

PUBLIC RECORD**Date:** 6 November 2023**Medical Practitioner's name:** Dr Sylvester NYATSURO

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| GMC reference number: | 5195951 |
| Primary medical qualification: | MB ChB 1997 University of Zimbabwe |
| Type of case | Outcome on impairment |
| Misconduct | Not impaired |

Summary of outcome

Order revoked

Legally Qualified Chair:

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| Legally Qualified Chair: | Ms Debi Gould |
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Review on the Papers

This case was reviewed on the papers, with the agreement of both parties, by a Legally Qualified Chair.

Overarching Objective

Throughout the decision making process the chair has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

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1. I have noted the background to Dr Nyatsuro's case, which was first considered by a medical practitioners' tribunal in June 2022.
2. Dr Nyatsuro obtained his primary medical degree in 1997 from the University of Zimbabwe. He became a fully registered medical practitioner in the U.K. in 2003, obtained Membership of the Royal College of General Practitioners in 2006 and a Postgraduate Certificate of Medical Education in 2013. Dr Nyatsuro worked as the lead General Practitioner ('G.P.') at the Willows Medical Centre in Nottingham ('the Practice') between 2007 - 2016.
3. Until February 2016, Dr Nyatsuro was supported in the Practice by two locum G.P.s, a practice nurse, a health care assistant, a senior receptionist, and various administration staff. The practice was considered safe and well run by the Quality Care Commission and National Health England prior to that time.
4. In February 2016, as a result of the practice nurse and one of the locum G.P.s leaving the Practice, Dr Nyatsuro was left with significantly reduced clinical support, this being only one part-time locum GP and a part-time locum nurse.
5. Whilst seeking replacements, from March 2016 Dr Nyatsuro employed Ms A as a Health Care Assistant ('HCA'). Ms A had qualified as a doctor in Pakistan but was not registered as a doctor in the U.K. Dr Nyatsuro was responsible for ensuring that she had the necessary skills to carry out her work, that her work was limited to those tasks that it was appropriate for an HCA to carry out and for supervising Ms A appropriately.
6. Ms A was given a clinic and patients were booked to see her. Her agreed role was to undertake initial patient assessments by taking a full history and carrying out preliminary examinations within a range of agreed tasks, then message Dr Nyatsuro saying that she had a patient that she wanted him to review. Once he had finished with the patient that he was seeing, he would then go to her room to see the patient and decide, based upon discussion with Ms A, whether or not he needed to examine the patient himself.
7. The system used by Dr Nyatsuro did not include recording the discussions with Ms A. Dr Nyatsuro also made no entries himself in the patients' records to reflect any input that he had in assessment or decision-making. He relied upon Ms A to make the

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records, taking and recording including the history taken from the patients, the examinations conducted and the related findings, the diagnosis, treatment/advice and safety-netting advice and any follow up arrangements.

8. On 6 June 2016 the CQC undertook an unannounced inspection of the Practice. Following communication from the CQC, on 7 June 2016, Dr Nyatsuro cancelled the clinic which had been allocated to Ms A. The CQC considered the scope of Ms A's duties at the Practice, placed the Practice into special measures and temporarily suspended services. The GMC then investigated with its focus on the patient records of specific consultations in which Ms A had been involved.
9. Shortly after his practice was closed, Dr Nyatsuro returned to Zimbabwe. He did not practice again for over 5 years. He was not practising at the time of the Tribunal in 2016.
10. The Allegation made against Dr Nyatsuro can be summarised shortly. It consisted two limbs. The first involved various recordkeeping failures in records made by Ms A for which Dr Nyatsuro was responsible. These arose because Dr Nyatsuro did not supervise the making of those records in the way that he should have done. The second related to a number of clinical failures relating to the treatment of patients.
11. Dr Nyatsuro admitted the majority of the paragraphs in the Allegation. He accepted all of the recordkeeping failures as he accepted overall responsibility or ensuring that effective supervision of Ms A in the making of those records. Dr Nyatsuro also admitted three matters relating directly to the treatment or management of patients, including inappropriately prescribing medication (namely iron sulphate to patient B and Chloramphenicol eye drops to patient F) without first ensuring that the necessary tests were carried out. He also admitted that Ms A had examined and taken vaginal swabs from Patient B where she was not qualified to carry out those tasks.
12. Dr Nyatsuro denied five paragraphs of the Allegation relating to clinical failings, however, following evidence, the Tribunal found only one such clinical failing, paragraph 9a, proved. Specifically, the Tribunal found that Dr Nyatsuro had not adequately examined or assessed Patient K, who was experiencing chest pain, on 26 April 2016.
13. The Tribunal concluded that the record keeping failures and clinical failures resulted from the '*parallel clinic*' system that Dr Nyatsuro instigated and followed when he

