

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

**Substantive Order Review Meeting
Wednesday, 24 May 2023**

Virtual Meeting

Name of Registrant: Abeni Olutayo Odebode

NMC PIN 17G0853E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – July 2018

Relevant Location: Berkshire

Type of case: Misconduct/Lack of competence

Panel members: Rachel Childs (Chair, Lay member)
John McGrath (Registrant member)
Ian Dawes (Lay member)

Legal Assessor: Nigel Pascoe KC

Hearings Coordinator: Catherine Acevedo

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Suspension order (12 months) to come into effect at the end of 12 July 2023 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 Mrs Odebode's registered email address by secure email on 14 April 2023.

The panel took into account that the Notice of Meeting provided details of the review including the dates and the fact that this meeting was to be heard virtually.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mrs Odebode 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 impose a suspension order. This order will come into effect at the end of 12 July 2023 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 14 June 2022.

The current order is due to expire at the end of 12 July 2023.

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 as a registered nurse;

Between 2 September 2018 and 1 November 2018, whilst working on Eashing Ward, failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse in that you;

1. *Between 20 September 2018 and 17 October 2018 failed to manage your time in order to:*
 - (a) *Complete learning and/or training in specific areas;*
 - (i) *Tissue Viability Nurse online training*
 - (ii) *Medicines Theory Workbook*
 - (iii) *Practical Medication Assessment*
 - (iv) *VitalPac training*
 - (v) *Blood glucose charts*
 - (vi) *NEWS training*
 - (b) *Deal with patients whilst working on the bay*
 - (c) *Complete patient notes prior to leaving work*
 - (d) *Complete handovers prior to leaving work*
 - (e) *Adequately write up patient care plans*
 - (f) *...*
 - (g) *Complete drug rounds in a timely manner*

2. *Between the 1 October 2018 and 4 October 2018 had to be prompted:*
 - (a) *To check patients name bands*
 - (b) *To check the allergies for each patient*
 - (c) *To complete hand hygiene between each patient*
 - (d) *To check the drug chart prior to administering drugs to a patient*
 - (e) *To check the prescription for a patient*
 - (f) *That medication had already been provided to a patient*

3. *On the 2 October 2018 were unable to successfully complete a medication administration assessment.*

4. *On the 16 October 2018 incorrectly placed a blood pressure cuff on a patient.*

5. *On the 15 October 2018 were unable to complete relevant patient documentation whilst monitoring blood glucose levels.*
6. *On the 15 October 2018 were unable to understand abbreviations contained within patient notes.*
7. *On the 15 October 2018 were unaware and/or unable to understand NEWS system.*

Between 2 December 2018 and 25 July 2019, whilst working in the Endoscopy Unit, failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse in that you;

8. *Between the 28 May 2019 and the 12 July 2019 were unable to consistently go through the World Health Organisation (“WHO”) checklist by;*
 - (a) Failing to ensure that patient notes match the WHO form*
 - (b) ...*
 - (c) Failing to clarify the procedure with the patient*
 - (d) Failing to check whether the patient had any questions about the procedure*
 - (e) Failing to label biopsies taken during the procedure*
 - (f) Failing to ensure drug charts had been completed adequately*
 - (g) Failing to check a patient’s name against their wrist band*
 - (h) Failing to document the number of specimens taken*
9. *Were seen to handle and/or handover biopsy forceps incorrectly;*
 - (a) On or around the 18 March 2019.*
 - (b) On the 11 July 2019.*
 - (c) On other unknown dates.*
10. *Were unable to recognise and/or state the location from which a biopsy had been taken from a patient;*
 - (a) On the 11 July 2019*
 - (b) On other unknown dates*

11. *Were unable to manage and/or prioritise time when recovering patients in the Recovery Room;*

(a) On the 11 July 2019

(b) On other dates unknown

12. *On the 11 July 2019 failed to set up suction equipment to manage a patient's airway correctly.*

13. *On an unknown date and/or dates were unable to demonstrate competence to manage a patient's airway in that you needed prompting when suction was required.*

14. *On an unknown date and/or dates were unable to complete complex discharges.*

15. *On an unknown date and/or dates were unable to cannulate unsupervised despite being signed off as competent in May 2019.*

16. ...

(a) ...;

(b) ...

