

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

Substantive Order Review Hearing

Monday, 4 December 2023 – Tuesday, 5 December 2023

Monday, 8 April 2024 – Wednesday, 10 April 2024

Virtual Hearing

Name of Registrant:	Vikash Joye
NMC PIN	96A0243E
Part(s) of the register:	Registered Nurse – Sub Part 1 Mental Health Nurse – 18 February 1999
Relevant Location:	Nottingham
Type of case:	Misconduct
Panel members:	Christina McKenzie (Chair, Registrant member) Christine Callender (Registrant member) Richard Bayly (Lay member)
Legal Assessor:	Ben Stephenson
Hearings Coordinator:	Sophie Cubillo-Barsi [4-5 December 2023] Clara Federizo [8-10 April 2024]
Nursing and Midwifery Council:	Represented by Nicola Kay, Case Presenter [4-5 December 2023] Represented by Robert Rye, Case Presenter [8-10 April 2024]
Vikash Joye:	Present and unrepresented
Order being reviewed:	Conditions of practice order (12 months)
Fitness to practise:	Impaired
Outcome:	Conditions of practice order (12 months) to come into effect on 27 April 2024 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 Kay, on behalf of the Nursing and Midwifery Council (NMC), made a request that parts of your case be held in private in that reference may be made to your personal family life. 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.

Having heard that reference may be made to your private family life, the panel determined to go into private session as and when such issues arise. It considered that your right to privacy in relation to these matters outweighed the public interest in holding those parts of the hearing in public.

Application to extend the current order to cover a period of adjournment

On 4 and 5 December 2023, the panel heard evidence from four witnesses, called on behalf of the NMC, in relation to allegations that you have breached the following areas of your current conditions of practice order. Namely:

[...]

2. *You must work with your clinical line manager, mentor or supervisor to create a personal development plan (PDP). Your PDP must address the following clinical areas of concerns:*
 - *Medication management and administration*
 - *Record keeping*
3. *With regard to your PDP, you must:*
 - a) *Meet with your clinical line manager, supervisor or mentor at least*

every month to discuss your progress in achieving the aims set out in your PDP.

- b) Send your NMC case officer a copy of your PDP within 7 days of it being put in place.*
- c) Send your NMC case officer a report from your clinical line manager, supervisor or mentor prior to the next review hearing. This report must show your progress towards achieving the aims set out in your PDP.*

[...]

- 6. You must keep your NMC case officer 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.**

[...]

- 8. You must immediately give a copy of these conditions to:
 - a) Any organisation or person you work for.*
 - b) Any agency you apply to or are registered with for work.*
 - c) Any employers you apply to for work (at the time of application).*
 - d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
 - e) 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.'**

The panel also heard evidence from you under affirmation and closing submissions made by both you and Ms Kay in relation to these concerns.

Due to the lack of time available to the panel, it was unable to conclude the fact-finding stage in relation to these alleged breaches. In light of this, Ms Kay made an application for the panel to extend the current order, to cover the adjournment period. She submitted that the panel have not dealt with the issue of impairment, and therefore extending the order would be the fair course of action in order to protect the public. Ms Kay suggested an extension of three months as a 'reasonable period of time'.

You acknowledged that the panel may determine that it is necessary that the current order be extended and supported the application for the order to be extended for three months.

The panel heard and accepted the legal advice.

The panel had regard to the briefing note provided by the NMC, namely 'Panel member and Legal Assessor Briefing Note, dated December 2023. In particular, the panel noted the following:

'For substantive order reviews, where you believe you will not have enough time to undertake a comprehensive review of the order, you should consider whether the review hearing can be rescheduled before its expiry in time for 28 days' notice to be provided. If it can't, you should review the order. If you cannot comprehensively review the order, then you should consider extending the current order for a short time, around three months, in order that a further review hearing can be arranged, and the public remains protected.'

