

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

**Substantive Order Review Meeting
15 October 2020**

Nursing and Midwifery Council
Virtual Meeting

Name of registrant: Margaret W Mwangi

NMC PIN: 01F2295O

Part(s) of the Register: Registered Nurse – Sub Part 1
Adult Nursing – March 2001

Area of registered address: Kenya

Type of case: Misconduct

Panel members: Nick Cook (Chair, lay member)
Gill Mullen (Lay member)
Susan Field (Registrant member)

Legal Assessor: Ben Stephenson

Panel Secretary: Ruth Bass

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect at the end of 29 November 2020 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

Notice of this meeting was sent to Ms Mwangi on 4 September 2020 by email to her email address as recorded on the Nursing and Midwifery Council's (NMC's) Register. The panel was satisfied that notice had been served, as advised by the legal assessor, in compliance and accordance with Rules 11 A and 34 of The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended 2012) (the Rules).

The panel was also satisfied that this matter is suitable to be dealt with at a meeting as opposed to a hearing, taking into account Ms Mwangi's lack of engagement.

Decision and reasons on review of the substantive order

The panel decided to replace the current conditions of practice order with a suspension order for a period of 6 months. This order will come into effect at the end of 29 November 2020 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 31 October 2020.

The current order is due to expire at the end of 29 November 2020.

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, while working the night shift at Ryland View Care Home, Tipton, on 22/23 April 2017 failed to adequately manage and escalate a deteriorating patient in that you:

- 1) ...

- 2) *Failed to ensure that Patient A's vital signs observations were conducted and/or recorded when Patient A further complained of abdominal pain after the administration of paracetamol pain relief.*
- 3) ...
- 4) *Failed to record the flushing of Patient A's PEC tube with saline, at approximately 05.45, on Patient A's MAR chart.*
- 5) *Failed to ensure the recording of urine output throughout the night shift.*
- 6) *Failed to ensure the monitoring of Patient A's condition through vital signs observations, prior to the arrival of Daughter A.*
- 7) ...
- 8) ...
- 9) *Failed to recognise the significance of Patient A's blue skin/extremities.*
- 10) *Failed to recognise the significance of Patient A's purple mottled skin.*
- 11)...

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

The original panel determined the following with regard to impairment:

Regarding insight, the panel considered that Ms Mwangi has demonstrated remorse and shown a degree of insight into her failings. The panel noted the email dated 31 January 2019 where she stated 'I learnt my lesson the hard way, I should say. I will

never ever forget to take and record the vital signs of anyone who complains of being unwell. The physical presentation should not be taken into account on its own. Time can not be taken back, but at least I can tell you how much I hate myself for missing to take and record the vital signs. It could have probably changed my course of action...there isn't much I can do but faced with a similar case I definitely will not repeat the same mistakes again, never.'

In its consideration of whether Ms Mwangi has remedied her practice the panel noted three records of training Ms Mwangi had undertaken since the incident, but noted that they were not relevant in that they did not address the misconduct found in this case. Although the panel considered that the misconduct identified was remediable, it did not have any information of any relevant training Ms Mwangi had undertaken or any evidence that she had had the opportunity to demonstrate that she is capable of safe practice.

Thus, in the absence of evidence as to remediation, the panel is of the view that there is a risk of repetition. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. The panel consider that a fully informed member of the public would be concerned about the failure of a nurse to recognise the needs of a deteriorating patient when they were responsible for that patient. The panel consider that in this case a finding of impairment is also necessary on the grounds of public interest.

Having regard to all of the above, the panel decided that Miss Mwangi's fitness to practise is currently impaired.

The original panel determined the following with regard to sanction:

The panel next considered whether placing conditions of practice on Ms Mwangi'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 took into account the SG, in particular:

- no evidence of harmful deep-seated personality or attitudinal problems*
- identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining*
- no evidence of general incompetence*
- potential and willingness to respond positively to retraining*
- patients will not be put in danger either directly or indirectly as a result of the conditions*
- the conditions will protect patients during the period they are in force*
- conditions can be created that can be monitored and assessed.*

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 had regard to the fact that Ms Mwangi's actions related to one incident in a short period of time and concerned the care of one patient. The panel took into account that other than these incidents, Ms Mwangi has had a long, unblemished career as a nurse. The panel was of the view that it was in the public interest that, with appropriate safeguards, Ms Mwangi should be able to return to practice as a nurse should she choose to do so.

Balancing all of these factors and after having taken into account both the aggravating and mitigating features of this case, the panel determined that that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order would be disproportionate and would not be a reasonable response in the circumstances of Ms Mwangi's case.

Further, it was of the view that a conditions of practice order would be sufficient to address the public interest in the case.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession, and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions 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. You must ensure that you are supervised by another registered nurse any time you are working until signed off as competent (see condition 2).*
- 2. You will send your case officer evidence that you have successfully completed training in management of deteriorating patients and the importance of vital signs observations. You must be signed off as competent by a registered nurse.*
- 3. You must keep a personal development log every time you engage in management of a deteriorating patient. The log must:
 - a) Contain the dates that you carried out management of a deteriorating patient and how you managed that care.*
 - b) Be discussed with your mentor at your regular review meetings*
 - c) Contain feedback from your mentor on the discussions at the review meetings.**

You must send your case officer a copy of the log prior to your review hearing.

- 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.*
8. *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 12 months. The panel was of the view that this period of time would allow Ms Mwangi to return to work and remediate her practice before the order is reviewed.

Decision and reasons on current impairment

The panel has considered carefully whether Ms Mwangi'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, namely 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 Ms Mwangi's fitness to practise remains impaired.

The panel noted that the original panel found that Ms Mwangi had a degree of insight, but had not remediated her practice. This panel noted that it had not received any information from Ms Mwangi since the substantive hearing. Ms Mwangi has not provided any evidence to show that she has complied with the conditions of practice order or attempted to engage with it at all. In the absence of any evidence demonstrating that Ms Mwangi has sufficient insight, or that she has remediated the misconduct, the panel was of the view that there remains a risk of repetition. It 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 Ms Mwangi's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Ms Mwangi'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 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 and the public protection issues identified. 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 determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Ms Mwangi's practice would not be appropriate in the circumstances. 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 conditions of practice order on Ms Mwangi's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. Although the panel was of the view that the misconduct identified was capable of remediation by way of compliance with the conditions of practice order, it determined that such an order was not workable due to Ms Mwangi's lack of engagement with the process. Nurses have a duty to comply with their regulatory body, and there has been no compliance or engagement from Ms Mwangi since the substantive hearing. On this basis,

the panel concluded that a conditions of practice order is no longer workable or the appropriate order in this case.

Due to Ms Mwangi's failure to engage with the NMC, the panel determined that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for a period of 6 months. It was of the view that this would provide Ms Mwangi with an opportunity to engage with the NMC and provide evidence of insight and remediation with regard to her misconduct. It considered this to be the most appropriate and proportionate sanction available.

The panel had regard to the fact that the misconduct in this case related to one incident on one shift in an otherwise unblemished career. Although the panel noted that Ms Mwangi had not engaged, it was of the view that a striking off order would be disproportionate at this stage.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely at the end of 29 November 2020 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:

- Ms Mwangi setting out her intentions with regard to her future in nursing;
- A reflective piece addressing the implications to the profession, colleagues and the public;
- Any evidence of training undertaken relevant to the misconduct; and
- Any evidence of courses or online training undertaken to maintain her nursing skills.

This will be confirmed to Ms Mwangi in writing.

That concludes this determination.