

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

**Substantive Order Review Meeting
Wednesday 13 July 2022**

Nursing and Midwifery Council
Virtual Meeting

Name of registrant: Athina Novida

NMC PIN: 97H0358E

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

Relevant Location: Bishop Auckland

Type of case: Misconduct

Panel members: Gregory Hammond (Chair, Lay member)
Linda Tapson (Registrant member)
Alice Robertson Rickard (Lay member)

Legal Assessor: Suzanne Palmer

Hearings Coordinator: Elena Nicolaou

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Striking-off order to come into effect at the end of 13 August 2022 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 both of Miss Novida's email addresses on 5 July 2022. It noted that the notice was not sent within the usual 28-day notice period, but an email from Miss Novida, dated 5 July 2022, indicated that she was content to waive the notice period in this case. She stated:

'I confirm I will waive the notice period for the Substantive Order Review Meeting.'

The panel took into account that the Notice of Meeting provided details of the substantive order being reviewed, the time, date and venue of the meeting.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Novida 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).

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Novida has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on review of the substantive order

The panel decided to impose a striking-off order.

This order will come into effect at the end of 13 August 2022 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the fifth review of a substantive suspension order originally imposed for a period of 9 months by a Fitness to Practise Committee on 14 April 2020. This was reviewed on 29

December 2020, 30 April 2021, 6 September 2021, when on each occasion, the order was further extended for a period of 4 months. This order was last reviewed on 10 January 2022, when the suspension order was extended for a further 6 months.

The current order is due to expire at the end of 13 August 2022.

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) On 17 December 2017:

1.1 Diluted Oramorph medication with tap water;

1.2 Directed the diluted Oramorph to be administered to Patient A;

2) On 27 December 2017 told Colleague A that you 'accidentally watered down the Oramorph when washing your hands' or words to that effect;

3) Your actions in Charge 1 were dishonest in that you deliberately diluted the Oramorph with water to ensure the balance in the controlled drug book was correct.

4) Your actions in Charge 2 were dishonest in that you were trying to prevent Colleague A from establishing what had occurred on 17 December 2017.

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

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

'The panel considered whether Ms Novida's fitness to practise remains impaired.

The panel noted that the second reviewing panel had determined that an order was no longer required to be in the wider public interest. It further noted that the third reviewing panel took an alternative view. This panel considered the matter carefully and determined that due to the very serious nature of the misconduct, the wider public interest remained engaged.

The panel took account of the reflective pieces provided by Ms Novida dated 8 June 2021 and 19 September 2021. In this, Ms Novida gives a background of her personal circumstances and demonstrates remorse regarding her misconduct. Further, the reflective pieces demonstrate insight into how her actions affected her colleagues and the profession as a whole. The panel noted the mitigating circumstances stated by Ms Novida at the time of the misconduct and that Ms Novida explained how she would do things differently in the future. However, the panel determined that whilst Ms Novida has shown some further insight, she has not yet explained or given any reasons as to why the incident occurred in the first place. Additionally, the panel determined that Ms Novida had not demonstrated sufficient insight into the impact her misconduct and dishonesty had on the vulnerable patient in her care. The panel was of the view that Ms Novida has not acknowledged the seriousness of her misconduct and how other professionals and members of the public would view her actions. In particular, the panel was concerned that in parts of her reflection, Ms Novida downplayed her dishonesty.

The panel was therefore of the view that Ms Novida has not sufficiently developed her insight into her actions.

In consideration of whether Ms Novida has remedied her practice, the panel took account of the several references provided. However, the panel noted that these were outdated, with the newest one being dated 24 May 2018. It noted that it had no evidence before it today of any professional development, completion of any training or that Ms Novida has kept up to date with her current practice.

The panel was of the view that there remains a risk of repetition due to the lack of remorse, insight and remediation shown by Ms Novida. It considered that Ms Novida remained liable to act in a way which could put patients at risk of harm and

bring the profession into disrepute or breach fundamental tenets of the profession in the future. The panel therefore determined that a finding of impairment remains necessary on the grounds of public protection.

