

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

**Substantive Order Review Meeting
Tuesday 10 May 2022**

Virtual Meeting

Name of registrant: **Barbara Hyacinth Asiama**

NMC PIN: 69B0232E

Part(s) of the register: Registered Nurse - Sub Part 2 – Mental Health
Level 2 – RN4 (February 1969)

Registered Nurse - Sub Part 1 – Mental Health
RN3 (October 1996)

Relevant Location: London

Type of case: Misconduct

Panel members: Debbie Hill (Chair, Lay member)
Sandra Lamb (Registrant member)
Nicola Strother Smith (Lay member)

Legal Assessor: Graeme Sampson

Hearings Coordinator: Dilay Bekteshi

Order being reviewed: Suspension order (12 months)

Outcome: **Striking off order to come into effect at the
end of 21 June 2022 in accordance with
Article 30(1)**

Decision and reasons on service of Notice of Meeting

The panel considered whether notice of this meeting has been served in accordance with the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (as amended) (“the Rules”).

The panel noted that the Notice of Meeting had been sent to Mrs Asiama’s registered email address on 1 April 2022.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mrs Asiama 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 current order

The panel decided to replace the suspension order with a striking-off order. This order will come into effect at the end of 21 June 2022 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 21 May 2021.

The current order is due to expire at the end of 21 June 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 the 14th December 2018;

(a) In respect of Resident A;

(i) Did not assess them for any pain

(ii) Did not enquire with them whether they required any pain or sickness tablets.

(iii) Failed to recognise what Metoclopramide is used for

(b) In respect of Resident B;

(i) Failed to carry out an individual assessment as to whether the Resident required pain relief

(c) In respect of Resident C;

(i) Attempted to administer insulin;

Without first checking the blood sugar levels, and

Without asking the Resident beforehand

(ii) Failed to record the units of insulin injected on the MAR chart

(d) In respect of Resident D;

(i) Failed to assess whether they required pain relief

(ii) Failed to provide a clinical reason and/or justification for providing the Resident two Co-Codamol tablets

(e) In respect of Resident E;

(i) Carried out the incorrect procedure prior to the administration of Doxazosin,
and

(ii) In doing so caused distress to the Resident.

(iii) ...

(iv) ...

(v) ...

(vi) Did not know the resident's mobility

(f) In respect of Resident F;

Failed to assess the amount of thickening agent required, by either;

(i) Checking the MAR chart

- (ii) Checking the Care Plan*
- (iii) Making enquiries with anyone else*

(g) In respect of Resident G;

- (i) Failed to administer a laxative when required, and*
- (ii) Failed to sign the MAR indicating this*

(h) In respect of Resident H;

- (i) Having administered Carbocisteine tablets, failed to sign as administered on the MAR chart*
- (ii) Failed to follow hygiene rules when providing eye drops*

(i) In respect of Resident I;

- (i) ...*
- (ii) ...*
- (iii) Attempted to administer one tablet of Amoxicillin at a time when it was not required*
- (iv) Failed to adequately dispose of the Amoxicillin once discovered that it was not required, and*
- (v) Failed to record the disposal of it in the destruction book*

(j) In respect of Resident J;

- (i) Signed the MAR chart indicating that eye drops had been administered when they had not.*

(k) In respect of Resident K;

- (i) Failed to properly consider the MAR chart as to the type of medication that was to be administered*
- (ii) Attempted to administer insulin when in fact Heparin was to be administered*

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:

'The panel next went on to decide if as a result of the misconduct, Mrs Asiama's fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession. In this regard the panel considered the judgement of Mrs Justice Cox in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin).

The panel determined that the first three limbs of the test are engaged in Mrs Asiama's case. The panel finds that several patients were put at real risk of harm and as a result of Mrs Asiama's misconduct and that no harm was caused due to her being observed by Mr 2. Mrs Asiama's misconduct had breached the NMC Code, the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to the misconduct serious.

