Application granted with a conditions of
practice order (12 months)

Determination of application for Restoration to the Register:

This is a hearing of your first application for restoration to the Nursing and Midwifery Council (NMC) Register. A panel of the Conduct and Competence Committee directed on 13 October 2009 that your name be removed from the Register based on their findings with regard to the facts of your case and your impairment. This application is made by you in accordance with Article 33 of the Nursing and Midwifery Order 2001, as at least five years have now elapsed since the date of your strike-off.

At this hearing the panel may reject your application or it may grant your application unconditionally. It may grant your application subject to your satisfying the requirements of Article 19(3) and it may make a conditions of practice order.

The panel has considered your application for restoration to the Council's Register.

The panel at the substantive hearing between 12 and 13 October 2009, considered the following charges:

“That you, whilst employed by Enfield Primary Care Trust to work as a Band 6 Rapid Response District Nurse and Caseload Manager:

- 1 *On 27th August 2007, administered an incorrect dose of morphine sulphate to Patient A, in that you administered a subcutaneous injection of 10mg when he was prescribed only 2.5 mg*
- 2 *On 28th August 2007, administered an incorrect dose of morphine sulphate to Patient A, in that you administered a subcutaneous injection of 10mg when he was prescribed only 2.5 mg*
- 3 *On an unknown date between 28th August 2007 and 10th September 2007, removed and/or destroyed medical notes belonging to Patient A. In particular, you:*
 - (i) *Removed and/or destroyed Patient A's drug chart that contained entries made on 25th and 26th August 2007*

- (ii) *Removed and/or destroyed Patient A's daily record sheet that contained entries made by Annette Downe on the twilight shift of 27th August 2007 and Carole O'Reilly at approximately 14.45 on 28th August 2007*
- 4 *On an unknown date between 28th August 2007 and 10th September 2007, falsified medical notes belonging to Patient A. In particular, you;*
- (i) *Entered in Patient A's daily record sheet that you had administered to him 2.5 mg of morphine sulphate on 28th August 2007, when you had actually administered 10 mg*
- (ii) *Entered in patient A's drug chart that you had administered to him 2.5 milligrams of morphine sulphate on 28th August 2007, when you had actually administered 10 milligrams*
- 5 *Your actions as set out in Charge 4 above were dishonest*
- 6 *On an unknown date between 28th August 2007 and 10th September 2007 falsified medical notes belonging to Patient A. In particular, you:*
- (i) *Forged Annette Downe's entry in Patient A's daily record sheet relating to her twilight visit on 27th August 2007;*
- (ii) *Forged Carole O'Reilly's entry in Patient A's daily record sheet relating to her visit at approximately 14.45 on 28th August 2007.*
- 7 *Your actions as set out in Charge 6 above were dishonest*

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

You did attend the substantive hearing and you made no admissions. The panel at the substantive hearing found all of the charges proved.

The substantive hearing panel, in making its decision on impairment, stated the following with regard to impairment:

“Using the definition of “a registrant’s suitability to remain on the register without restriction”, the panel considers that the registrant’s fitness to practise is impaired by reason of her misconduct.

In relation to misconduct:

On the basis of the facts admitted and the facts proved, the registrant twice administered 10mg of morphine sulphate when 2.5mg were prescribed and dishonestly falsified the notes to conceal those drug errors; the panel concludes that this is serious misconduct involving potential risks to patient A.

The circumstances she described surrounding her error, namely her recent recruitment to the role and her assertion that she was working unsupported over a bank holiday weekend, do not, in our view, lead us to the conclusion that this was not misconduct, not least because as a district nurse at grade 6, she would be expected to work alone.

Having regard to the NMC Code of Conduct 2004, the panel is satisfied that as a registered nurse, the registrant is personally accountable for her own practice in accordance with paragraph 1.3 of the Code.

In addition, the panel also found that, by her conduct, the registrant failed to uphold the standards of a registered nurse, namely:

1.2 To act in such a way that justifies the trust and confidence that the public has in you.

1.4 That she has a duty of care to patients and clients who are entitled to receive safe and competent care.

4.4 To ensure that the health care record for the patient is an accurate account of treatment, care planning and delivery.

By falsifying notes and doing so for dishonest purposes, the registrant cannot be said to be trustworthy or to have acted in such a way as to uphold the public’s trust in the nursing profession.

In relation to Impairment the panel has considered

- 1. The serious nature of the allegations admitted and proved*
- 2. The absence of any or sufficient insight into her actions on the 28th August as evidenced by her denial of the facts of the events specific to this date*
- 3. The specific findings of dishonesty*
- 4. The absence of any references relating to her current work for NHS Professionals from which the panel could assess her current levels of competence and fitness*

In all the circumstances and for all the reasons given, the panel concludes that the registrant is not fit to remain on the register without restriction and accordingly, in our judgement, her fitness to practise is impaired by reason of her misconduct.”

