

**Nursing and Midwifery Council
Investigating Committee**

**Fraudulent/Incorrect Entry Hearing
Thursday 23 May 2024**

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant: Adetomi Adewale

NMC PIN 23C07510

Part(s) of the register: Registered Nurse Adult

Relevant Location: Nigeria

Type of case: Fraudulent entry

Panel members: Christopher Taylor (Chair, Registrant member)
Aileen Cherry (Registrant member)
John Anderson (Lay member)

Legal Assessor: Nigel Mitchell

Hearings Coordinator: Anya Sharma

Nursing and Midwifery Council: Represented by Pamela Muniya, Case Presenter

Ms Adewale: Present and represented by Adewuyi Oyegoke

Outcome: **Charge proved by way of admission.
Registration entry fraudulently made**

Direction: **The panel directs the Registrar to remove Ms
Adewale's entry on the register in
accordance with Article 26(7) of the Order**

Direction: **Interim Suspension Order (18 months)**

Details of charge

That you, as part of your application to join the NMC register:

1. Submitted or caused to be submitted, the following Computer Based Test results, obtained at Yunnik Technologies Limited test centre, that had been obtained through fraud:
 - a. Numeracy test on 14 May 2022
 - b. Clinical test on 14 May 2022

And, in light of the above, your entry on the NMC register, in the name of Adetomi Adewale, PIN 23C0751O, was fraudulently procured and/or incorrectly made.

Background

Ms Muniya, on behalf of the Nursing and Midwifery Council (NMC), provided the panel with a background and chronology to the case and referred it to the relevant parts of the NMC bundle.

Pearson VUE have a contract with the NMC as their Computer Based Test (CBT) provider which has been in place since 2014. CBT is one part of the NMC's Test of Competence ("ToC") and is used by the NMC to assess the skills and knowledge of people wanting to join the NMC's register from overseas as a nurse, midwife or nursing associate or re-join the register after a long period away from practice. The second part of the ToC is an objective structured clinical examination ("OSCE") – a practical examination.

The current CBT ("CBT 2021"), created on 2 August 2021, is split into two parts (Part A and Part B). Part A contains a numeracy test consisting of 15 short answer questions and lasts up to 30 minutes. Part B is a clinical test consisting of 100 multiple-choice questions and lasts up to 2 hours and 30 minutes. All questions are scored as either correct or incorrect.

Pearson VUE contracted with a third party, Yunnik Technologies Ltd (“the test centre”), in relation to a Pearson VUE authorised test centre (PVTC) in Ibadan, Nigeria. This testing centre is where the concerns in this matter relate.

On 15 March 2023, Pearson VUE identified that the testing centre was delivering exams for multiple candidates who were completing the clinical part of the CBT in 10 minutes (2.5 hours is allowed for this part of the exam). The number of candidates was initially unknown.

The NMC was notified, and the Pearson VUE results team ran a report from January 2022, for all NMC exams that were delivered at the Yunnik centre in 20 minutes or under. This report identified a suspicious level of activity.

Pearson VUE conducted an investigation and found that the data set for the period between 15 March 2019 and 31 March 2023 indicated a specific pattern of probable fraudulent behaviour, likely to be proficient proxy testing, which was not present in other test centres globally.

The investigation also concluded that there was no technical error at the testing centre that had led to the data set and that human interference was more likely involved.

The NMC commissioned a report from Mr 1, instructed as an independent expert to analyse and report on data provided by the NMC. Mr 1 in their report reached the conclusion that there were a significant number of exceptionally quick test times at the testing centre compared to global averages.

On 3 August 2023 the NMC’s Registrar decided to use, as a benchmark, the 1 in 2,500 percentile in order to identify tests which were taken at such a speed that it is likely they were conducted using fraud (most likely a proxy test taker).

Because of the evidence of alleged widespread fraudulent activity at the testing centre, the NMC were unable to be confident in any of the CBT results obtained at the testing centre. The Registrar therefore considered all CBT results obtained there to be invalid and that the safest, fairest, and most proportionate way to deal with this

was to ask everyone who sat their CBT at the testing centre if they wanted to take a new CBT. In the absence of a valid CBT an individual should not have been allowed entry to the NMC register.

On 14 May 2022, you completed the CBT Test at the testing centre. According to the data, you completed the numeracy test in 4 minutes and 52 seconds and the clinical test in 10 minutes 41 seconds. It is the NMC's case that the reason you were able to complete the test so quickly was that you used a proxy to sit the test on your behalf.

Decision and reasons on the facts

At the outset of the hearing, the panel heard from Mr Oyegoke, who informed the panel that you made full admissions to charge 1 in its entirety that your entry on the register was fraudulently procured but not incorrectly made.

The panel therefore finds charge 1 proved in its entirety by way of your admission.

Decision and reasons on direction

Having determined that you had fraudulently procured an entry on the NMC's register, the panel went on to decide what direction, if any, to make under Article 26(7) of the 'Nursing and Midwifery Order 2001' (the Order).

Article 26(7) states:

'...If the Investigating Committee is satisfied that an entry in the register has been fraudulently procured or incorrectly made, it may make an order that the Registrar remove or amend the entry and shall notify the person concerned of his right of appeal under article 38.'

Ms Muniya referred the panel to the guidance issued by the NMC. She submitted that it is the NMC's position that as the panel has found that your entry onto the NMC Register had been fraudulently obtained, the panel should direct the Registrar to remove your entry from the register in accordance with Article 26(7) of the Order. She submitted that given that the

panel has found fraudulent entry, a direction by the panel to take no action or to amend the entry would be inappropriate given the public interest in this case.