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employed Ms A. Although the Tribunal accepted that Dr Nyatsuro did not realise until the end of April 2016 that Ms A made inadequate records, it concluded that he was responsible for those failures as it was his duty to properly supervise Ms A. The Tribunal also concluded that the clinical failures arose because Dr Nyatsuro relied on the account of a patient given to him by Ms A, whose skills he had never assessed, and because he had insufficient time to make adequate examinations and assessments himself.

14. The Tribunal acknowledged that Dr Nyatsuro's failings arose in an exceptionally difficult situation in which there were staff shortages. It concluded, nevertheless that the system he had set up relied on assumptions about Ms A's skills and ability, which he had not assessed, and her ability to make judgements as to whether she needed his help. The Tribunal also found that the system involved Dr Nyatsuro moving between clinics which gave rise to the unacceptable risk that his examinations would be inadequate, partly due to time and partly due to relying on what Ms A told him.
15. The Tribunal accepted the evidence of two expert witnesses that the clinical failings identified in respect of Patients B, F and K fell seriously below the standard expected of a reasonably competent general practitioner. Accordingly, the Tribunal was satisfied that the facts admitted and found proved in relation to the system employed, the record keeping undertaken by Ms A, whose oversight was the responsibility of Dr Nyatsuro, and the clinical failings identified fell so far short of the standards of conduct reasonably to be expected of a doctor that it amounted to serious misconduct.
16. The Tribunal therefore found Dr Nyatsuro's fitness to practice to be impaired by reason of his misconduct.
17. That Tribunal determined to impose conditions on Dr Nyatsuro's registration for a period of 18 months.
18. In order to provide assistance at this review, the Tribunal at the previous hearing recommended that Dr Nyatsuro provide:
 - A report from his six-month placement;
 - Supervisor's report;
 - His reflections demonstrating an understanding of the hallmarks of a well run practice including the proper supervision of staff;

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- Any other information which Dr Nyatsuro considers would assist the review Tribunal, including testimonials.
19. Dr Nyatsuro and the GMC have agreed that this review should be considered on the papers in accordance with Rule 21B of the General Medical Council (Fitness to Practise) Rules 2004. They have provided agreed terms of a decision which I could make at this review.
20. I have considered all of the evidence presented to me, and the agreed submissions made by Dr Nyatsuro and by the GMC. In the submissions, Dr Nyatsuro and the GMC agree that Dr Nyatsuro's fitness to practise is not impaired and that the sanction currently in place should be revoked.
21. The initial Tribunal found that Dr Nyatsuro's misconduct arose from issues around his performance as a doctor and a manager but that the most serious failings related to management and supervision. The Tribunal accepted that that Dr Nyatsuro had developed good insight but determined that a period of supervision enable a future Tribunal to be confident that his remediation has been successful was required. Given that Dr Nyatsuro had been out of practice for over 5 years by the time of its Determination, the Tribunal felt it would be helpful for Dr Nyatsuro to demonstrate that successful completion of postgraduate study and the examination necessary to satisfy National Health England that he can return to practise would demonstrate insight, remediation and ensure patient safety in the future.
22. Since the previous order was made, Dr Nyatsuro has obtained employment as a G.P. commencing 17 October 2022 and has been working for 8 sessions per week at the Emersons Green Medical Centre to date. I am satisfied from evidence provided that Dr Nyatsuro has fully complied with the conditions on his registration since their imposition. I further note the opinion expressed by the GMC based upon the evidence submitted by Dr Nyatsuro, namely that the conditions on his registration should be revoked.
23. I have borne in mind the statutory overarching objective which is to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for the medical profession.