The panel noted the seriousness of the alleged breaches. It further noted the previous substantive panel's determination in relation to your impairment and dishonesty. Given that the panel do not have sufficient time to complete a comprehensive review of your order, it determined that the current conditions of practice should be extended in order to cover a period of adjournment. Given the panel's availability, it determined to extend the existing order for a period of four months. The panel decided that the public would be suitably protected as would the reputation of the profession by extending 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 not administer medication unless under the direct supervision of another registered nurse, or until you have been certified as competent to do so by your clinical line manager, mentor or supervisor. Any such certification must be in writing and a copy sent to your NMC case officer within 7 days of receiving it.*
- 2. You must work with your clinical line manager, mentor or supervisor to create a personal development plan (PDP). Your PDP must address the following clinical areas of concerns:*
 - Medication management and administration*
 - Record keeping*
- 3. With regard to your PDP, you must:*
 - a) Meet with your clinical line manager, supervisor or mentor at least every month to discuss your progress in achieving the aims set out in your PDP.*
 - b) Send your NMC case officer a copy of your PDP within 7 days of it being put in place.*
 - c) Send your NMC case officer a report from your clinical line manager, supervisor or mentor prior to the next review hearing. This report must show your progress towards achieving the aims set out in your PDP.*
- 4. You must keep a reflective practice profile. The profile will provide a minimum of 10 reflections which details how you have demonstrated honesty and integrity in your nursing practice and how you have developed resilience in your clinical practice. Each of the reflections should include feedback from your clinical line manager, supervisor or mentor. You must send your NMC case officer a copy of the profile prior to the next review hearing.*

5. *You must send your NMC case officer evidence that you have successfully completed training in Duty of Candour and training in Developing Resilience in Clinical Practice prior to the next review hearing.*

6. *You must keep your NMC case officer 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.*

7. *You must keep your NMC case officer informed about anywhere you are studying by:*
 - a) *Telling your case officer within seven days of accepting any course of study.*
 - b) *Giving your case officer the name and contact details of the organisation offering that course of study.*

8. *You must immediately give a copy of these conditions to:*
 - a) *Any organisation or person you work for.*
 - b) *Any agency you apply to or are registered with for work.*
 - c) *Any employers you apply to for work (at the time of application).*
 - d) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
 - e) *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.*

9. *You must tell your NMC case officer, within seven days of your becoming aware of:*
 - a) *Any clinical incident you are involved in.*
 - b) *Any investigation started against you.*
 - c) *Any disciplinary proceedings taken against you.*

10. *You must allow your NMC case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:*
 - a) *Any current or future employer.*
 - b) *Any educational establishment.*
 - c) *Any other person(s) involved in your retraining and/or supervision required by these conditions.*

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 26 December 2023 in accordance with Article 30(1).

This hearing will be relisted, and you will be notified of resuming dates.

The hearing resumed on Monday, 8 April 2024.

Background

You are subject to a conditions of practice order. A Fitness to Practice panel heard evidence at a Substantive Hearing between 21-24 November 2022. That panel imposed conditions on your practice on 24 November 2022 for a period of 12 months.

Concerns were raised with the NMC in June 2023 by the Priory, Burton Park (Home 1) that you had not complied with some of the conditions on your practice, specifically in relation to conditions 2, 3, 6 and 8. The NMC carried out an investigation into those concerns.

This resulted in this panel having to consider allegations that you had not complied with the following:

2. *'You must work with your clinical line manager, mentor or supervisor to create a personal development plan (PDP). Your PDP must address the following clinical areas of concerns:*
 - *Medication management and administration*
 - *Record keeping*

3. *With regard to your PDP, you must:*
 - a) *Meet with your clinical line manager, supervisor or mentor at least every month to discuss your progress in achieving the aims set out in your PDP.*
 - b) *Send your NMC case officer a copy of your PDP within 7 days of it being put in place.*
 - c) *Send your NMC case officer a report from your clinical line manager, supervisor or mentor prior to the next review hearing. This report must show your progress towards achieving the aims set out in your PDP.*

6. *You must keep your NMC case officer 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.*

8. *You must immediately give a copy of these conditions to:*
 - a. *Any organisation or person you work for.*
 - b. *Any agency you apply to or are registered with for work.*
 - c. *Any employers you apply to for work (at the time of application).*

- d. *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
- e. *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.'*

A mandatory review of all the conditions on your practice started on the 4 and 5 December 2023 at which you were present.

