

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

**Substantive Order Review Hearing  
Monday, 5 September 2022**

Virtual Hearing

**Name of registrant:** Monica Zandile Mkhize

**NMC PIN:** 01Y05710

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing – December 2001

**Relevant Location:** London Borough of Lambeth

**Type of case:** Misconduct

**Panel members:** Bernard Herdan (Chair, Lay member)  
Richard Lyne (Registrant member)  
Jenny Portway (Lay member)

**Legal Assessor:** Paul Hester

**Hearings Coordinator:** Xenia Menzl

**Nursing and Midwifery Council:** Represented by Lucy Chapman, Case Presenter

**Ms Mkhize:** Present and unrepresented

**Order being reviewed:** Suspension order (6 Months)

**Fitness to practise:** Impaired

**Outcome:** **Conditions of practice order for 2 Years to come into effect on 22 September 2022 in accordance with Article 30 (1)**

## **Decision and reasons on application for hearing to be held in private**

At the outset of the hearing, Ms Chapman, on behalf of the Nursing and Midwifery Council (NMC), made an application that this case be held partly in private on the basis that exploration of your case may involve reference to your personal circumstances. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You indicated that you supported the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session when your personal life and circumstances are raised in order to protect the confidentiality of such matters.

## **Decision and reasons on review of the substantive order**

The panel decided to replace the current suspension order with a conditions of practice order for a period of two years.

The conditions of practice order will come into effect at the end of 22 September 2022 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive suspension order originally imposed for a period of nine months by a Fitness to Practise Committee panel on 24 May 2021. The order was reviewed on 10 February 2022 where a further 6 month suspension order was imposed. The current order is due to expire at the end of 22 September 2022.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved by way of admission which resulted in the imposition of the substantive order were as follows:

*'That you, a registered nurse;*

- 1. On 27 January 2017 sent by way of email to Person 1 at Nursing 2000 a certificate indicating that you had attended a training session on basic life support at Fairlie House on 25 January 2017 when you had not.*
- 2. Your conduct in Charge 1, above, was dishonest in that you knew you had not attended a basic life support training session at Fairlie House on 25 January 2017 but intended to create the misleading impression that you had.*

*And, in light of the above, your fitness to practise is impaired by reason of your misconduct.'*

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

*'The panel noted that the original panel found that you had demonstrated insufficient insight. At this hearing the panel noted the reflective statement you provided and your oral evidence. Whilst the panel considered that you have made progress and your insight is developing, it considered that you have not accepted personal responsibility for your action and were not able to state why you acted in the way you did. The panel acknowledged your difficult personal circumstances at the time, but considered that you had not stated how you would act differently if faced with similar circumstances again in the future, save for an assertion that you would now be honest. The panel determined that whilst your insight is developing, it is not yet sufficient.*

*In its consideration of whether you have taken steps to strengthen your practice, the panel took into account the positive testimonials you provided and your evidence that you have completed mandatory training. The panel*

*noted that you have been working as a support worker. However, the panel was concerned that you have not completed any additional training or self-directed study into the duty of candour and the importance of acting honestly. The panel determined that you have not sufficiently strengthened your practice, nor given any consideration as to how you would return to safe nursing practice should you be allowed to do so.*

*The original panel determined that you were liable to repeat matters of the kind found proved. The panel noted your developing insight, but considered that this remains insufficient and you have not sufficiently strengthened your practice. This panel determined that you are potentially liable to repeat matters of the kind found proved, given that you were unable to explain why you acted dishonestly. The panel were concerned that you were unable to discuss how you would deal with circumstances again if faced with similar stressors in your life. 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 your fitness to practise remains impaired.'*

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

*'The panel next considered whether a conditions of practice order 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 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 your misconduct. The panel considered that due to the nature of the concerns, in that they are not clinical but relate to dishonest conduct, it would not be possible to formulate conditions of practice that are workable and measurable.*

*The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow you further time to fully reflect on your previous dishonesty. The panel concluded that a further six month suspension order would be the appropriate and proportionate response. This would afford you adequate time to further develop and consolidate your insight and take steps to strengthen your practice, such as completing further training and self-directed reading and reflection.*

*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 six months which would provide you with an opportunity to further develop your insight. It considered this to be the most appropriate and proportionate sanction available.*

*Whilst the panel did consider a striking-off order, it considered that due to your developing insight and positive testimonials, this would be disproportionate.'*

## **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 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, and responses from you. It has taken account of the submissions made by Ms Chapman on behalf of the NMC and by you.

