

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

**Substantive Order Review Hearing
Friday, 10 April 2026**

Virtual Hearing

Name of Registrant: Joyce Efuah Babowa Mensah

NMC PIN: 0016851E

Part(s) of the register: Registered Nurse - Sub part 1
Mental Health Nursing - 25 August 2003

Relevant Location: Surrey

Type of case: Misconduct

Panel members: George Duff (Chair, Lay member)
Linda Holloway (Registrant member)
Alison McVitty (Lay member)

Legal Assessor: Emma Boothroyd

Hearings Coordinator: Eyram Anka

Nursing and Midwifery Council: Represented by Joanna Le Bert-Francis, Case Presenter

Ms Mensah: Present and unrepresented

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (9 months) to come into effect on 15 April 2026 in accordance with Article 30 (1)**

Decision and reasons on review of the substantive order

The panel decided to replace the current suspension order with a conditions of practice order.

This order will come into effect at the end of 15 April 2026 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 6 months by a Fitness to Practise Committee panel on 16 September 2026.

The current order is due to expire at the end of 15 April 2026.

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. Between 31 July and 1 August 2020 in relation to Patient A failed to undertake 15-minute physical observations between 23:45 and 03:00 as required.*
- 2. Your actions at charge 1 led Patient A to lose a significant chance of survival.*
- 3. Between 31 July and 1 August 2020 on one or more occasions between 2345 and 0300 recorded observations within Patient A's clinical records, that they were asleep.*
- 4. Your conduct in charge 3 above was dishonest in that you:*
 - a. knew you had not observed Patient A sleeping.*
 - b. sought to conceal that you had not undertaken the observations.*

charges 1, 5b, 5c and 5d, Patient A lost a significant chance of survival as a result of your misconduct.

The panel determined that your misconduct had breached the fundamental tenets of the nursing profession, which included making sure that any treatment, assistance or care for which you were responsible was delivered without undue delay. It considered that by failing to act as expected in a medical emergency involving Patient A, you brought the reputation of the nursing profession into disrepute.

The panel also found that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

*In its consideration of the future, the panel had regard to the factors set out in the case of *Cohen v General Medical Council* [2008] EWHC 581 (Admin):*

- whether the conduct is capable of being addressed;*
- whether it has been addressed; and*
- whether it is highly unlikely to be repeated.*

The panel was satisfied that the misconduct in respect of your clinical failings is capable of being addressed through relevant training and support. It determined that whilst your dishonesty at charge 4 was serious, it was not on the higher end of the scale of seriousness, nor at a level at which it could not be addressed by you.

In relation to whether your misconduct has been addressed, the panel first considered your insight. It had regard to your oral evidence and written reflections. The panel took into account that you had made admissions to some of the charges from the outset and demonstrated an understanding of how your actions put patients and Patient A in particular at a risk of harm, and why what you did was wrong and how this impacted negatively on Patient A, his family, your colleagues and the reputation of the nursing profession. You also demonstrated remorse for your misconduct.

The panel found, however, that you have not yet developed full insight into your misconduct as you had not sufficiently demonstrated how you would handle the situation differently in the future. It considered that at some points during your oral evidence, you appeared to make excuses for your misconduct by blaming the systemic failings of the Hospital and the Ward culture. However, there was nothing before the panel to suggest that on that night in question, there was anything that would have prevented you from responding to Resident A's condition in an appropriate manner, had you carried out the tasks expected of you. In addition, the panel was concerned that you did not appear to accept that recording observations within Patient A's clinical records when you had not undertaken those observations was dishonest, even if it was not your "intention" to be dishonest.

The panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. Whilst the panel did not receive up to date certificates of completion for relevant training courses, it had regard to your training logs which listed the titles and dates of completion of various mandatory training courses. The panel had also been provided with images from training course webpages for 'The Importance of Good Record Keeping' (dated 4 March 2025, and in which you appeared to achieve a grade of 80%), 'Resuscitation Adult Level 2' (undated), and 'National Early Warning Score (NEWS) 2' (undated). The panel also had regard to the testimonials from your line manager and their manager from your previous employment.

The panel took into account that you are not currently working as a nurse, and as such, you are not currently in a position to demonstrate strengthened practice. It considered your evidence that you feel you do not have the confidence to work on an in-patient ward environment at this stage due to your health matters and lack of confidence following the incident.

In light of your limited but developing insight and your limited evidence of strengthened practice, the panel could not conclude that it is highly unlikely that your misconduct would be repeated in the future. It therefore found that there is a risk of repetition and that a finding of current impairment of fitness to practise is necessary on the grounds of public protection.