Decision and reasons on alleged breaches of conditions 2, 3, 6 and 8

The panel heard the witness evidence called by the NMC, your evidence under affirmation, submissions by Ms Kay on your alleged breaches of conditions 2, 3, 6 and 8 and your response to this, prior to the adjournment of this hearing on 5 December 2023.

The panel accepted the advice of the legal assessor. He reminded the panel that it was at this stage conducting a fact-finding exercise in respect only of the alleged breaches of the conditions of practice order as set out previously. He reminded the panel to apply its mind to those alleged breaches only and to apply the balance of probabilities when considering the burden of proof.

In considering whether you breached your conditions of practice order, the panel had regard to all the evidence that had been provided in respect of this. It decided that it would be appropriate to undertake a fact-finding exercise to determine whether you had indeed breached your conditions of practice order, before moving on to consider whether your fitness to practise as a registered nurse is still currently impaired.

In reaching its decision, the panel applied the balance of probabilities and was mindful that the burden of proof rested on the NMC.

In respect of condition 2, the panel had regard to the specific wording that:

2. *'You must work with your clinical line manager, mentor or supervisor to create a personal development plan (PDP). Your PDP must address the following clinical areas of concerns:*
 - *Medication management and administration*
 - *Record keeping'*

The panel noted that the documents you submitted do not provide any information about any PDP or meetings with your clinical managers between the end of November 2022 when the conditions on your practice were imposed, and 3 February 2023. You were working at Home 1 throughout this period but you did not make your managers aware that you were subject to a conditions of practice order, which required you to have a PDP.

The panel had regard to the single page document you provided which was headed 'Personal Development Plan' (PDP), dated 3-4 February 2023. It had regard to your oral evidence that this was the PDP worked on with your clinical manager at Ashdale Care Home (Home 2) during monthly meetings, after you started working there in February 2023. It noted that this document included columns headed problem, actions taken, lesson learned and completed by. It did not contain information relating to medicines management or your record keeping. The document relates to a choking event that a patient had experienced:

"At lunch time[sic] patient was having a meal, accidentally patient came unresponsive and choking."

You also provided nine reflection documents against the ten required by condition 4 in your conditions of practice order. The last of these were signed by the manager of your agency who is not a registered nurse.

Witness 2 confirmed that she did meet with you monthly to discuss issues relating to your PDP and that these are recorded in the reflection documents dated between 13 February 2023 and 15 September 2023.

Whilst the panel acknowledges that these documents are reflective in nature, the panel considered that the contents did not include specific goals or plans that it would expect a formal PDP to contain. It was of the view that the contents within the document of 3 February 2023 titled PDP and in the reflective discussion documents did not fully address the areas of clinical concern found proved at your substantive hearing; namely, medication management and administration, as well as record keeping.

The 3 February 2023 document was not signed by your clinical manager at Home 2 to confirm that this was discussed in meetings to review an agreed PDP. This document provides no evidence of any progress or that you worked with your clinical line manager, mentor or supervisor to create and monitor your progress against the areas of clinical concern.

The panel concluded that, on the balance of probabilities, it was more likely than not that you were in breach of condition 2. Accordingly, the panel finds this allegation proved.

In respect of condition 3, the panel had regard to the specific wording that:

3. *'With regard to your PDP, you must:*
 - a) *Meet with your clinical line manager, supervisor or mentor at least every month to discuss your progress in achieving the aims set out in your PDP.*
 - b) *Send your NMC case officer a copy of your PDP within 7 days of it being put in place.*
 - c) *Send your NMC case officer a report from your clinical line manager, supervisor or mentor prior to the next review hearing. This report must show your progress towards achieving the aims set out in your PDP.'*

The panel considered each of the three parts of this condition individually at first, and then collectively.