The panel bore in mind the overarching objectives of the NMC are to protect, promote and maintain the health, safety, and wellbeing of the public and patients, and to uphold and protect the wider public interest, which includes promoting and maintaining public confidence in the nursing profession and upholding the proper professional standards for members of the profession. The panel considered that patients, families, and members of the public place trust in nurses to safely administer medication and to uphold good standards of record keeping. The panel considered that in light of Ms Novida's actions and omissions, public confidence in the nursing profession and in the NMC as a regulator would be undermined if a finding of impairment were not made. The panel therefore determined that a finding of impairment also remains necessary on public interest grounds.

Having regard to all of the above, the panel was satisfied that Ms Novida's fitness to practise remains impaired.'

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

'Having found Ms Novida'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 public protection issues identified, an order that does not restrict Ms Novida's

practice would not be appropriate in the circumstances. The panel again determined that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a conditions of practice order on Ms Novida'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 was mindful of the seriousness of the facts found proved at the original hearing and also that Ms Novida has demonstrated little insight into the concerns relating to her dishonesty. The panel also determined that there is nothing before it today to demonstrate how Ms Novida would comply with any such conditions on her practice and is not confident that Ms Novida would comply with conditions, in any event. Therefore, the panel concluded that it is not able to formulate conditions of practice that would adequately address the concerns in this case.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Ms Novida further time to fully reflect on her previous misconduct and dishonesty. It considered that Ms Novida needs to gain a full understanding of how her misconduct and dishonesty can impact upon the nursing profession as a whole and not just the organisation that the individual nurse is working for. The panel also determined that Ms Novida needs to gain a full understanding of how her dishonesty impacted upon the patient concerned and demonstrate to a future panel that such actions would not recur. In particular, the panel was mindful of the fact that, due to Ms Novida's actions, a vulnerable patient was deprived of pain medication. Further, the panel was of the view that a further period of suspension would allow Ms Novida to obtain current and up to date references from any paid or unpaid work as well as provide evidence of any further training or professional development. The panel concluded that a further suspension order for a period of 6 months would be the appropriate and proportionate sanction and would afford Ms Novida adequate time to further develop her insight and demonstrate remediation.

The panel determined that a striking-off order would be disproportionate at this stage. However, this will be an available sanction for any future panel.

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 6 months.

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:

- *Ms Novida's attendance at a future hearing, in person or virtually*
- *A further and more recent reflective piece from Ms Novida that demonstrates understanding of what happened on 17 December 2017 and 27 December 2017, and what steps she has taken to ensure the concerns identified would not be repeated. In this reflective piece, Ms Novida should address her reflection and insight into her dishonesty and misconduct and the impact this could have on patients and colleagues, highlighting in particular the harm that could be caused to patients. Further the reflective piece should provide understanding into the importance of engaging with the NMC as a regulator;*
- *Any current professional and/or character references/testimonials obtained through paid or unpaid work; and*
- *Evidence of any e-learning certificates, setting out what steps she has taken to keep her knowledge and nursing skills up to date.'*

Decision and reasons on current impairment

The panel has considered carefully whether Miss Novida'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 and the recent email from Miss Novida, dated 5 July 2022.

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 Miss Novida's fitness to practise remains impaired.

