

Notice of Decision

Registrant	Phumelele Brian Msweli
Registration number	6024167
Part of Register	Part 2
Sanction	2 Year Warning
Date of Effect	04th February 2020

This is a notice of decision of the Northern Ireland Social Care Council (the Council).

Decision

The Council has decided:

1. That there is evidence that your Fitness to Practice is impaired by reason of misconduct, as defined in Part 1, Rule 4 of the NISCC Fitness to Practice (Amendment) Rules 2019.
2. To issue a warning and direct that a record of the warning should be placed on your entry in the Register for a period of two years.

Misconduct

- The Council has decided that there is a real prospect of a finding of impaired fitness to practise by reason of misconduct on the basis that there is sufficient evidence to prove the following allegations:
- That during a nightshift on 15th July 2018 until 16th July 2018, whilst working for Staff Nursing Limited as a registered care worker assigned to Dunmurry Manor Care Home, you:
 - (a) Failed to properly supervise a service user ("Service User A"), at a time when you were employed to provide one-to-one care for Service User A;
 - (b) Due to your actions or omissions at (a) above, you placed Service User A at risk of harm.

Reasons

The reasons that this behaviour is considered to constitute impaired fitness to practice are:

- Service users have the right to expect that the care and support they receive from social care workers, in whom they place their trust, will prevent them from harm. By failing to adequately supervise a vulnerable service user you placed Service User A at risk of harm.
- Your behaviour has fallen below the standard expected of a person registered with the Northern Ireland Social Care Council.

NISCC Standards of Conduct and Practice for Social Care workers

The Standards of Conduct for Social Care Workers that your behaviour has breached, are as follows:

Standard 1: As a social care worker, you must protect the rights and promote the interests and wellbeing of service users and carers.

This includes:

1.8 Respecting and maintaining the dignity and privacy of Service Users.

Standard 2: As a social care worker, you must strive to establish and maintain the trust and confidence of service users and carers:

This includes:

2.6 Being reliable and dependable;

2.7 Honouring work commitments, agreements and arrangements and, when it is not possible to do so, explaining why to service users and carers.

Standard 4: As a social care worker, you must respect the rights of service users while seeking to ensure that their behavior does not harm themselves or other people.

This includes:

4.2 Following risk assessment policies and procedures to assess whether the behaviour of service users or others presents a risk of harm to themselves or other people;

4.3 Taking necessary steps to minimise the risks of service users' behaviour causing actual or potential harm to themselves or other people.

Standard 5: As a social care worker, you must uphold public trust and confidence in social care services.

In particular you must not:

5.1 Abuse, neglect or harm service users, carers or colleagues;

5.7 Put yourself or other people at unnecessary risk;

5.8 Behave in a way, in work or outside work, which would call into question your suitability to work in social care services.

Standard 6: As a social care worker, you must be accountable for the quality of your work and take responsibility for maintaining and improving your knowledge and skills.

This includes:

- 6.1 Meeting relevant standards of practice and working in a lawful, safe and effective way;
- 6.3 Being personally accountable for your actions and able to explain and account for your actions and decisions;
- 6.5 Informing your employer or the appropriate authority in a timely manner about any personal difficulties that might affect your ability to do your job competently and safely.
- 6.6 Informing NISCC and any employers you work for at the first reasonable opportunity if your fitness to practise has been called into question. This includes ill-health that affects your ability to practise, criminal convictions, disciplinary proceedings and findings of other regulatory bodies or organisations.
- 6.7 Seeking assistance from your employer or the appropriate authority if you do not feel able or adequately prepared to carry out any aspect of your work, or you are not sure about how to proceed in a work matter.
- 6.12 Co-operating with any investigation or formal inquiry into your conduct, the conduct of other, or the care of services provided to a service user were appropriate.

Sanction

Having regard to the document '*Consensual Disposal Indicative Sanctions*' the Council decided that the appropriate sanction was the imposition of a warning on your registration for a period of two years.

Reasons for the Sanction

When reaching its decision the Council considered the following factors:

- You failed to adequately undertake the duties you were employed to undertake. This required you to supervise the Service User on a one-to-one basis, which you failed to do to the standards expected, or at all.
- Your actions failed to adequately manage the potential risk to a vulnerable service user with dementia, entrusted to your care within a Care Home setting.
- The dignity of a vulnerable service user was compromised by your failure to adequately supervise them.
- Your behaviour constitutes a serious disregard for the Standards of Conduct and Practice for Social Care Workers.
- You failed to co-operate fully with the Council's investigation.

The following mitigating circumstances were taken into account in reaching this decision:

- You have no previous record of misconduct with the Council, nor has your fitness to practice been called into question in the past.
- There was no evidence of physical injury to Service User A.

- There has been no repetition of any incidents of misconduct, since this matter came to the Council's attention.
- You have shown some insight into your actions.
- There is evidence of remorse or regret for your actions.

Consent

Having been advised of the consequences, and having been recommended to take independent advice, you consented to the imposition of a warning on 21st January 2020. A record of the warning has been placed on your entry in the Register for a period of two years and does not affect your ability to practise.

Date of Effect

This warning comes into effect on 04th February 2020. A record of the warning has been placed on your entry in the Register for a period of two years and does not affect your ability to practise.

Helen Mearns (Head of
Fitness to
Practise)
for Director of Regulation and Standards

4.2.20.
Date