The panel bore in mind 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 to mark the unacceptability of your misconduct and to uphold proper professional standards. The panel considered that an ordinary and informed member of the public and fellow practitioners would be concerned, and confidence in the profession would be undermined if a finding of impairment were not made in this case. It therefore also found your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was not satisfied that you can practise kindly, safely and professionally. It therefore determined that your fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'The panel took into account the following aggravating features:

- *Your conduct put people receiving care at a risk of harm.*
- *There is limited evidence of strengthened practice.*
- *There remains a risk of repetition.*

The panel also took into account the following mitigating features:

- *You have demonstrated developing insight into your failings.*
- *You have apologised and demonstrated remorse for your failings.*
- *You have kept up to date with your mandatory training.*
- *There is no evidence of repetition of the misconduct.*

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.

The panel 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 your 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 your 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 on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- No evidence of harmful deep-seated personality or attitudinal problems;*
- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- No evidence of general incompetence;*
- Potential and willingness to respond positively to retraining;*
- Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- The conditions will protect patients during the period they are in force;*
and
- Conditions can be created that can be monitored and assessed.*

The panel considered that there were no attitudinal problems in this case. It was satisfied that there were identifiable areas of your practice in need of retraining, namely in respect of patient observations, accurate record keeping and responding appropriately to medical emergencies, and that conditions of practice could be put in

place to manage those areas of your practice. Further, there was no evidence of general incompetence in your practice, and you had demonstrated a willingness to comply with conditions of practice and respond positively to training. The panel determined that practical and workable conditions could be formulated to protect patients during the period they are in force, and they could be monitored and assessed.

The panel took into account the evidence it had heard from you at each stage of these proceedings. It considered that you understood what you did wrong, and you have demonstrated genuine remorse for this. The panel was reminded of its finding that whilst serious, your dishonesty was not at the higher end of the scale of seriousness. It considered the difficulty you appeared to have in recognising that recording observations you had not undertaken was dishonest regardless of your intentions at the time. However, the panel found that there is potential for this to be addressed through further reflection and insight.

The panel, in considering the nature and seriousness of the case, your developing insight particularly in relation to the dishonesty, and the wider public interest concerns, was not satisfied that the placing of conditions on your practice would be appropriate or proportionate at this stage.

The panel therefore went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- A single instance of misconduct but where a lesser sanction is not sufficient;*
- No evidence of harmful deep-seated personality or attitudinal problems;*
- No evidence of repetition of behaviour since the incident;*
- The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The panel considered that this was a single instance of misconduct where a lesser sanction would not be sufficient. There was no evidence before the panel of any attitudinal problem or repetition of the behaviour since the incident. The panel was of

the view that your misconduct is capable of being addressed and your practice is capable of being strengthened. It considered that your insight is still developing and so at this stage, you pose a risk of repeating the behaviour.

The panel was satisfied that whilst your misconduct was not fundamentally incompatible with remaining on the register, this was a serious case that warranted your temporary suspension from nursing practice to protect patients and meet the wider public interest. The panel considered that a suspension order would give you time to undertake training to address the areas of concern, and to reflect on your misconduct and develop further insight, particularly in respect of your dishonesty.

The panel was of the view that it was in the public interest that, with appropriate safeguards, you should be able to return to practise as a nurse after developing your insight and strengthening your practice through training.

The panel also carefully considered the submissions of Ms Ghotra in relation to the striking-off order that the NMC was seeking in this case. However, taking account of all the information before it, and of the mitigation provided, the panel concluded that such an order would be disproportionate. Whilst the panel acknowledged that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

The panel was of the view that it was in the public interest that, with appropriate safeguards, you should be able to return to practise as a nurse.

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

The panel noted the hardship such an order will inevitably cause you. 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.

The panel determined that a suspension order for a period of six months was appropriate in this case to mark the seriousness of the misconduct. In addition, the panel concluded that such a period would be adequate to provide you with the opportunity to demonstrate developed insight and provide evidence of strengthened practice through training.

At 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:

- *Your engagement and attendance at the substantive order review hearing.*
- *A detailed written reflective account which demonstrates your insight into your misconduct, particularly in recognising that your conduct in relation to the clinical records was dishonest, despite your intentions.*
- *Evidence of strengthened practice by way of training in the specific areas of concern, in particular communication skills, and your continued professional development.*
- *Further references and testimonials from paid and unpaid work.'*

Decision and reasons on current impairment

The panel has considered carefully whether your fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as the ability of a professional on our register to practise as a nurse, midwife or nursing associate safely and effectively 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.

Ms Le Bert-Francis submitted gave a background to the case and took the panel through the previous panel's decision.