The panel noted that there a several clinical errors but it was satisfied that the misconduct in this case is capable of remediation. However, the panel carefully considered the evidence before it and determined that there is little to no evidence to indicate that Mrs Asiama has remedied her practice. The panel took into account Mr 2's witness statement and noted that following her competency assessment she was asked how she thought it went and, Mrs Asiama replied stating that 'I made some errors but I think it went well.' It noted that whilst Mrs Asiama has acknowledge some of her errors, it was concerned that she failed to demonstrate any remorse or insight into her actions. The panel noted that despite completing her medication training prior to her competency assessment, Mrs Asiama made several errors during a single medication round, some of which were serious. The panel

also noted that Mrs Asiama has not engaged with the NMC regarding these proceedings.

The panel is of the view that given Mrs Asiama's lack of insight, lack of remediation and lack of engagement with the NMC, there is a real risk of repetition. On the basis of all the information before it, the panel 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; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This 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 determined that a finding of impairment on public interest grounds is required because Mrs Asiama breached the fundamental tenets of the nursing profession and it is required to maintain the reputation in the profession and to uphold the proper standards of conduct.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mrs Asiama's fitness to practise impaired on the grounds of public interest.'

The original 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 Mrs Asiama'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 Mrs Asiama'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 placing conditions of practice would be sufficient and appropriate. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel took into account the SG and considered that there was no evidence to suggest there was harmful deep-seated personality or attitudinal problems on Mrs Asiama's part. It also considered that there were identifiable areas of Mrs Asiama's practice in need of retraining and further assessment.

The panel was of the view that a conditions of practice order could protect the public if they were workable however, given the circumstances, there are no practical or workable conditions that could be formulated. It noted that there has been no engagement from Mrs Asiama with the NMC. The panel noted that there was also no evidence to demonstrate a willingness to respond positively to retraining. Further, the panel noted that Mrs Asiama has demonstrated a lack of insight into her failings and there is currently no information before the panel to indicate her current position or her willingness to work.

The panel concluded that the placing of conditions on Mrs Asiama's registration in these circumstances would be inappropriate and would not adequately protect the public or address the public interest concerns in this case.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some factors are apparent. In this case, it noted that the misconduct occurred on one medication round but there were multiple errors and a lesser sanction is not sufficient. There was no evidence of harmful deep-seated or attitudinal problems. It took into account the seriousness of this case with regard to

the multiple and serious errors that occurred on one medication round. The panel noted that the attempted administration of Insulin instead of Heparin could have caused serious consequences and in these circumstances, the panel noted that the criteria of seriousness is met.

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

The panel went on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mrs Asiama's case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause Mrs Asiama. However this is outweighed by the public interest in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

Any future panel reviewing this case would be assisted by:

- Evidence of Mrs Asiama's engagement with the NMC;*
- Mrs Asiama's attendance at the next NMC review hearing or meeting.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Asiama'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 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 Mrs Asiama's fitness to practise remains impaired. The panel took into account the charges found proved against Mrs Asiama and noted that they were serious. The panel had regard to the original panel's findings and took account of the fact Mrs Asiama has not engaged with the NMC in any way. This reviewing panel had no new information before it today. Mrs Asiama has not engaged with the NMC since the suspension order was imposed and has not provided any of the information suggested by the previous panel. Further, the panel had no up to date information regarding Mrs Asiama's level of insight.

This panel noted that the original substantive panel found that, while Mrs Asiama's misconduct was remediable, her lack of engagement meant that the panel had no evidence of any reflection or remediation. This panel noted that from the information before it, Mrs Asiama has not taken any steps to remedy the concerns raised about her fitness to practise.

In light of this, this panel determined that Mrs Asiama was still liable to repeat the basic and numerous clinical errors demonstrated in the wide ranging charges found proved. The

panel therefore decided that a finding of continuing impairment is necessary on the ground 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 Mrs Asiama's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Asiama'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 Mrs Asiama'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 Mrs Asiama'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 Mrs Asiama'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 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 Mrs Asiama's misconduct.

The panel next considered imposing a further suspension order. The panel noted that Mrs Asiama has not engaged with the NMC nor has shown any evidence of strengthening her practice. Further, Mrs Asiama has not demonstrated any insight into her previous failings. The panel was of the view that considerable evidence would be required to show that Mrs Asiama no longer posed a risk to the public. 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 Mrs Asiama 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 21 June 2022 in accordance with Article 30(1).

This decision will be confirmed to Mrs Asiama in writing.

That concludes this determination.