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24. I have determined that Dr Nyatsuro's fitness to practise is no longer impaired by reason of his misconduct.
25. In reaching this decision, I have taken account the concerns expressed by the Tribunal in 2022 and carefully considered whether, how and to what extent Dr Nyatsuro has effectively and fully addressed these concerns. In order to do so I have considered all of the evidence, but in particular Dr Nyatsuro's reflective pieces, the Clinical Placement Structured Report dated 20 April 2023, the Colleague Feedback Summary dated March 2023 and the comments of Dr Nyatsuro's workplace supervisor, Dr C.
26. It is apparent that Dr Nyatsuro has carefully considered the Determination made by the Tribunal in July 2022 and has worked hard to address the concerns it identified. The Clinical Placement Structured Report describes Dr Nyatsuro's record keeping and Learning and Development as '*excellent*'. Dr Nyatsuro has been subject to random and unannounced patient Audits without any concerns being raised. His colleagues speak highly of his professionalism, clinical and interpersonal skills and state that he is '*an asset*' to the practise who is trusted and well-liked by his patients.
27. Dr Nyatsuro has prepared a detailed but focused reflective piece in which he effectively articulates what he has learned as a result of the finding of impairment. In particular, he identifies and explains management themes which characterise a well-run G.P.s practice. The piece analyses how his current employment has enabled him to recognise and develop improved management systems to ensure the proper care of patients and how to establish and maintain effective support. He sets out that he has satisfied the NHS requirements for returning to practise and full Performers List registration. I further note that Dr Nyatsuro has undertaken a significant amount of CPD which is relevant to the clinical issues which raised concern and to the current practise requirements of a busy G.P. I have concluded that the evidence demonstrates that Dr Nyatsuro has taken advantage of the opportunity provided by the Tribunal in 2022 and has understood that the conditions imposed on his registration provided an opportunity for him to learn and develop as a doctor such that he now has full insight into his misconduct and has fully remediated.
28. I have also taken account of a number of GMC report forms prepared by Dr Nyatsuro's workplace supervisor, Dr C. These speak positively of his engagement with the supervision process and his management, clinical and personal skills. Dr C has also provided a letter dated 11 September 2023 in which she confirms that she has regularly reviewed Dr Nyatsuro's clinical practice since his employment at Emersons

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Green Medical Centre and filed regular reports with NHS England ('NHSE') and the General Medical Council ('GMC') concerning his progress. The letter further confirms that she recommended Dr Nyatsuro's inclusion in the Performers List without restrictions '*strongly without reservation*' following which this his NHSE conditions were removed although she continued to supervise Dr Nyatsuro for the purposes of the conditions imposed by the MPTS. Dr C stated,

'...He (Dr Nyatsuro) is clinically very competent, reviews of his clinical notes and discussions demonstrate that his clinical acumen, note-keeping, use of investigations, and urgent care are all excellent. He is well-liked by both patients and the wide healthcare team at our practice. This was demonstrated by superb multi-source feedback earlier this year.

Dr Nyatsuro communicates well to patients and team members alike and this again has been demonstrated through reviews of the clinical sessions and the multi-source feedback. Dr Nyatsuro has demonstrated also an excellent knowledge of local procedures for investigation and referrals.....and clearly demonstrates that he is keeping up to date with the latest guidelines and updates.'

29. In light of my decision, I direct that the conditions on Dr Nyatsuro's registration be revoked with immediate effect.
30. Notification of this decision will be served on Dr Nyatsuro in accordance with the Medical Act 1983, as amended.