Ms Le Bert-Francis referred to the following recommendations set out by the previous panel for a future panel to consider:

- *'Your engagement and attendance at the substantive order review hearing.*
- *A detailed written reflective account which demonstrates your insight into your misconduct, particularly in recognising that your conduct in relation to the clinical records was dishonest, despite your intentions.*
- *Evidence of strengthened practice by way of training in the specific areas of concern, in particular communication skills, and your continued professional development.*
- *Further references and testimonials from paid and unpaid work.'*

In respect of the new information since the substantive hearing in September 2025, Ms Le Bert-Francis stated that you provided a reflective statement dated 27 February 2025. She noted the positive reflections and hopefulness for the future. However, Ms Le Bert-Francis submitted that the reflective statement does not demonstrate any real insight, particularly into the dishonesty which was found proved.

Ms Le Bert-Francis reminded the panel that the burden of proof is on you to demonstrate that your fitness to practise is no longer impaired. She referred to NMC guidance REV-2a ('Standard reviews of substantive orders before they expire') and submitted that relevant considerations are your level of insight and understanding, as well as the amount of progress made and remaining to be made towards being fit to practise.

You gave evidence under oath.

You told the panel that you were previously conflicted about the use of the word 'dishonesty' in the charges but you realised as the hearing concluded that the 'dishonesty' was in the light of the misconduct as opposed to the dishonesty relating to your personal character. That is one of the deepest reflections you have had to do in the last six months, coming to an understanding of what dishonesty means in clinical practice. You said that you are hoping to carry this understanding forward and continue working on it.

You stated that since the previous hearing you have done an examination of yourself and can now say that this incident happened because you did not follow the tasks you were allocated. If you would have carried out the 15-minute observations, you would not have panicked and would have reacted appropriately. You will now take every little step of your practice equally as seriously as the consequences can be dire. This is what you are taking forward in your practice. You said that you want to gain back your confidence and be able to return to practice, knowing that this process is behind you.

You have not been able to work because thinking about what happened and it is very difficult to think about when you put it against the level at which you worked over the past 23 years. However, you told the panel that you have also appreciated the process, and it had made you think about the concerns. You want the opportunity to put this behind you and go back to show the public and your colleagues the amount of learning that you have undertaken throughout this process.

You have done some volunteering with a Mental Health charity (Re-Instate) in Erith from October 2025 to December 2025. You hesitated to ask for a reference because you did want it to seem like you only volunteered for a referral. You stated that your intention is to ease back into working in mental health by continuing your volunteering when you return to the UK in the next two weeks. You want to build up your confidence around working.

You told the panel that whilst you have been in Ghana, you have had the opportunity to go to the Youth Officers Unit to work with the counsellors. You have met university counsellors and talked to them about your professional background in mental health nursing. You have not gone back to these institutions for testimonials because this process is private and you did not want to divulge to more people.

Ms Le Bert-Francis put questions to you.

You said that you have had five years to think about this issue. In the time between 2020 and the substantive hearing going ahead in 2025, you managed to work to a very high level and demonstrated that you take forward some of the learning from the incident that occurred. You provided references from managers to demonstrate your working practice. You said you were open and honest with your managers about these proceedings.

You stated that you completed an online training course about empathy in a clinical setting and documenting communication clearly. You stated that this training enabled you to improve your communication skills, whilst addressing the concerns identified in charges found proved.

In relation to what you would do in similar circumstances, you told the panel that the training course buttressed most of the things you already knew but you put these things into practice through the volunteering work you have undertaken. You have tried to put your training into practice, particularly showing empathy and understanding.

In regard to your dishonesty, you reiterated that you struggled to see dishonesty the way the NMC was presenting it but by the end of the hearing you were able to appreciate what dishonesty in the charge meant. That is why you say the substantive hearing itself was a learning curve for you.

Ms Le Bert-Francis referred to the addendum to your reflection dated 4 March 2026. She acknowledged that a new referral was made in April 2025, and the scope of this referral is not known. She submitted that there is limited information available and so no conclusions of inferences should be made in relation to this new referral.

You informed the panel that this process has led you to develop a deeper understanding of your professional responsibilities and importance of maintaining trust. You expressed a desire to regain the confidence necessary to return to safe practice and indicated that you wish to resume your nursing career in order to restore your professional integrity and address the shortcomings identified in your conduct.

You told the panel that although you are contemplating retirement, you wish to do so in a manner that reflects positively on your professional standing. You expressed that you can only demonstrate that you are safe to practice if you are afforded the opportunity to do so in a clinical setting. You confirmed your willingness to comply with any conditions of practice imposed and to will continue engaging fully with the NMC process.

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 your fitness to practise remains impaired.

The panel considered the limbs set out by Dame Janet Smith in the Fifth Shipman Report and set out in the case of *Grant* [2011] EWHC 927 (Admin):

- a) *'has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) *has in the past acted dishonestly and/or is liable to act dishonestly in the future'*

The panel found that limbs all four limbs of *Grant* are engaged in this case in relation to your conduct in the past. In the panel's judgement, your actions in the charges found proved put patients at an unwarranted risk of harm. The panel determined that by failing to act as expected in a medical emergency involving Patient A, you brought the profession into disrepute and breached the fundamental professional tenets of preserving safety, practising effectively and promoting professionalism and trust. The panel also considered the charges found proved that you acted dishonestly in the past.

