

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

**Substantive Order Review Meeting
Friday, 5 January 2024**

Virtual Meeting

Name of Registrant: Dushka Tsekova

NMC PIN 16B0247C

Part(s) of the register: Registered Nurse – Sub part 1
Adult Nursing (RN1) – 09 February 2016

Relevant Location: Reading

Type of case: Lack of competence/Lack of knowledge of English

Panel members: Patricia Richardson (Chair, Lay Member)
Philip Sayce (Registrant Member)
Paul Leighton (Lay Member)

Legal Assessor: Nigel Mitchell

Hearings Coordinator: Angela Nkansa-Dwamena

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Suspension order (12 months) to come into effect at the end of 17 February 2024, 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 the Notice of Meeting had been sent to Miss Tsekova's registered email address by secure email on 29 November 2023.

The panel took into account that the Notice of Meeting provided details of the review, that the review meeting would be held no sooner than 1 January 2024 and inviting Miss Tsekova to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In light of all of the information available, the panel was satisfied that Miss Tsekova 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 extend the current suspension order for a period of 12 months. This order will come into effect at the end of 17 February 2024 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 a period of 12 months by a Fitness to Practise Committee panel on 19 January 2022. This was reviewed on 6 January 2023, where the order was extended for another 12 months.

The current order is due to expire at the end of 17 February 2024.

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, whilst employed at The Manor Care Home ("the Home") between 1 April 2019 and 13 September 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse, in that you:

1) ...

2) On or around 8/9 June 2019 incorrectly duplicated entries into Resident's Handover notes, as listed in schedule 2.

3) On 9 June 2019 entered an incorrect entry into Resident C's Handover notes stating "16pm she took Zopiclone 1/2tb.."

4) On 8 June 2019 entered an incorrect entry into Resident H's Handover notes stating "NB: Please see diary (Caresys) for weekend management."

5) On 9 June 2019 entered an incorrect entry into Resident H's Handover notes stating "NB: Please see dairy (Caresys) for weekend management."

6) ...

7) Did not complete your probationary period at the Home.

8) Between 11 July 2019 and 13 September 2019 were unable to comply with an informal support plan put in place by your employers, in that you were unable to demonstrate proficiency in areas of;

a) Verbal & Written English Language.

b) ...

c) ...

d) Knowledge around safe administration of medication.

e) ...

f) ...

9) ...

10) *On or around 2 September 2019;*

a) *Incorrectly recorded a balance of 27 Carbizamole tablets on Resident A's MAR chart.*

b) ...

c) *Did not administer Docusate to Resident X.*

d) ...

e) *Did not administer 2 tablets of Memantine to Resident F.*

11) *On or around 8 September 2019;*

a) *Did not administer 2 tablets of Furosemide to Resident J.*

b) *Did not record how many tablets were administered to Resident J.*

c) *Did not administer Resident K;*

i) *Furosemide 1 tablet.*

ii) *Spironolactone 1 tablet.*

iii) *Amlodipine 1 tablet.*

d) *Inaccurately recorded that you had administered Resident K's prescribed medication in Resident K's Handover notes.*

e) *On the destroyed or returned medication form, inaccurately recorded that Resident L's Furosemide tablet had been destroyed.*

f) *On the destroyed or returned medication form, inaccurately recorded that Resident L's Felodipine tablet had been destroyed.*

g) *Did not administer Resident M's prescribed Citalopram 20mg 1 tablet at 8am.*

h) *Did not complete the 8a.m. entry in Resident M's MAR chart.*

And in light of the above your fitness to practise is impaired by reason of your lack of competence.

12. That you, a registered nurse, do not have the necessary knowledge of English to practise safely and effectively and in light of the above, your fitness to practise is impaired by reason of your lack of knowledge of English.

Schedule 1

1) ...

2) ...

3) ...

4) ...

5) ...

6) ...

7) ...

Schedule 2

1) Incorrectly duplicated an entry from Resident X's 8 June 2019 Handover note, onto Resident X's 9 June 2019 Handover note.

2) Incorrectly duplicated an entry from Resident E's 8 June 2019 Handover note, onto Resident E's 9 June 2019 Handover note.

3) Incorrectly duplicated an entry from Resident F's 8 June 2019 Handover note, onto Resident F's 9 June 2019 Handover note.

4) Incorrectly duplicated an entry from Resident G's 8 June 2019 Handover note, onto Resident G's 9 June 2019 Handover note.'

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

'The panel noted that the original panel, in determining insight, had regard to Miss Tsekova's responses at the meetings she attended at The Manor Care Home (The Home) and her response bundle. That panel was of the view that Miss Tsekova's insight into her lack of competence was limited, but she appeared to demonstrate some remorse for her actions. With regards to Miss Tsekova's insight into her lack of knowledge of English, the original panel was of the view that her insight was developing in that she appeared to acknowledge that she needed to take the IELTS test but that she was not in a position to do so at that moment. This panel noted that there is no new information before it to suggest that Miss Tsekova had developed any further insights into her failings and into her lack of knowledge of English.