Mr Oyegoke invited the panel to take no further action. He submitted that the NMC's case is being made in respect of maintaining the integrity of the NMC register and public confidence in the NMC register. Mr Oyegoke submitted that this is a matter of public interest, and it has not been suggested by the NMC that this is a public protection matter. Mr Oyegoke referred the panel to your registrant response bundle and witness statement. He brought the panel's attention to positive references from your previous place of education and your current employer, who are fully aware of this hearing and supportive of you.

Mr Oyegoke submitted that your initial response to the NMC was based on legal advice you had received, namely that the burden of proof was on the NMC. He referred the panel to an email sent by you to the NMC dated 26 September 2023 where you provide an explanation of what had occurred on 14 May 2022. Mr Oyegoke submitted that within this email, you have demonstrated insight as highlighted by the following extract: *'I appreciate based on your evidence that something fundamentally went wrong with my CBT result according to your findings'*.

Mr Oyegoke submitted that you have further demonstrated your insight by providing a job reference from your employer and undertaking relevant training courses. He submitted that it is clear from the writers of your references (who are aware of the allegations) that you are an individual of good and honest character.

Mr Oyegoke submitted that it is appropriate for the panel to take no further action in this case, given you had successfully retaken the CBT test, and have taken significant positive steps and demonstrated insight.

The panel heard and accepted the advice of the legal assessor.

The panel considered that, having found that your entry on the NMC register was fraudulently procured, it would be inappropriate to take no action given the seriousness of this matter. The panel noted that you were dishonest in your initial responses to the NMC and that you had consistently stated that you had not taken part in any fraudulent activity, whilst in fact you knew you had. The panel was therefore of the view that to take no action would be wholly inappropriate in the circumstances of this case.

The panel also noted the option of amending your entry on the register. It considered that an amendment was not appropriate in this case, as no annotation had been made in error and there are wider concerns regarding the integrity of the entry.

In all the circumstances, the panel decided that the only appropriate order is to direct the Registrar to remove your entry from the register in light of its finding that your entry to the NMC register had been fraudulently procured. The panel also noted your admission that your entry on the Register was fraudulently procured due to you using a proxy. The panel took account of the importance of maintaining the integrity of the NMC register, as well as public confidence in the nursing profession. The panel determined that a member of the public would be shocked to discover a person had secured entry onto the NMC register by the use of a proxy. The panel determined that this is the most appropriate sanction as it would allow the Registrar to use their specialist judgement in relation to considering good character should you reapply for registration.

You will be notified of the panel's decision in writing. You have the right to appeal the decision under Article 38 of the Order. This order cannot take effect until the end of the 28-day appeal period or, if an appeal is made, before the appeal has been concluded.

Decision and reasons on interim order

Having directed that the Registrar remove your entry from the register, the panel then considered whether an interim order was required under Article 26(11) of the Order, in relation to the appeal period.

Ms Muniya submitted that it is the NMC's case in light of the panel's decision that an interim suspension order for a period of 18 months is appropriate in the circumstances on both public protection and public interest grounds.

Ms Muniya submitted that to impose an interim suspension order would be consistent with the panel's decision, and that there would be serious damage to public confidence in the nursing profession if you were permitted to practise as a nurse without restriction. She submitted that your behaviour demonstrates a serious element of dishonesty in that you deliberately attempted to mislead the NMC in concealing the truth of your fraudulent activity. Ms Muniya submitted that dishonesty is difficult to 'put right' and there is therefore a clear risk to public safety.

Mr Oyegoke submitted that an interim order is not necessary in this case. He submitted that an interim order is usually imposed on the principle of necessity, and you have been working as a nurse without any issue. Mr Oyegoke submitted that this is a case where public interest is engaged, and not public protection. He submitted that an interim order is therefore not necessary in these circumstances, given that there is a high bar for an interim order to be imposed on public interest grounds only.

The panel heard and accepted the advice of the legal assessor.

In reaching its decision on whether to impose an interim order, the panel had regard to the reasons set out in its decision on the facts and its decision to direct the Registrar to remove your entry from the Register. It also had regard to the NMC's published Guidance on Fraudulent and incorrect entry cases. It noted that the imposition of an interim order is not an automatic outcome but is a matter for the panel's discretion in the circumstances of the case, having regard to the public interest in maintaining the integrity of the register. It also had regard to Article 31 of the Order and the NMC's Guidance on interim orders.

The panel first then whether to impose an interim conditions of practice order. It determined that an interim conditions of practice order would be inconsistent with its previous decision to direct the removal of your registration.

A well-informed member of the public would expect registered nurses to demonstrate the highest levels of integrity when applying for registration or responding to their regulator regarding allegations of fraud. In this case, you were first made aware of the allegations against you in May 2023, but continued to deny any wrongdoing until 8 May 2024 when you changed your position and admitted the fraud. Such sustained dishonesty from a registered nurse would rightly concern a member of the public. Accordingly, the panel determined that this is a case that would meet the high bar to impose an interim suspension order on public interest grounds alone to protect the reputation of the nursing profession and the NMC as its regulator. The panel was of the view that to not impose an interim suspension order would be wholly inconsistent with its findings.

The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined.

If no appeal is made then the interim order will lapse upon the removal of Ms Adewale's entry in the Register 28 days after she is sent the decision of this hearing in writing.

That concludes this determination.