In relation to condition 3a, the panel bore in mind that that the conditions were imposed on 24 November 2022 and should have been complied with as soon as possible following this date. The panel did not have any evidence before it to support that you had meeting with a clinical manager prior to February 2023.

The panel considered the evidence of Witness 2, your clinical supervisor at Home 2. She confirmed in her oral evidence that you had regular reflection meetings, and you suggested in your oral evidence to the panel that this was on a monthly basis. The panel had some evidence before it to suggest that reflective meetings had taken place from February 2023 until the Home closed in September 2023.

In relation to condition 3b, the panel heard oral evidence from you in which you admitted that you did not send a PDP to the NMC.

The email dated 9 October 2023 from you to the NMC also indicates you had not sent your case officer a copy of any PDP within seven days of it being put in place:

“Dear Rowan,

I have been in touch [sic] my clinical nurse manager had requested a copy which we both initially discussed. I am hoping to send it to you by next week.

Regards,

Vikash”

In relation to condition 3c, the panel determined that there was no evidence of a report from your clinical line manager, supervisor or mentor before it which shows progress towards achieving aims set out in your PDP. It also did not have a PDP before it which outlined any specific aims set out for you in relation to the areas of concern (medication management and record keeping).

The panel finds on balance of probability that you did not have a PDP in place, therefore, did not comply with the requirements on you within condition 3 that relate to you meeting with your clinical line manager. You did not meet with your clinical line manager before February 2023 nor send your NMC case officer a copy of your PDP. You did not send your NMC case officer a report from your clinical line manager demonstrating any progress you may have made against the aims set out in a PDP before this review hearing. Accordingly, the panel finds you breached condition 3.

In respect of condition 6, the panel had regard to the specific wording that:

6. *'You must keep your NMC case officer 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.'*

The panel had regard to the evidence of Witness 3, the NMC case officer assigned to you. The panel had regard to Witness 3's statement in which he said:

"I can confirm that I have not received any communication from Mr Joye in regard to him obtaining new employment at Priory Burton Park..."

The panel considered that Witness 3 was consistent in his oral evidence that he was not aware that you were working at Home 1 until June 2023.

The panel had sight of the email correspondence between the NMC and Witness 4, as well as her witness statement. It noted that in the email dated 9 June 2023, Witness 4 stated:

"I asked VJ if he had informed the NMC that he was working here at Burton Park, he said his agency have. This I believe is also a condition of the registrant to inform the NMC of any changes in places of work (condition 6 and 8)."

The panel also had regard to the evidence of Witness 1, the managing director of 24hr Healthcare Ltd (the Agency). It had sight of her correspondence with the NMC, particularly the email dated 9 June 2023:

“They[sic] client is concerned that we did not inform them, however, we over looked it, as we assumed the nurse would have informed them directly as he has been working with them for over 2 years...”

The panel also had regard to your evidence that you assumed your agency would have informed the NMC of your employment at Home 1, but that you now understand it is part of your responsibility to do so.

The panel had regard to the specific wording of condition 6, which specifies that *“You must keep your NMC case officer informed about anywhere you are working”*.

The panel acknowledged that you said you had posted your employment details to the NMC. However, the panel does not find this plausible given that in all other communications you had corresponded with the NMC via email.

Therefore, the panel found that it was more likely than not that you had breached condition 6 in that you did not inform the NMC of your employment at Home 1.

The panel considered the elements within condition 8 both individually and collectively.

The panel had regard to the specific wording that:

8. *“You must immediately give a copy of these conditions to:*
 - a) *Any organisation or person you work for.*
 - b) *Any agency you apply to or are registered with for work.*
 - c) *Any employers you apply to for work (at the time of application).*

- d) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
- e) *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.'*

The panel heard oral evidence from you in which you acknowledged that you did not provide a copy of your conditions to Home 1.

The panel also had regard to the evidence of Witness 1 and 4. It had sight of the email correspondence between the NMC and Witness 4, dated 9 June 2023, where Witness 4 stated:

“VJ also believed that it was the sole responsibility of his agency to inform [Home 1] of his conditions and appeared to not understand that he too had a responsibility to notify [Home 1] of this.”