In its consideration of whether Miss Tsekova had taken steps to strengthen her practice and improve her knowledge of English, the panel concluded that there was no evidence or indication from Miss Tsekova at this stage that she had undertaken any steps to improve her knowledge of English, any further training in relation to her lack of competence, had kept her knowledge and skills up to date or had strengthened her practice.

The original panel determined that Miss Tsekova was liable to repeat matters of the kind found proved. This panel has received no new information nor has there been any material change. The panel considered the recommendations made by the previous panel in regard to what it would be assisted by at this meeting. The panel noted that there is no evidence to demonstrate that these recommendations had been acted upon by Miss Tsekova. In light of this, the panel determined that Miss Tsekova is still 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 Miss Tsekova's fitness to practise remains impaired.'

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

'The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Miss Tsekova further time to fully reflect on her previous failings, respond to recommendations of the last panel and develop her English language to a higher level. The panel concluded that a further 12 months suspension order would be the appropriate and proportionate response and would afford Miss Tsekova adequate time to further develop her insight, and demonstrate that she has taken steps to strengthen her practice and improve her knowledge of English. The panel would like to emphasise that Miss Tsekova should provide evidence of any steps she takes in relation to strengthening her practice and improving her knowledge of English in order to demonstrate the progress she has made.

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.

This extension to the suspension order will take effect upon the expiry of the current period of suspension, namely at the end of 17 February 2023, in accordance with Article 30(1).'

Decision and reasons on current impairment

The panel has considered carefully whether Miss Tsekova'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 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 Tsekova's fitness to practise remains impaired.

The panel had regard to all of the documentation before it, including the NMC bundle. The panel noted that since the original substantive hearing in January 2022 and last review in January 2023, there had been limited engagement from Miss Tsekova but, no new information had been put forward by her. Further, there was no evidence before the panel today that Miss Tsekova had undertaken any of the recommendations of the previous panel, namely:

- *'Miss Tsekova's attendance at the review hearing.*
- *An indication from Miss Tsekova as to whether she intends to return to nursing practice in the UK.*
- *Confirmation of successful completion of or progression towards, an appropriate English language course.*
- *Evidence that she has kept her nursing knowledge and skills up to date.*
- *A reflective statement from Miss Tsekova evidencing her insight into her failings.*
- *Evidence of any professional development, including documentary evidence of completion of any courses.*
- *References or testimonials from a line manager or supervisor.'*

The panel therefore had no new information before it, to conclude whether Miss Tsekova had developed any insight into her actions or to demonstrate that she can practise kindly, safely and professionally. With respect to Miss Tsekova's lack of competence and lack of knowledge of English, the panel considered that there had been no material change of circumstances since the last review. The lack of engagement with the NMC in the past year gave the panel no indication that Miss Tsekova had developed any insight into her failings and the charges found proved. The panel noted that the regulatory concerns

highlighted wide-ranging competency and language issues in Miss Tsekova's practice, which are serious and pose a risk to the public. In the absence of any information indicating insight, strengthened practice or remorse for her actions, the panel concluded that Miss Tsekova's circumstances had not changed.

In all the circumstances, the panel considered that there remains a risk of repetition, therefore Miss Tsekova remained liable to act in a way which could place patients at risk of harm. The panel therefore determined that a finding of impairment remains 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 Tsekova's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Tsekova'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 regulatory concerns in this 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 Tsekova'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 Tsekova'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 Tsekova's registration would be a sufficient and appropriate response. The panel was 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 determined that although it would be able to formulate conditions to address the lack of competence concerns and Miss Tsekova's language concerns could also be assessed, her lack of engagement demonstrated that it was unlikely that the conditions would be complied with and would not be workable in these circumstances.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Miss Tsekova further time to fully reflect on her previous failings and engage with the NMC. The panel concluded that a further 12-month suspension order would be the appropriate and proportionate response and would afford Miss Tsekova adequate time to further develop her insight and take steps to strengthen her practice.

The panel considered a striking off order however, this sanction was not available to it at this present time due to Miss Tsekova not being subject to a substantive order for two whole years.

The panel therefore determined 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 to impose a suspension order for the period of 12 months which would provide Miss Tsekova an opportunity to engage with the NMC. It considered this to be the most appropriate and proportionate sanction available.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 17 February 2024 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:

- Miss Tsekova's engagement with the NMC.
- An indication from Miss Tsekova as to whether she intends to return to nursing practice in the UK.
- Confirmation of successful completion of or progression towards, an appropriate English language course.
- Evidence that she has kept her nursing knowledge and skills up to date.
- A reflective statement from Miss Tsekova evidencing her insight into her failings.
- Evidence of any professional development, including documentary evidence of completion of any courses.
- References or testimonials from a line manager or supervisor.

This will be confirmed to Miss Tsekova in writing.

That concludes this determination.