

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

**Substantive Order Review Meeting  
Monday, 20 December 2021**

Virtual Meeting

**Name of registrant:** Margaret W Mwagni

**NMC PIN:** 01F2295O

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

**Area of registered address:** Nairobi, Kenya

**Type of case:** Misconduct

**Panel members:** Anthony Mole (Chair, Lay member)  
Judith Webb (Lay member)  
Michael Duque (Registrant member)

**Legal Assessor:** Nigel Mitchell

**Hearings Coordinator:** Xenia Menzl

**Order being reviewed:** Suspension Order (8 Months)

**Fitness to practise:** Impaired

**Outcome:** **Strike off order to come into effect at the end of 29 January 2022 in accordance with Article 30(1) of the order.**

## **Decision and reasons on service of Notice of Meeting**

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Ms Mwangi's registered email address on 9 November 2021.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the substantive order being reviewed, and the fact that this was to be a virtual meeting on or after 13 December 2021.

In the light of all of the information available, the panel was satisfied that Ms Mwangi has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

## **Decision and reasons on review of the substantive order**

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect at the end of 29 January 2022 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third 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 2019. On 15 October 2020 a review panel imposed a suspension order for a period of six months. This was again reviewed on 21 April 2021 when a review panel imposed a further period of eight month suspension.

The current order is due to expire at the end of 29 January 2022. 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 second reviewing panel determined the following with regard to impairment:

*'This panel noted that it had not received any information from Ms Mwangi since the substantive hearing in 2019 as well as the review hearing in October 2020. The panel noted that it was for Ms Mwangi to demonstrate that she has remediated fully the failings identified at the first substantive hearing. It noted that Ms Mwangi had not shown full insight into her failings or remediated her practice. The panel further noted that Ms Mwangi has not supplied any information regarding having undertaken any relevant training. Her lack of engagement with the NMC now highlights attitudinal issues. The panel was therefore of the view that in the absence of any new information or evidence to consider, there remains a risk of repetition. The panel 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.'*

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

*'The panel next considered whether imposing a conditions of practice order 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. Although the panel was of the view that the misconduct identified was capable of remediation, it*

*determined that such an order was not workable due to Ms Mwangi's lack of engagement with the process.*

*The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Ms Mwangi further time to fully remediate her previous failings. The panel concluded that a further eight month suspension order would be the appropriate and proportionate response which would continue to both protect the public and satisfy the wider public interest.*

*The panel notes and highlights that this could be Ms Mwangi's final opportunity to engage with the process. The panel is aware any future reviewing panel will have the option to consider a striking-off order, as Ms Mwangi will by then have had a two year period subject to NMC sanctions for issues some of which were considered to be competence issues.'*

## **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 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.

The panel 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. At this meeting the panel noted that it had no current information from Ms Mwangi before it to demonstrate that she has addressed the serious and significant concerns of the substantive panel. It noted that there had not been any engagement from Ms Mwangi since February 2019 after stating that she would no longer engage with the NMC and despite several attempts in 2021 by the NMC to contact her via email and mail. The panel further noted that Ms Mwangi has not provided any of the information suggested by the last panel, namely setting out her future intentions regarding nursing, a reflective piece, or any evidence of training undertaken addressing the misconduct or to maintain her nursing skills.

The panel determined that due to the lack of any further information from or engagement by Ms Mwangi there remains a lack of insight and remediation. In light of this the panel determined that Ms Mwangi is 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, 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' (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 Ms Mwangi'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 Ms Mwangi'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 Ms Mwangi's registration would be a sufficient and appropriate response. The panel took into account that Ms Mwangi appears to have disengaged from the NMC process, had failed to comply with the previous conditions of practice order and it is therefore not able to formulate workable, measurable and practicable conditions.

The panel next considered imposing a further suspension order. The panel noted that Ms Mwangi has not shown remorse for her misconduct. Further, Ms Mwangi has not demonstrated any insight into her previous failings. The panel was of the view that engagement with the NMC and evidence would be required to show that Ms Mwangi no longer posed a risk to the public.

The panel noted that, despite various communications from the NMC, no response had been received from Ms Mwangi since February 2019.

The panel determined that the failure to engage with the proceedings in a meaningful way raises fundamental questions about Ms Mwangi's professionalism as a registered nurse and shows a negative attitude towards the profession. It therefore determined, given Ms Mwangi's non-engagement, that a further period of suspension would not serve any useful purpose in all of the circumstances.

The panel determined that it was necessary to take action to prevent Ms Mwangi from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 29 January 2022 in accordance with Article 30(1).

This decision will be confirmed to Ms Mwangi in writing.

That concludes this determination.