The panel had regard to the specific wording of condition 8, which specifies that *“You must immediately give a copy of these conditions to”*.

Witness 4 told the panel that you had worked at Home 1 for several years. She only became aware that you were under a conditions of practice order after she had reviewed nurse files and had asked for an updated profile about you from the 24hr Healthcare Ltd agency in preparation for a CQC visit. This was provided to her by the agency during the week of June 2023.

Therefore, the panel concluded that you were in breach of condition 8a as you did not disclose your conditions of practice order to Home 1, and you considered it was your agency’s role when condition 8 explicitly states that it is your responsibility to inform.

The panel noted the contents of the completed NMC letter of introduction form you signed on the 17 January 2023. This noted that on 17 January 2023 you had been employed by Doxtel Care Ltd in Derby since May 2018. You also noted that you had worked for 24hr Healthcare Ltd of Shipley for the previous 3 years. There was no evidence presented to the panel that you had not informed Doxtel Care Ltd. Therefore, it finds that, on balance of probability, that you are not in breach of condition 8b.

In relation to condition 8c, the panel had no evidence before it that you had applied to other employers whilst under these conditions of practice. It therefore finds breach of condition 8c not proved on balance of probability.

In relation to condition 8d, you have provided certificates showing that you attended and completed two online training programmes. The first was dated 27 September 2023 at the CPD Online College and relates to Resilience Training. The second dates 28 September 2023 at the Caredamy and relates to Duty of Candour. The panel has not heard evidence that you did not inform the NMC about your studies at these establishments and therefore does not find breach of condition 8d proved.

In relation to condition 8e the panel considers that from the evidence before it that you had not been self-employed therefore condition 8e has not been breached.

Decision and reasons on review of the substantive order

This is the first effective review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 24 November 2022. This was initially reviewed on 4 and 5 December 2023, where the order was extended for four months as the hearing had to be adjourned due to time constraints. Now, in April 2024, this same review is recommencing at the current hearing.

The current order is due to expire at the end of 26 April 2024.

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 21 August 2019, on 3 occasions, administered the wrong dose of controlled drug to Resident A in that you administered 5ml doses when Resident A was prescribed 2ml doses.

2) Between 20 & 21 August 2019, on 6 occasions, failed to follow controlled drug administration policy in that you failed to get a countersignature in the controlled drug register for the controlled drug administrations to Resident A.

3) Between 20 & 21 August 2019, on 6 occasions, falsified a witness signature in the controlled drug register.

4) Your actions in charge 3 above were dishonest in that you knew your administration of the controlled drugs had not been witnessed and you had signed the counter-signatory section of the controlled drug register yourself.

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

The original panel determined the following with regard to impairment:

'The panel finds that a patient was put at risk as a result of you administering the incorrect doses. Although the patient involved in this matter suffered no actual harm, the panel found that the patient was put at significant risk of harm as a result of your actions. Your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. In relation to dishonesty, the panel considered that there was no evidence of deep-seated attitudinal concerns, or that your actions were for personal gain. Nevertheless, the panel found that your misconduct in not having another colleague witness your drug administration to Resident A, but rather, falsifying a countersignature on the

controlled drug register was dishonest. The panel therefore found that your actions engaged all four limbs as set out in the test referred to in the case of Grant.

With regard to insight, the panel found that you have demonstrated developing insight into your misconduct by undertaking additional training in medication management and recognising that you must not let clinical pressures affect your nursing practice. However, the panel considered that you have not fully appreciated the seriousness of your actions, have not been able to fully articulate the reasons for it, and have not demonstrated an understanding as to the impact your misconduct had on patient safety, as well as public confidence in the nursing profession. Whilst you told the panel that you have had time to reflect since the incident, this has not been fully demonstrated in your live evidence. For example, the panel was concerned by your oral and written evidence that you believed the matter could have been resolved locally at the Home, rather than being referred to the NMC.