The panel considered the issue of current impairment. It acknowledged that you have demonstrated sufficient insight into your misconduct. You have shown an understanding of how your actions put patients at risk of harm and reflected on how you would act differently in similar circumstances in the future. The panel took into account the evidence you provided, including training certificates, testimonials, reflective statements and your oral

evidence which demonstrated that you now recognise why your actions were considered dishonest and accept responsibility for them.

The panel considered that the character testimonials are positive and appear to come from credible sources who are aware of the proceedings. The panel took into account your comprehensive reflective pieces in which you mention your empathy for Patient A's family, the key learning you have taken from this experience and your appreciation for the consequences of your misconduct.

The panel also acknowledged the relevant training you completed. However, the panel considered that this evidence remains largely theoretical. Due to the substantive suspension order, you have not had the opportunity to demonstrate that your learning has been effectively embedded into your clinical practice. As such, the clinical concerns that led to the original findings of misconduct and impairment have not been fully tested or remediated in a practical setting.

The panel recognises your continued engagement with the NMC, and it was satisfied that your reflections and other evidence demonstrated that you had remediated the dishonesty aspect of your misconduct. Nevertheless, it concluded that, in light of the limited evidence of strengthened clinical practice, there remains a risk of repetition. Accordingly, the panel was not satisfied that the risk of harm has been sufficiently mitigated. 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. Given the seriousness of the charges found proved and the ongoing risk of repetition, the panel determined that public confidence in the profession would be undermined if a finding of impairment were not made. 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 your fitness to practise remains impaired.

Decision and reasons on sanction

Having found your 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 risk of repetition of the clinical concerns identified. 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 public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel considered substituting the current suspension order with a conditions of practice order. Despite the seriousness of your misconduct, there has been evidence produced to show that you have developed insight, demonstrated remorse/provided evidence of the positive steps taken towards remediation. You have expressed a clear intention to return to nursing and have engaged with training and reflective practice.

The panel was satisfied that it would be possible to formulate practicable and workable conditions that, if complied with, would both protect the public and support your return to safe unrestricted practice. Such conditions would allow you to demonstrate that you have effectively strengthened your practice and can apply your learning in a clinical environment.

The panel therefore decided that the public would be suitably protected as would the reputation of the profession by the implementation of the following conditions of practice:

For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of

study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

1. You must work for one substantive employer. This can be an agency placement but it should not be less than 3 months in duration.
2. You must not be the sole registered nurse on duty or the nurse in charge of any shift.
3. You must ensure that you are supervised by another registered nurse any time you are working. Your supervision must consist of:
 - Working at all times on the same shift as, but not always directly observed by another registered nurse.
 - If you are working in the community, you must ensure that you are indirectly supervised by another registered nurse which means that you can contact them at all times when you are working.
4. Within two weeks of starting any nursing position, you must ensure that you have completed a course on basic life support/CPR and ensure you have read all local policies surrounding communication in emergency situations in any place you are working.
5. You must have monthly meetings with your line manager or supervisor to discuss:
 - Adhering to policies and procedures for patient care
 - Effective communication with colleagues
 - Escalating deteriorating patients
 - Decision making under pressure
 - Quality of your record keeping
6. You must obtain a report from your line manager or supervisor before any review hearing/meeting commenting on:

- Adhering to policies and procedures for patient care
 - Effective communication with colleagues
 - Escalating deteriorating patients
 - Decision making under pressure
 - Quality of your record keeping
7. You must keep the NMC informed about anywhere you are working by:
- a) Telling your case officer within seven days of accepting or leaving any employment.
 - b) Giving your case officer your employer's contact details.
8. You must keep the NMC informed about anywhere you are studying by:
- a) Telling your case officer within seven days of accepting any course of study.
 - b) Giving your case officer the name and contact details of the organisation offering that course of study.
9. You must immediately give a copy of these conditions to:
- a) Any organisation or person you work for.
 - b) Any agency you apply to or are registered with for work.
 - c) Any employers you apply to for work (at the time of application).
 - d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
10. You must tell your case officer, within seven days of your becoming aware of:
- a) Any clinical incident you are involved in.
 - b) Any investigation started against you.

c) Any disciplinary proceedings taken against you.

11. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

a) Any current or future employer.

b) Any educational establishment.

c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 9 months.

This conditions of practice order will take effect upon the expiry of the current suspension order, namely the end of 15 April 2026 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

This will be confirmed to you in writing.

That concludes this determination.