17. *On the 22 July 2019 incorrectly selected Pethidine to be administered to a patient when it should have been Midazolam.*

18. *In the week commencing the 25 February 2019, incorrectly removed the line containing the blood from the pump when not intravenous trained.*

And in light of charges 1 – 18 above your fitness to practise is impaired by reason of your lack of competence.

That you a registered nurse;

19. :

- (a) ...;
- (b) ...;
- (c)

20. *On the 10 July 2019 fell asleep whilst monitoring patient C.*

21. *On the 17 July 2019 fell asleep whilst monitoring patient B.*

And in light of charges 19 to 21 above your fitness to practise is impaired by reason of your misconduct.”

The original panel determined the following with regard to impairment:

“The panel finds that patients were put at risk and, although no physical and emotional harm was caused as a result of Mrs Odebode’s lack of competence/misconduct, there was a high risk that harm could have been caused to patients. Mrs Odebode’s misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel considered Mrs Odebode’s admissions and her reflective pieces. The panel was of the view that Mrs Odebode has not provided evidence that she has full insight into the charges found proved at the Hospital. It noted that her reflective pieces do not address how Mrs Odebode’s actions have affected the nursing profession, patients, patients’ families and her colleagues. It also noted that, even though Mrs Odebode admitted to some of the charges, they were not full admissions. Rather, in regard to the majority of her admissions, she provided excuses as to why she did what she did, rather than admitting outright to the charge and expressing remorse. Therefore, the panel was of the view that Mrs Odebode has demonstrated variable insight into the charges.

The panel was satisfied that Mrs Odebode’s failings in this case are capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not Mrs Odebode has strengthened her practice. The panel took into account Mrs Odebode’s training certificates dated between 2018 and

2021, the references she has received from her current employers and her competency records dated between 2018 and 2019. The panel was of the view that, although this shows some improvement in Mrs Odebode's practice, this was not enough to satisfy the panel that Mrs Odebode has strengthened her practice in the areas of concern highlighted by the charges.

In light of the above, the panel is of the view that there is a risk of repetition in this case. The panel noted that, in one of her references from her current employers, it states that:

"... we have been working on her with practice and our action plan for the areas that still need to be improved"

The panel was of the view that this is vague and does not directly say which areas Mrs Odebode needs to improve on. Therefore, the panel noted that there is nothing before it today that would suggest that Mrs Odebode does not continue to pose a risk to patients. In light of this, and coupled with the seriousness of the charges found proved, the panel determined 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 as a well-informed member of the public would be concerned to find that Mrs Odebode was not found to be impaired, considering the wide-ranging and serious nature of the charges. 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 Odebode's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mrs Odebode's fitness to practise is currently impaired".

The original panel determined the following with regard to sanction:

"The panel next considered whether placing conditions of practice on Mrs Odebode'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 took into account the SG factors that may make a conditions of practice order appropriate, 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.*

Before making its decision on this, the panel noted that Mrs Odebode has been working as a registered nurse at a care home with an interim conditions of practice order imposed on her practice. The panel considered how Mrs Odebode has worked with the current conditions imposed. Unfortunately, with the very limited information available to the panel, it was unable to make an adequate assessment of any progress made by Mrs Odebode. It noted that the references Mrs Odebode provided for the panel to consider suggest that there remains some concerns around her learning and development.

The panel gave the SG serious consideration. The panel was of the opinion that there are many identifiable areas of retraining Mrs Odebode could undertake and that she might be willing to retrain in the areas of concern identified. Further, the panel

considered that Mrs Odebode did not have any deep-seated attitudinal issues. However, the wide-ranging and serious concerns in this case that demonstrate a general incompetence that is not currently compatible with a conditions of practice order. At this stage, the panel was not confident that Mrs Odebode has the insight and reflection required to retrain successfully in order to practice safely and effectively, without constant prompting and supervision from another registered nurse. It noted that, even though Mrs Odebode received constant support from her mentors and supervisors during her extended supernumerary and probationary periods at the Hospital, her actions were repeated and she required continuous support to ensure no harm was caused to patients. The panel paid particular regard to the evidence of Mrs Odebode's unpredictable lack of competence, for example:

- Despite being signed off as competent to conduct cannulations, she still asked for another registered nurse to ensure she was doing it correctly*
- "Haphazard" completion of WHO checklists, without carrying out the safety checks set out within it.*
- Incorrectly removing an open intravenous line from an infusion pump despite not being trained to do so.*

The panel noted that it was this unpredictability which made it difficult for Mrs Odebode's mentors and supervisors to allow her to practice unsupervised whilst at the Hospital. Furthermore, the panel noted that several witnesses informed them that Mrs Odebode was unable to learn at the rate expected of her, and would often forget relevant information a short time after being given it. In light of this, the panel was of the view that, at this point, there are no practical or workable conditions that could be formulated that would ensure patients are protected, given the nature of the charges in this case.