The panel went on to consider whether the misconduct in this case is capable of remediation. It took into account the fact that dishonesty is difficult to remediate, but the panel considered that in your case there were no deep-seated attitudinal issues and that you have demonstrated developing insight and some degree of reflection. The panel further considered that your misconduct in relation to medication management in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. The panel took into account the training you have undertaken around medication management, which demonstrates your positive attempts to address and improve your practice in this area of concern.

However, the panel considered that there is a risk of repetition of your misconduct. During your live evidence, whilst you accepted that your actions were wrong, there was a lack of explanation on the reasoning behind your actions (besides from the pressured and busy work environment you state you experienced at the time). Although the panel considered that no similar concerns have been raised during your 23 year career in nursing, it noted that the medication error was repeated on three occasions within a day. The panel also noted that your failure to follow the controlled drug policy, and falsifying the countersignature in the controlled drug register, were both repeated on six occasions over the course of two days.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. It considered that patients were put at serious risk of harm as a result of your misconduct, and that there is a real risk of repetition of your actions due to your lack of insight. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case in light of the proved concerns. The panel therefore determined that a finding of impairment is also necessary on public interest grounds.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'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 next considered whether placing 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 took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel considered that the concerns around your medication management and record keeping could be sufficiently managed by conditions. A significant consideration for the panel was that you have been working as a registered nurse without further incident since these matters in 2019 and no concerns have been raised about your practice. During this time, you have undertaken relevant training and successfully completed medication competency assessments. The panel took into account your willingness to undergo further training to strengthen your practice, which you have already demonstrated and evidenced in relation to medication management. With regard to dishonesty, whilst it is difficult to impose

conditions to manage this, the panel considered that a reflective practice profile along with a requirement to undertake Duty of Candour training would be effective in your case. This would allow you to work on your insight, and deeply reflect on the gravity of your misconduct and the impact it had on the resident involved, as well as public confidence in the nursing profession. It would also allow you to reflect on the importance of honesty and integrity in your nursing practice.

The panel had regard to the fact that this was not an isolated incident, and that your actions put a patient at risk of harm. However, other than this incident, you have had an unblemished 23 year career as a nurse, and have demonstrated that you are capable of returning to safe practice moving forward. The panel considered that you should be given the opportunity to develop your insight and strengthen your practice whilst continuing to work in a nursing capacity. The panel was therefore of the view that it was in the public interest that, with appropriate safeguards, you should be able to continue to practise as a nurse.

Balancing all of these factors, the panel determined that the appropriate and proportionate sanction is that of a conditions of practice order. It considered that it was possible to formulate appropriate and practical conditions that would address the failings highlighted in this case.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances of your case. It bore in mind the NMC guidance on sanction with regard to dishonesty, but considered that suspending your practice or removing you from the register was not necessary and that it would be in the public interest to allow you, an experienced nurse, the opportunity to reflect, remediate and to strengthen your practice.'

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 ability to practise kindly, safely and professionally. 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 as well as the documentation you provided. It has taken account of the submissions made by Mr Rye on behalf of the NMC. It has also taken into account your evidence under affirmation.

Mr Rye highlighted the previous panel's findings on impairment, outlining the seriousness of the misconduct found and the lack of sufficient insight demonstrated by you. He emphasised the necessity of a personal development plan, which is directly relevant to the conditions you had breached. Mr Rye submitted that the panel may find it crucial that evidence of a PDP must be before it to demonstrate that you have addressed the concerns regarding your practice, namely medication management and administration and record keeping.

Mr Rye accepted that there is some evidence of your competency in clinical practice and some reflections provided by you. However, he submitted that there remains a lack of detailed insight and remediation regarding dishonesty. Mr Rye also submitted that as the panel found that you are in breach of your conditions of practice order and there is no sufficient evidence before this panel to safely conclude that you have fully addressed the concerns identified by the original panel, a risk of repetition remained, and therefore, your fitness to practice is currently impaired on public protection and public interest grounds.

Mr Rye submitted that, notwithstanding the breaches of conditions, a conditions of practice order remains appropriate to manage risks and facilitate your safe return to unrestricted practice. He invited the panel to consider conditions which clearly articulate your responsibilities to avoid any misunderstanding or ambiguity in future. However, he submitted that this was ultimately a matter for the panel.