The substantive panel went on to say with regard to sanction:

No sanction

The panel has considered and rejected the option of imposing no sanction. The allegations as found are too serious for the public interest to be sufficiently protected by this course of action.

Caution order

The panel has considered the option of imposing a caution order. Having regard to the non-exhaustive list of relevant factors for consideration of this sanction, the nature and circumstances of these allegations preclude the making of such an order.

The panel found the following factors in the registrant’s favour, namely:

The registrant has no previous disciplinary history and was held in high regard by the professional colleagues with whom she worked at that time and previously. In addition, she recognised her lack of familiarity with the drugs administration paperwork and on the 20th August 2007.

- *The registrant has limited insight into her failings in that she sought initially to cover up the mistake and she denied the facts of the 28th August allegations at the fitness to practise hearing*
- *This was an isolated incident in that the two drug administration errors occurred on two consecutive days and the cover up was a single course of conduct relating these drug errors. However, the significance of this finding is limited in that there were only partial admissions to these events, and so, in the light of the above findings, a caution order is not an appropriate sanction.*

Conditions of practice order

Such a sanction is not appropriate in our view as the registrant's current work as a bank nurse does not facilitate the making of such an order in that there is no employer to administer and oversee the order.

Suspension order

The panel has considered and rejected this sanction. In our view the misconduct as found is fundamentally incompatible with continuing to be a registrant, in that:

- *The patient suffered real harm.*
- *The registrant's first thought was to conceal her errors. She failed to report them and deal with the effects of the drugs overdose on the patient.*
- *These actions constitute serious departures from the Code of Conduct as described in the impairment findings above.*

Striking off order

For the reasons set out above, it is the panel's view that the conduct is fundamentally incompatible with registration. Accordingly, the decision of the panel is to make a striking off order.

You may not apply for restoration until 5 years after the date that this decision takes effect.

Submissions and evidence

This panel has had regard to the submissions of Mr Kennedy, on behalf of the NMC. It also took account of Mr Walker's submissions on your behalf and your affirmed evidence. It considered the contents of your application for restoration which you submitted to the NMC which included three written references, a reflective piece and training and degree certificates. It considered the oral evidence under affirmation of two referees on your behalf.

Mr Kennedy outlined the background of the case and the facts that led to the striking-off. He referred this panel to the previous panel's decision which resulted in your removal from the NMC's register. He reminded the panel of the test set out in Article 33(5) of the Order and the matters to be taken into account in determining this application. He referred the panel to the Grant case and submitted that although Grant related to a Fitness to Practice substantive hearing, the principles outlined in the case applied equally here.

Mr Kennedy submitted that, you have been working as a Mental Health Support Worker since 2017. He submitted that you have expressed regret about your previous actions. He told the panel that it is a matter for their professional judgement as to whether to restore you to the NMC register.

You provided evidence under affirmation. You explained that during the period following your removal from the Register you completed a Biomedical Science degree at London Metropolitan University in 2014 and then commenced employment at the university as a Laboratory Technician. You told the panel that you decided to leave this role in 2017 as you realised that you enjoyed caring for others and therefore began work as a Mental Health Support Worker.

You expressed remorse, described how you would do things differently now and explained the effects of the striking off order upon you and your work practices. You gave examples of how, more recently, you resisted pressure from a colleague to act dishonestly and how you used this experience to inform learning within the Multi-Disciplinary Team. You also described that as a result of your advice to another colleague an incident was recorded appropriately on DATIX.

You described your work as a laboratory technician and stated that experience working in a laboratory enhanced your concentration skills and your attention to detail. You explained that it also heightened your awareness of the potential for errors and the devastating impact that errors can have on others.

You explained your understanding of the requirements of the Duty of Candour and of the NMC code of conduct in upholding the standards and reputation of the nursing profession. You explained your awareness of the importance of maintaining the trust

and confidence of nursing colleagues and the importance of public confidence in the profession and the NMC as regulator. You stated that you should have admitted your actions from the beginning as you now understand that you had a duty to act with professionalism and honesty and you have reflected at length on your dishonesty and the impact on others. You submitted that you would like an opportunity to apologise to the patient and the patient's family for the harm you caused and that if there was any way you could turn the clock back you would be open about your mistake and seek to rectify it.

You have detailed evidence of how you now manage stressful situations so as to minimise the possibility of any repetition of your past behaviour which you say was contributed to by stress in your personal life and the fact that you panicked. You explained how you would seek the support of your manager in the event of any errors in the future and the use of strategies such as mindfulness to alleviate stress.