Furthermore, the panel concluded that the placing of conditions on Mrs Odebode's registration would not adequately address the seriousness of the lack of competence/misconduct in this case and would not protect the public.

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 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;*
- In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel was of the view that Mrs Odebode's misconduct was serious, in that she fell asleep on two separate occasions whilst monitoring patients' airways. The panel was of the view that, in the absence of insight, reflection and retraining, there is a risk of repetition in this case. However, notwithstanding this, the panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, 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 Odebode'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 Odebode. However this is outweighed by the public protection and wider public interests 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 12 months was appropriate in this case to mark the seriousness of the lack of competence/misconduct.

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 attendance at the review of this suspension order.*
- *Evidence of any up-to-date Continuing Professional Development (CPD) and any learning from this in relation to the charges.*
- *Reflective piece that addresses your insight into the charges, with particular regard to how you would act differently if you were put in the same situations (as seen in the charges) again, and how your actions have affected the nursing profession, your colleagues, patients and their families.*
- *Evidence of keeping up-to-date in clinical nursing subjects, including but not limited to; medications management and administration, complex discharges, and record keeping.*
- *Testimonials from any future employer.*
- *Copy of your action plan and details of any progress made at Sunnyside Care Home to date”.*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Odebode’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.

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 Odebode's fitness to practise remains impaired.

The panel noted that the original panel found that Mrs Odebode had not provided full insight into the charges found proved. At this meeting the panel noted that there had been no engagement by Ms Odebode since the substantive hearing and she had not provided an up-to-date reflective piece or any other information to determine whether her insight had developed.

In its consideration of whether Mrs Odebode has taken steps to strengthen her practice, the panel noted that the original panel highlighted to Mrs Odebode in its determination the information she could provide to assist a future reviewing panel. This included evidence of any up-to-date Continuing Professional Development (CPD) and any learning from this in relation to the charges and evidence of keeping up-to-date in clinical nursing subjects, including but not limited to; medications management and administration, complex discharges, and record keeping. However, the panel had no information in relation to these recommendations.

The panel determined that in the absence of any evidence of insight or evidence that Mrs Odebode has addressed the concerns, there is a risk or repetition of the matters 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 Mrs Odebode's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Odebode'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 Odebode'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 Odebode's case 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 Mrs Odebode'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 the wide-ranging concerns relating to Mrs Odebode's misconduct and lack of competence. Further, the panel noted that it had no information from Ms Odebode to indicate that she would be willing to engage and comply with a conditions of practice order. It therefore considered that any conditions of practice order would not be workable and would serve no useful purpose.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mrs Odebode further time to provide evidence regarding her insight and take steps to strengthen her practice. The panel noted that a sanction of a striking-off order was only available in relation to the misconduct charges, however, the panel considered that it would be disproportionate to strike-off Mrs Odebode at this hearing in relation to those charges alone. The panel considered that the full range of sanctions would be available to the next reviewing panel in 12 months time in relation to the lack of competence charges. The panel concluded that a further 12 months suspension order would be the appropriate and proportionate response.

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 to impose a suspension order for the period of 12 months would provide Mrs Odebode with 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 12 July 2023 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:

- Mrs Odebode's full engagement with the NMC.
- Evidence of any up-to-date Continuing Professional Development (CPD) and any learning from this in relation to the charges.
- Reflective piece that addresses Mrs Odebode's insight into the charges, with particular regard to how she would act differently if she was put in the same situations (as seen in the charges) again, and how her actions have affected the nursing profession, colleagues, patients and their families.
- Evidence of keeping up-to-date in clinical nursing subjects, including but not limited to; medications management and administration, complex discharges, and record keeping.
- Up-to-date testimonials from any employment, paid or unpaid.

This decision will be confirmed to Mrs Odebode in writing.

That concludes this determination.