The panel also had regard to your oral evidence under affirmation. You told the panel that you understand the seriousness of your past misconduct, you have learnt from your mistakes and that you would like to assure this panel that no more clinical practice concerns will arise in future.

You asked the panel to consider that you have been a nurse for nearly 25 years, you have not had any other concerns raised about your practice before, you said that this would be your only and last referral. You emphasised the importance of nursing to you as this is a career you always wanted to do, and you would like to continue to deliver care for people.

You said that this period has been stressful for you, but you have become more resilient and understand that honesty is important in nursing. You said that you have become more vigilant, careful in your practice and transparent.

You told the panel that you are still employed by 24hr Healthcare agency, however, due to personal reasons and Home 2 shutting down in September 2023, you are only able to work two days per week at the moment. Following questions from the panel, you said that you do not work for any other agency.

You also told the panel that you have been keeping up to date with changes in nursing practice by undertaking online training, as well as by reading NMC leaflets and journals in the library. You described examples of training you have undertaken, including medication administration, safeguarding and the importance of good record keeping. You also said that you had discussed medications competency with Witness 2 in meetings and you were under supervision with her during medications administration, and that you had completed a medications competency test before you started work at Home 1.

You told the panel that you are willing to comply with conditions on your practice but would like it to consider because of personal circumstances you can only work two days a week, and this makes it difficult for you to meet the current conditions as they are. You also told the panel that you have now learnt from your previous mistakes, and you will provide a copy of your conditions of practice to your line manager or supervisor at any future workplaces.

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.

This panel noted that the original panel found that you had developing insight. At this hearing, you apologised to this panel for your misconduct and have shown some progress in developing your insight; in your oral evidence, you indicated that you now understand that it is your responsibility to comply with your conditions and you should be the one to take direct action to ensure that these are being met.

The panel found that your insight is still developing and at present appears focused on the impact your misconduct has had on yourself. As yet you have not been able to demonstrate understanding of how your actions put patients at a risk of harm, how this impacted negatively on your colleagues and the reputation of the nursing profession, and how you would manage the situation differently in the future.

The panel also had regard to the NMC guidance on 'Reviewing orders when there may have been a breach', which states:

"If we are satisfied that a nurse, midwife or nursing associate has deliberately not complied with a substantive order this is likely to call into question whether that person should remain on the register."

The panel went on to consider whether your actions in breach of your conditions of practice were deliberate. The panel was of the view that a breach of multiple conditions in this case is a serious matter and that a deliberate breach of your conditions could require a more restrictive sanction. However, the panel was not satisfied that your breaches of the conditions were deliberate rather than your on-going carelessness. It noted you may not have initially understood what was expected of you. The panel accepted that you stated in your evidence that you now understand the importance of complying with your conditions, and therefore, there will be no repetition of breaches.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account that you have undertaken a range of online courses and additional training. However, the panel did not have evidence before it to support that you are able to apply what you have learnt in practice.

The original panel determined that you were liable to repeat matters of the kind found proved. Today's panel did not have evidence before it that you have addressed the concerns identified in your practice as you are yet to fully comply with the original conditions of practice order, especially in relation to your PDP. It also noted that you are yet to provide the evidence below as suggested by the original panel, which may have assisted this panel:

- A written reflective piece on the seriousness of your actions and the impact your misconduct had on patient safety and public confidence in the nursing profession;
- Up-to-date testimonials attesting to your clinical practice; and
- Evidence of additional training you have completed to further strengthen your practice.

This panel considered that in the absence of documented and confirmed evidence about your remediation of the misconduct found by the original hearing panel, your developing insight and understanding of the seriousness of your misconduct, there remains a risk to patients that your misconduct may be repeated. The panel, therefore, decided that a finding of 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 considered that members of the public would wish reassurance that you had fully remediated your misconduct before having restrictions on your practice removed. The panel therefore determined that, in this case, a finding of impairment on public interest grounds is also required.