The panel considered that Miss Novida has still not yet demonstrated sufficient insight, reflection or remorse into her misconduct, dishonesty and the impact her actions could have had on patients, her colleagues and the wider profession. The last reviewing panel suggested that a future reviewing panel would be assisted by the following:

- *Ms Novida's attendance at a future hearing, in person or virtually*
- *A further and more recent reflective piece from Ms Novida that demonstrates understanding of what happened on 17 December 2017 and 27 December 2017, and what steps she has taken to ensure the concerns identified would not be repeated. In this reflective piece, Ms Novida should address her reflection and insight into her dishonesty and misconduct and the impact this could have on patients and colleagues, highlighting in particular the harm that could be caused to patients. Further the reflective piece should provide understanding into the importance of engaging with the NMC as a regulator;*
- *Any current professional and/or character references/testimonials obtained through paid or unpaid work; and*
- *Evidence of any e-learning certificates, setting out what steps she has taken to keep her knowledge and nursing skills up to date.'*

Miss Novida chose not to request a hearing and she has not provided any evidence in advance of today's meeting. The panel considered that Miss Novida has shown no meaningful engagement with the NMC's proceedings, albeit she appears to send occasional emails to the NMC. The panel considered the most recent email from Miss Novida, dated 5 July 2022, which stated:

[PRIVATE].

The panel was concerned by the contents of this email as Miss Novida does not reflect on the impact her actions could have had, and her comments are worryingly self-centred. The panel considered that the original issues, including dishonesty, have still not been addressed and therefore there remains a risk of repetition of her actions and a risk of harm to the public. Miss Novida previously demonstrated some developing insight, as previous panels have noted from her past reflective pieces. However, the evidence before the panel today indicates that this level of insight appears to have declined. The panel noted Miss Novida has continuously failed to provide an explanation for her dishonesty or given any cogent reasons as to why the incident occurred in the first place.

The last reviewing panel determined that Miss Novida was still liable to repeat matters of the kind found proved. Today's panel has received no new information before it to suggest otherwise and the email from Miss Novida, dated 5 July 2022, further raises questions of concern. In light of this the panel determined that Miss Novida is still liable to repeat matters of the kind 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. It considered that a well-informed member of the public would be concerned should Miss Novida be permitted to practise unrestricted.

For these reasons, the panel finds that Miss Novida's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Novida'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 and the ongoing risk of repetition. 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 Miss Novida'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 Miss Novida's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. In addition, a caution order would not restrict Miss Novida's practice and would therefore be insufficient to protect the public. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether conditions of practice on Miss Novida'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. It noted that the original concerns in this case were serious, Miss Novida appears to be disengaging from the process, she has provided no new information of substance and appears to have deteriorating levels of insight. In the circumstances, the panel could have no confidence that conditions would be workable or that Miss Novida would be able

or willing to comply with. The panel was also not able to formulate conditions of practice that would adequately address the concerns relating to Miss Novida's misconduct, or mark the public interest in this case.

The panel next considered imposing a further suspension order. The panel noted that Miss Novida has been suspended for a total of 27 months and she has had ample opportunity to demonstrate sufficient insight and reflection into her actions and the impact they could have had on patients, colleagues and the wider profession, but had failed to do so. There has been a persistent lack of meaningful engagement from Miss Novida. She has continuously failed to provide an explanation for her dishonesty or given any cogent reasons as to why the incident occurred in the first place. The panel noted Miss Novida's most recent email, dated 5 July 2022, which raises further concerns about a deterioration in her level of insight, against a backdrop of a persistent lack of insight in relation to her dishonesty in particular. Miss Novida has also not provided the information that the last reviewing panel suggested would be beneficial for a future reviewing panel.

The panel would have wished to assist an experienced nurse back into safe practice who is willing to retrain and shows developed insight. However, the panel has not seen any evidence of this from Miss Novida.

The panel was of the view that considerable evidence would be required to show that Miss Novida no longer poses a risk to the public. There appears to be no realistic prospect of this occurring, and if anything, the situation has deteriorated. 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 Miss Novida from practising in the future. It concluded that although the original failings should have been capable of remediation, Miss Novida's persistent lack of insight and failure to engage meaningfully with the process to address those failings have now reached a point where it could only be characterised as attitudinal in nature. The panel concluded that the situation was no longer compatible with ongoing registration and that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 13 August 2022 in accordance with Article 30(1).

This decision will be confirmed to Miss Novida in writing.

That concludes this determination.