Ms 1 gave oral evidence on your behalf she submitted that when she previously worked with you she observed that you are always willing to help with patient care. She also submitted that you are a good team player and like to support your colleagues. She further submitted that you are honest and have integrity.

Mr 2 also gave oral evidence on your behalf. He stated that he has not seen you in a professional setting but that he has known you for 20 years and was surprised to learn of the reasons for your striking-off order. He stated that this was out of character. He explained that you have always been an upstanding member of the community.

Mr Walker submitted that you should be restored to the NMC register and that the panel should grant your application. He submitted that your evidence was clear, cogent and persuasive. He submitted that you have remediated your practice and have developed full insight into your actions and that the risk of repetition is low. He reminded the panel that the misconduct that led to the striking-off order was an isolated incident. He further submitted that the public interest has been met and it is in the public interest to have an otherwise competent nurse restored to the register.

The panel heard and accepted the advice of the legal assessor.

The legal assessor reminded the panel of the test, as provided in Article 33(5) of the Nursing and Midwifery Order, 2001. Firstly you must satisfy the panel that you satisfy the requirements of Article 9(2)(a) (approved qualification and prescribed education, training and experience) and Article 9(2)(b) (capable of safe practice). Secondly, you must satisfy the panel whether, having regard in particular to the circumstances which led to the making of the striking-off order in 2009, you are a *“fit and proper person to practise as a registered nurse”*. She advised the panel that it is for you to satisfy the panel of these two matters and it is for the panel to use its own independent judgment as to whether it is so satisfied.

Decision on the application for restoration

The panel has considered your application for restoration to the NMC Register very carefully. It has decided to allow the application subject to a conditions of practice order.

The panel found you to be an honest and reliable witness. Your evidence was clear and supported by relevant examples. You remained consistent under cross examination and the panel found your evidence compelling.

The panel found Ms 1 to be clear in her evidence. She did her best to assist the panel. She accepted that it is some considerable time since she worked with you and explained that she remains in regular contact with you.

The panel found Mr 2 to be clear and helpful in his answers. He did his best to assist the panel and where he could not recall dates or details he said so.

The panel noted your reflective statement, references including one from a registered nurse who currently works with you, training and degree certificate. It noted that in terms of remediation you have taken a range of steps to remediate the concerns that led to your striking-off order and accepted your expressions of remorse. It also noted that you have stayed in the healthcare field, in particular it noted that you changed your job as a Laboratory Technician to take up a job as a mental health support worker

because you enjoy caring for people. It also noted that you have joined the Royal College of Nursing to keep up to date with new developments in nursing.

The panel noted that you have co-ordinated a co-operative saving scheme since 2002 where you have access to other people's money and there have never been any concerns about your honesty.

The panel determined that your previous dishonesty related to a one off incident albeit a very serious one which harmed a patient. However, they determined that through your work experiences, and genuine reflection your actions have been remediated. It determined that your remorse is genuine and that you have developed full insight. It further noted that you have developed stress management strategies which would enable you to safely cope with stressful situations in the future and would guard against you panicking. It determined in light of all these considerations that there is now a low risk of repetition.

In reaching its decision the panel recognised its statutory duty to protect the public as well as maintain public confidence in the reputation of the profession, which includes the declaring and upholding of proper professional standards. The panel bore in mind that the burden was upon you to satisfy it that you are a fit and proper person who is able to practise safely and effectively and you have done so.

The panel accordingly directs the Registrar under Article 33(7) and in accordance with Article 33(6) of the Order, to restore your name to the register subject to you fulfilling the specific conditions of practice in relation to additional education, training and experience as the Council has specified under Article 19(3) of the Order. For this to happen, the panel directs that you must successfully complete and pass a Return to Practice Programme and pay the prescribed fee.

Upon restoration of your name to the Register your registration will be subject to a conditions of practice order in the following terms:

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 should not prescribe any medication until you have completed an approved and recognised refresher course on nurse prescribing
2. You must limit your nursing practice to a care home or ward setting.
3. You must not be the only registered nurse on any shift that you work.
4. You must keep us 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.
5. You must keep us 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.
6. 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.
7. 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.

The period of this conditions of practice order is 12 months. The panel determined that such a period would satisfy the public interest and provide you with sufficient time to find employment as a registered nurse and demonstrate your safe practice.

This order will be reviewed before its expiry. 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.

The panel considered that any future reviewing panel may be assisted by:

- Any evidence of further training
- A report from your line manager on your progress and performance

You can apply for the order to be reviewed before the expiration of the order if you consider that it is appropriate in the circumstances.

This decision will be confirmed to you in writing.

That concludes this determination.