For these reasons, the panel finds that your fitness to practise is currently 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 next considered whether imposing a conditions of practice order on your registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that [PRIVATE] , and therefore, may not have had enough time to focus on your practice and fully comply with your conditions. It recognised that you have been engaging with the NMC hearings and you have told the panel you are willing to comply with any conditions imposed. It also noted that you invited the panel to consider varying the conditions to reflect that you only work two days a week.

The panel was of the view that a varied conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that there was no evidence of general incompetence. In this case, there are conditions that could be formulated which would protect patients and the public during the period they are in force.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances of your case. The panel considered that you have been a nurse for 25 years without any other concerns raised on your practice prior to or following this referral. It bore in mind the NMC guidance on sanction with regard to dishonesty, however, it considered that removing you from the register temporarily or permanently was not necessary as the public protection requirements can be sufficiently met with conditions put on your practice, and it would be in the public interest to allow you, an experienced nurse, the opportunity to reflect, remediate and strengthen your practice.

The panel has determined, pursuant to Article 30(1)(c), to make a conditions of practice order for a period of 12 months which will come into effect on the expiry of the current order.

The panel remind you that it is your personal responsibility to comply with the varied conditions of practice imposed.

The panel decided to impose the following varied conditions, which it considered are appropriate and proportionate in this case.:

'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 keep the NMC 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.

2. You must keep the NMC informed about anywhere you are studying by:
 - a) Telling your case officer within seven days of accepting any course of study.
 - b) Giving your case officer the name and contact details of the organisation offering that course of study.

3. You must immediately give a copy of these conditions to:
 - a) Any organisation you work in or work for.
 - b) Any agency you apply to or are registered with for work.
 - c) Any employers you apply to for work (at the time of application).
 - d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
 - e) Any current or prospective patients or clients you intend to see or care for when you are working independently.

4. You must tell your case officer, within seven days of your becoming aware of:
 - a) Any clinical incident you are involved in.
 - b) Any investigation started against you.
 - c) Any disciplinary proceedings taken against you.

5. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
 - a) Any current or future employer.
 - b) Any educational establishment.
 - c) Any senior manager of any organisation you work in or work for.

6. You must send your case officer evidence from a clinical line manager (who is a registered nurse), in writing, that you have successfully completed an assessed course and have been signed-off by your clinical manager as competent in the areas of:
 - medicines management and administration.
 - clinical record keeping.

7. You must work with your clinical line manager, mentor or supervisor to create a personal development plan (PDP). Your PDP must:
 - Be in writing.
 - Set measurable objectives which reflect the clinical misconduct identified in your practice, namely:
 - a. medicines management and administration,
 - b. record keeping, and
 - c. achieving resilience in your clinical practice.

 - How you will achieve / have achieved those objectives.
 - Include a timeline, agreed with your line manager, mentor or supervisor, by which you will meet those objectives.

8. With regard to your PDP, you must:
 - a) Send your NMC case officer a copy of your PDP within 7 days of it being put in place.
 - b) Meet with your clinical line manager, supervisor or mentor at least every month to discuss your progress in achieving the aims set out in your PDP.

- c) You must supply evidence to your case officer about how you have applied your learning in the clinical area, which is endorsed by your line manager.
 - d) Send your NMC case officer a report from your clinical line manager, supervisor or mentor 7 days before the next review hearing. This report must demonstrate what progress you have made towards achieving the aims set out in your PDP.
9. You must send a written reflective piece to your NMC case officer, a minimum of 7 days before the next review hearing. Your reflection will detail how you have demonstrated honesty and integrity in your nursing practice. It should also address how your actions have impacted on patients, colleagues and the wider public.'

The period of this order is for 12 months to allow sufficient time for you to demonstrate compliance to these conditions and address the concerns identified in order to aid your return to practising without restriction.

This conditions of practice order will come into effect on 27 April 2024 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:

- Up-to-date testimonials attesting to your clinical practice and integrity; and
- Certificated evidence of additional training you have completed to further strengthen your practice.

This will be confirmed to you in writing.

That concludes this determination.