Ms Chapman outlined the background of the case and referred the panel to the relevant pages of the bundles.

You gave evidence to the panel under oath.

You explained that whilst you accept, take ownership of your dishonesty and admit to it, you did not act on your own and your dishonesty was initiated by another party involved. However, you accepted that you had a part to play in it and it was ultimately your personal responsibility.

Looking back, you stated that you really regret your actions and that you did get caught up in being dishonest. However, you really learned from the situation as you have lost everything you had worked for and your dignity. You stated that all of this could have been avoided had you been honest. You stated that you regret not taking part in the initial hearing.

You explained that you have spent a lot of time caring for people in the nursing profession and that you lost yourself in it. You stated that you now realise that you neglected other parts of your life doing so and that you got carried away with nursing. However, you stated that you learned about dishonesty and that it is very difficult to rectify, but you have realised what you have done and are reminded every day of your failure.

You explained that after the last hearing, in which you participated, you gained a clear understanding of what you had to do. You attended some online training regarding dishonesty and read some articles and a booklet about honesty and integrity. You stated that sometimes you only realise what you have done later. You also stated that you have read the NMC code of conduct and that you are determined to promote professionalism and trust. You also read the Royal College of Nursing (RCN) guidance regarding professional duty of candour and care and had discussions with an ex-colleague regarding dishonesty.

In cross-examination you explained that sometimes a person is not aware that they are being dishonest and that they think that it is the right thing to do at the time, however after a while it transpires that it was not the right thing to do. You explained that sometimes other parties are affected by the dishonesty. You stated that the reputation of the profession and the organisation could be damaged. Further, you acknowledged that a patient could have been affected by your dishonesty in that you could have been asked to do a procedure that you were not qualified to do. You acknowledged that other colleagues could be affected by that as well.

You explained that you did not act on your own but that another person, who had all the power, was involved in your dishonesty. You admitted that you did not put any thought into their request at the time and that you only realised in the aftermath of it that you had been dishonest. You stated that you would now act differently as you have learned to believe and trust in yourself and that you have to stand for your own actions. You stated that your misconduct will always be on your mind and that you would not act dishonestly under a similar kind of pressure. If someone asked you to sign that you had undertaken a training course which you had not, you would refuse to sign.

You explained how you would become fit to return to nursing and that you had looked into institutions who would be able to support you coming back to nursing. You acknowledged that you had not been practising as a registered nurse since 2019. However, you stated that you would be happy to work under supervision to demonstrate that you are a safe and effective practitioner.

You stated that you are currently working as a healthcare support worker and that your employer knows about the NMC proceedings.

In response to panel questions, you explained that you have been working as a support worker since 2019, first through an agency and now in a permanent role. You also explained your responsibilities to the panel.

You admitted that you had not discussed the details of the case with your manager as you had no outcome yet, but you did explain that it involved a certificate of in house training. You did ask them for a testimonial which they provided to a previous panel.

You stated that you did look into return to practice courses and have considered one which could be suitable.

In response to panel questions on how you would apply your learnings from your misconduct to every day nursing practice, you stated that you have been practising before and that you know what is right and what you need to do. You acknowledged that you need to update yourself and keep yourself informed regarding any changes in the nursing profession. You stated that you will then apply your learning in your nursing practice. Something that stood out to you in your current learning about dishonesty was that you can sometimes turn to the dishonest side under the influence of a colleague and that is very difficult to remediate.

You acknowledged that being dishonest will have an impact on the nursing profession as a whole as the patients would distrust nurses and not believe in what nurses in the profession stand for. You stated that honesty is fundamental to being a nurse.

Ms Chapman submitted that the panel heard evidence from you and that you gave clear evidence on what you have done to learn from your misconduct. She submitted that you showed insight. Ms Chapman stated that it was a matter for the panel to determine whether you had shown enough insight to demonstrate whether there was a risk of you repeating the misconduct. She stated that you explained how you would act differently in the future and what training you had taken to address this specific issue. Ms Chapman submitted that it was a matter for the panel whether it was satisfied that you were now able to practice safely in the future, and the NMC was neutral on whether an order was still required.

