

**Nursing and Midwifery Council
Fitness to Practise Committee
Substantive Order Review Hearing
9 April 2020**

Nursing and Midwifery Council, Virtual Hearing

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| Name of registrant: | Reni Kurian |
| NMC PIN: | 05L05500 |
| Part(s) of the register: | Registered Nurse – Sub Part 1 Mental Health – July 2007 |
| Area of registered address: | Middlesex |
| Type of case: | Misconduct / Health |
| Panel members: | Bryan Hume (Chair, Lay member) Claire Gill (Registrant member) Kevin Connolly (Lay member) |
| Legal Assessor: | Nigel Mitchell |
| Panel Secretary: | Oliver Stephens |
| Nursing and Midwifery Council: | Represented by James Edenborough, Case Presenter |
| Miss Kurian: | Present but not represented |
| Order being reviewed: | Suspension Order (4 months) |
| Outcome: | Striking-off order in accordance with Article 30(1) |

Decision and reasons on review of the current order

The panel decided to impose a striking-off order. This order will come into effect at the end of 3 May 2020 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the fifth review of a substantive suspension order originally imposed by a Fitness to Practise panel on 31 May 2017 for a period of 6 months. This was extended on 8 November 2017 by a Fitness to Practise Committee panel for a period of 12 months. This order was again reviewed on 30 November 2018, and it was further extended for a period of 12 months. A third and early review was held on 5 April 2019 due to '*a change in medical circumstances*' where the panel decided to continue the current order. The most recent review was held on 28 November 2019 where the order was 'administratively continued' for a period of 4 months. No decision on impairment was made by the panel on 28 November 2019 and the order was extended in order for the NMC to obtain further [PRIVATE] documentation.

The current order is due to expire at the end of 3 May 2020.

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 was as follows:

1. Between October and December 2016 failed to co-operate with an NMC investigation in that you did not comply with the NMC's request to return your signed medical consent forms

The fourth reviewing panel made no finding on current impairment. The third reviewing panel determined the following with regard to impairment:

*"The panel considered the background of this case and your referral to the NMC.
[PRIVATE]"*

[PRIVATE]

[PRIVATE]

The panel has given regard to its primary responsibility which is the protection of the public and the wider public interest which is to maintain confidence in the profession and that those providing nursing services are able to do so.

The panel was of the view that you have not demonstrated sufficient insight into the reasons behind the original referral. [PRIVATE] However, you have still not demonstrated insight into the concerns colleagues, members of the public, and patients may have with regarding your fitness to practise.

In the panel's judgement the information before it leads it to conclude that your fitness to practise remains currently impaired. [PRIVATE]"

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

"The panel considered whether to take no action but concluded that this would be inappropriate in view of the public protection concerns in this case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order. The panel decided a caution order would not be appropriate for the same reasons.

The panel had regard Mr Thittala submission that a conditions of practice order would be sufficient. [PRIVATE]

In such circumstances the panel is not minded amend the existing order to a conditions of practice order. The panel found that it did not have sufficient information to conclude that conditions could be formulated which would protect patients during the period they are in force.

The panel therefore concluded that the application to revoke and/or amend the existing order be dismissed, and that the suspension order currently imposed was the appropriate and proportionate sanction.”

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. It has noted the decision of the last panel. However, it 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. It has taken account of the submissions made by Mr Edenborough, on behalf of the NMC, and the submissions made by you. Mr Edenborough provided the background of the case and referred the panel to the relevant pages in the bundle. [PRIVATE] Mr Edenborough invited the panel to make a finding that you are currently impaired. [PRIVATE] Mr Edenborough further submitted that there has been no practical remediation in this matter.

In terms of the appropriate sanction, Mr Edenborough submitted that [PRIVATE] there is no prospect of you being able to remediate in order to be fit to practice, neither in a few months nor in the long term. Mr Edenborough invited the panel to consider the imposition of a striking-off order in order for the matter to be brought to a resolution. He submitted this was also in your own interest.

The panel also had regard to oral evidence from Dr A. [PRIVATE]

[PRIVATE]

You told the panel that you are not currently impaired. [PRIVATE]. You informed the panel that you had undertaken training as a nursing assistant in a private nursing home

located in Tottenham two years ago. You told the panel that during this training you learned how to approach patients and how to give patients care.

You submitted that you consider that you are fit to return to work as a registered nurse and asked the panel to consider your return to work with supervision.

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.

[PRIVATE]

[PRIVATE]

The panel considered the documentary evidence was supported by Dr A's oral evidence. The panel considered there was evidence for it to conclude that the prospect of your return to nursing was most unlikely [PRIVATE].

The panel also noted that you undertook training as a nursing assistant two years ago, but when asked by the panel, you were unable to accurately recount elements of the training. The panel considered in all the circumstances therefore that there would be an ongoing risk to the public should no finding of current impairment be made. The panel also considered that you have not shown any level of insight into either the original misconduct found proved, [PRIVATE] on your fitness to practice.

In these circumstances, the panel considered that a finding of current impairment on the grounds of public protection is required.

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 considered whether to take no action but concluded that this would be inappropriate in view of the public protection and public interest concerns in this case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order. The panel decided a caution order would not be appropriate for the same reasons.

The panel next considered whether a 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 noted that any conditions in the current circumstances would be unworkable.

The panel next considered imposing a further suspension order. The panel noted that you have not demonstrated any further insight into either the original conduct [PRIVATE]. The panel also considered that you have not remediated the concerns. [PRIVATE]. The panel was of the view that considerable evidence would be required to show that you no longer posed a risk to the public. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances. The panel determined that it was necessary to take action to prevent you from

practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order. The panel also concluded that this was in your interest.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 3 May 2020 in accordance with Article 30(1).

This decision will be confirmed to you in writing.

That concludes this determination.