

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

**Substantive Order Review Meeting
Thursday 30 June 2022**

Virtual Meeting

Name of registrant: **Emily Nolamla Ntsikizana**

NMC PIN: 00E1124O

Part(s) of the register: Registered Nurse – Adult Nursing (January 2000)

Relevant Location: Hampshire

Type of case: Misconduct

Panel members: Anthony Griffin (Chair, lay member)
Shorai Dzirambe (Registrant member)
Alison Hayle (Lay member)

Legal Assessor: Michael Levy

Hearings Coordinator: Alice Byron

Order being reviewed: Suspension order (6 months)

Outcome: **Striking off order to come into effect on 18 August 2022 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that Miss Ntsikizana was not in attendance and that the Notice of Meeting had been sent to Miss Ntsikizana's registered email address on 18 May 2022.

The panel took into account that the Notice of Meeting provided details of the review including the time, dates and venue of the meeting.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Ntsikizana 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).

The panel noted that the Rules do not require proof of delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

Decision and reasons on review of the current order

The panel decided to impose a striking off order. This order will come into effect at the end of 18 August 2022 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of a substantive suspension order originally imposed for an initial period of six months by a Fitness to Practise Committee panel on 16 July 2021. This was reviewed on 13 January 2022 and a further suspension order for a period of six months was imposed.

The current order is due to expire at the end of 18 August 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 a registered nurse:

1. *On 7 August 2019, incorrectly recorded Resident A's blood glucose readings in Resident B's Daily Blood Glucose Testing Record Sheet.*
2. *On 10 August 2019, did not offer fluids and/or in the alternative did not complete the fluid balance charts for:*
 - a. *Resident C*
 - b. *Resident D*
 - c. *...*
 - d. *...*
 - e. *Resident G*
 - f. *Resident H*
3. *On 16 August 2019, on or before 04:00am, you:*
 - a. *...*
 - b. *...*
 - c. *Pre-recorded in the Resident Monitor/Review Record inaccurate depictions of a number of unknown residents from 04:00-06:30.*
4. *...*
5. *On 18 August 2019, upon Resident I sustaining a head injury you:*
 - a. *Did not contact the GP.*
 - b. *...*
 - c. *...*
 - d. *Did not administer paracetamol and/or failed to record the administration in the MAR chart.*
 - e. *Did not contact Resident I's family.*

6. *On or around 18 August 2019, inaccurately recorded in an Accident form that you:*
 - a. *Administered paracetamol to Resident I.*
 - b. *Contacted the family of Resident I.*

7. *Your actions as set out in charges 6a and/or 6b were dishonest in that, you:*
 - a. *Knew you had not administered paracetamol to Resident I.*
 - b. *Attempted to create a misleading picture of the care you provided.*

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 Miss Ntsikizana's fitness to practise remains impaired.

The panel took into account the charges found proved against Miss Ntsikizana's and noted that they were serious and wide ranging. It noted that Miss Ntsikizana has not engaged with the NMC at all or attended the original substantive hearing. The panel also had regard to the recommendations of the original substantive panel.

The panel noted that since the original substantive hearing Miss Ntsikizana has not provided a response to the previous panel's recommendations or engaged with the NMC. As a consequence, the panel has no evidence of Miss Ntsikizana's insight into her misconduct which the panel considered to be serious. Furthermore, the panel determined that Miss Ntsikizana's has failed to provide any evidence of any remedial steps she has taken to address her misconduct and the serious breach of standards expected of a registered nurse. In light of the above, the panel determined that there is a risk of repetition of the misconduct and a consequent risk of harm to the public. Accordingly, the panel determined 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 Miss Ntsikizana's fitness to practise remains impaired.

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

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 Miss Ntsikizana'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 Miss Ntsikizana'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 order on Miss Ntsikizana'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 address the concerns relating to Miss Ntsikizana's misconduct. Furthermore, for conditions to be effective there needs to be evidence of insight, engagement, and a willingness or potential to respond positively to conditions. None of these were present in this case.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Miss Ntsikizana further time to fully reflect on her previous failings. It considered that Miss Ntsikizana's had not yet expressed any insight or understanding of the impact of her actions and her dishonesty. The panel concluded that a further six months suspension order would be the appropriate and proportionate response and would afford Miss Ntsikizana adequate time to begin developing her insight and remediation. It would also give Miss Ntsikizana an opportunity to approach past and current health professionals to attest to her honesty and integrity in her workplace assignments since the substantive hearing.

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 that imposing a suspension order for the period of six months would provide Miss Ntsikizana with a further and possibly final opportunity to engage with the NMC, to provide evidence of remediation and insight. It considered this to be the most appropriate and proportionate sanction available. However, the panel would like to emphasise to Miss Ntsikizana that the next panel will have all powers available to it, including a striking-off order.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 18 February 2022 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:

- *Attendance at any future hearing;*
- *An indication of Miss Ntsikizana's future career intentions;*
- *Reflective account focusing on record keeping, duty of candour and dishonesty;*
- *References or testimonials from any work, paid or unpaid;*
- *Evidence of keeping up to date with current nursing practices and maintaining professional development.*

Decision and reasons on current impairment

The panel has considered carefully whether Miss Ntsikizana'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 which contains the decisions of the substantive panel on 16 July 2021, and the reviewing panel on 13 January 2022.

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 Miss Ntsikizana's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that it had no information before it to determine Miss Ntsikizana's level of insight or remorse into her failings, nor had it received evidence which demonstrated any attempts made by Miss Ntsikizana to strengthen her

practice. At this meeting the panel had no evidence of any engagement over the period in which Miss Ntsikizana has been suspended from nursing, and therefore she has not demonstrated any evidence of insight, remorse or strengthened practice since the substantive hearing. In light of this, the panel determined that Miss Ntsikizana has not taken any steps, as suggested by the previous panel, to reflect on her failings and strengthen her practice.

Furthermore, the panel noted that correspondence which had been sent to Miss Ntsikizana's last known address was returned unopened. The panel bore in mind that it is the responsibility of any registrant to maintain an effective and up-to-date registered address on the NMC register. Accordingly, the panel concluded that Miss Ntsikizana has disengaged with the NMC.

The last reviewing panel determined that Miss Ntsikizana was liable to repeat matters of the kind found proved. Today's panel has received no new information to suggest that Miss Ntsikizana's risk of repetition has diminished. In light of this the panel determined that Miss Ntsikizana is still liable to repeat matters of the kind found proved and found this risk of repetition to be very high. 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 Miss Ntsikizana's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Ntsikizana'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 Miss Ntsikizana'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 Miss Ntsikizana'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 Miss Ntsikizana'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, alongside Miss Ntsikizana's total lack of engagement since the substantive 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 Miss Ntsikizana's misconduct.

The panel has received no information in respect of Miss Ntsikizana's current circumstances and her future intentions in respect of her career. In view of Miss Ntsikizana's lack of engagement, the panel considered that any conditions of practice order would not be workable and would serve no useful purpose.

The panel next considered imposing a further suspension order. The panel noted that Miss Ntsikizana has not shown remorse for her misconduct. Further, Miss Ntsikizana has not demonstrated any insight into her previous failings. The panel was of the view that considerable evidence would be required to show that Miss Ntsikizana no longer posed a risk to the public. Miss Ntsikizana has entirely disengaged with the NMC and the regulatory process. In light of this, the panel determined 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 Miss Ntsikizana 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 18 August 2022 in accordance with Article 30(1).

This decision will be confirmed to Miss Ntsikizana in writing.

That concludes this determination.