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 noted that the last reviewing panel found that you had developing insight. At this hearing the panel was of the view that you had demonstrated an understanding of why what you did was wrong and how this impacted negatively on the reputation of the nursing profession. When questioned during the course of this hearing about how you would handle the situation differently in the future, you were able to provide answers and explain what you had taken from the training. However, the panel was concerned that whilst you stated that you take responsibility for your actions you also tended to focus on the role of a colleague rather than focussing on your own actions. The panel was of the view that whilst you were able to demonstrate greater insight, it was not yet fully developed.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account that you were not able to demonstrate your knowledge gained in training on honesty and integrity in practice. However, it noted that you returned to work in a healthcare setting and that you stated that you keep yourself updated with current nursing practice.

The last reviewing panel determined that you were liable to repeat matters of the kind found proved. Today's panel has heard from you about the serious impact your dishonesty and the NMC proceedings had on you. Whilst the panel determined that your insight had not yet fully developed it was of the view that the consequences of your misconduct continue to act as a significant deterrent for you and will aid your consequential thinking in the future, making it very unlikely that you will repeat similar misconduct.

However, due to the not yet fully developed insight and, in the absence of any evidence of training today, further time needed to strengthen your practice after having been out nursing practice since 2019, the panel 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 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 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 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 considered replacing 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 and have provided evidence of the steps taken to strengthen your practice. The panel also took into account that you have indicated that you wish to return to nursing.

The panel also noted that you have not been practicing as a registered nurse for some time and that you might have to satisfy the NMC's return to practice standards as set out in Article 19(3) to either completing an NMC-approved return to practice programme or take a competence to return to practice test.

The panel was satisfied that it would be possible to formulate practicable and workable conditions that, if complied with, may lead to your unrestricted return to practice and would serve to protect the public and the reputation of the profession in the meantime.

The panel 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 ensure that you are directly supervised by another registered nurse any time you are working until such time as your line manager has signed you off as competent to work under indirect supervision. Your direct supervision must consist of:
  - Working at all times while being directly observed by a more senior registered nurse;Once you are deemed suitable by your line manager to move to indirect supervision this must consist of
  - Working at all times on the same shift as but not always being directly observed by a more senior registered nurse;
2. You must work with your line manager, supervisor, mentor or deputy to create a personal development plan (PDP). Your PDP must address the concerns about your honesty, integrity and any areas identified in need of support to focus on your safe return to practise. You must:
  - a) Send your case officer a copy of your PDP within 4 weeks of creating it.
  - b) Meet with your line manager, supervisor, mentor or deputy at least every 4 weeks to discuss your progress towards achieving the aims set out in your PDP.
  - c) Send your case officer a report 4 weeks prior to the next review hearing. This report must show your progress towards achieving the aims set out in your PDP.

3. You must keep us 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.
  
4. You must keep us informed about anywhere you are studying by:
  - c) Telling your case officer within seven days of accepting any course of study.
  - d) Giving your case officer the name and contact details of the organisation offering that course of study.
  
5. You must immediately give a copy of these conditions to:
  - e) Any organisation or person you work for.
  - f) Any agency you apply to or are registered with for work.
  - g) Any employers you apply to for work (at the time of application).
  - h) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
  - i) Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity.
  
6. You must tell your case officer, within seven days of your becoming aware of:
  - j) Any clinical incident you are involved in.
  - k) Any investigation started against you.
  - l) Any disciplinary proceedings taken against you.
  
7. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

- m) Any current or future employer.
- n) Any educational establishment.
- o) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 2 years. The panel was of the view that this would be sufficient time for you to satisfy the NMC return to nursing standards, find yourself employment as a registered nurse and demonstrate compliance with the conditions of practice order for a period of time.

This conditions of practice order will take effect upon the expiry of the current suspension order, namely the end of 22 September 2022 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.

Any future panel reviewing this case would be assisted by:

- Your continued engagement and attendance at any hearing.
- A detailed statement, drafted with the assistance of a model such as Gibbs (examples of which can be found on the NMC website), demonstrating your insight into your actions and reflecting on your personal responsibility for your dishonest conduct.
- Documentary evidence of any training undertaken, whether in person or online, including relating to personal integrity, honesty and the duty of candour as well as updating your nursing practice;
- Documentary evidence of self-directed study, such as reading around the topics of honesty and integrity;
- Current testimonials from any employment, paid or unpaid, you undertake attesting to your honesty and integrity and your competence as a nurse.

This will be confirmed to you in writing.

That concludes this determination.