

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

**Substantive Hearing  
Monday, 3 June 2024 – Friday, 7 June 2024  
Monday, 10 June 2024 – Wednesday, 12 June 2024**

Virtual Hearing

**Name of Registrant:** Dorota Amelia Krausiewicz

**NMC PIN** 17K0091E

**Part(s) of the register:** Nurses part of the register Sub part 1  
RNA: Adult nurse, level 1 (13 September 2018)

**Relevant Location:** Kent

**Type of case:** Misconduct

**Panel members:** Darren Shenton (Chair, Lay member)  
Des McMorrow (Registrant member)  
Margaret Stoddart (Lay member)

**Legal Assessor:** John Bassett

**Hearings Coordinator:** Eleanor Wills

**Nursing and Midwifery Council:** Represented by Uzma Khan, Case Presenter

**Miss Krausiewicz:** Present and represented by Sian Beavan,  
instructed by the Royal College of Nursing (RCN)

**No case to answer:** Charge 3c, 4 (in relation to charge 3c)

**Facts proved by admission:** Charges 1, 2a, 2b, 3a, 3b, 4 (in relation to charge  
3a and 3b), 5a, 5b, 6a, 6b, 6c, 6d, 7a, 7b

**Fitness to practise:** Impaired

**Sanction:** **Suspension order (6 months)**

**Interim order:** **Interim suspension order (18 months)**

## Details of charge

That you, a registered nurse:

1. On 16 July 2020 attended a patient's home in possession of a bag of white powder.  
**[PROVED BY ADMISSION]**
  
2. Carried out patient visits without accompanying supervision on:
  - a. 29 July 2020. **[PROVED BY ADMISSION]**
  - b. 30 July 2020 to patient C. **[PROVED BY ADMISSION]**
  
3. In respect of the 30 July 2020 visit to patient C at charge 2.b:
  - a. Completed patient record details to the effect that Colleague A had accompanied you, and carried out patient care with you, on the 30 July 2020 visit. **[PROVED BY ADMISSION]**
  
  - b. On 30 July 2020 in a voicemail to Colleague A stated words to the effect that she (colleague A) should '*put herself as a joint and you will just write it up*'.  
**[PROVED BY ADMISSION]**
  
  - c. On 30 July 2020 in a WhatsApp message to Colleague A stated words to the effect that she (colleague A) should '*put for Sunday ... 20 minutes lol*'. **[NO CASE TO ANSWER]**
  
4. Your action(s) at 3a and/or 3b and/or 3c was/were dishonest in that you knew colleague A had not accompanied you or carried out patient care with you during the 30 July 2020 visit to patient C. **[PROVED BY ADMISSION, in relation to charge 3a and 3b] [NO CASE TO ANSWER, in relation to charge 3c]**

5. On or around 29 January 2021 crossed off a dose of patient A's granulocyte-colony stimulating factor injection on the prescription (Community Medication Record) due to be given on:
  - a. 1 February 2021. **[PROVED BY ADMISSION]**
  - b. 2 February 2021. **[PROVED BY ADMISSION]**
  
6. Failed to query the prescription (Community Medication Record) at charge 5 above with any of:
  - a. Patient A's GP (prescribing clinician). **[PROVED BY ADMISSION]**
  - b. Hospital. **[PROVED BY ADMISSION]**
  - c. Your line manager. **[PROVED BY ADMISSION]**
  - d. A band 6 nurse. **[PROVED BY ADMISSION]**
  
7. Failed to escalate your concern about the prescription at charge 5 above to:
  - a. Your line manager. **[PROVED BY ADMISSION]**
  - b. A senior colleague. **[PROVED BY ADMISSION]**

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

## **Background**

You were referred to the NMC in April 2021 as a result of alleged incidents that arose whilst you were employed by Ashford Community Nursing Team at Kent Community Health NHS Foundation Trust (the Trust) as a Community Nurse.

The allegations against you are as follows:

On 16 July 2020 a bag of white powder dropped out of your pocket in a patient's home. An agency care assistant picked up the bag and it was subsequently passed to the police as

it was suspected to contain drugs. The police did not take any action. When asked about this during a local investigation, you stated that you had taken the bag from a friend as you were concerned for their welfare and had then forgotten that it was in your pocket when you attended a patient's house.

Whilst an internal investigation was undertaken in connection with the above incident, you were instructed by the Trust that you must be accompanied by a colleague for all patient visits, as an alternative to suspension.

On 29 July 2020, whilst the investigation into the above matter was ongoing, you visited a patient alone despite having received written and verbal instructions that you were not to complete any independent visits.

On 30 July 2020, whilst the investigation into the above matter was ongoing, you again visited a Patient (Patient C) alone despite having received instructions that you were not to complete any independent visits.

Having visited Patient C alone on 30 July 2020, you asked a Colleague (Colleague A) to falsify patient records by recording that they had attended the visit with you.

Having visited Patient C alone on 30 July 2020, you falsified patient records, by recording that you had attended the visit with Colleague A.

You were suspended by the Trust on 31 July 2020, whilst these additional allegations were investigated.

On 1 August 2020, you provided the Trust with a written statement, in which you accepted that on 30 July 2020, you had visited Patient C alone.

On 10 August 2020, you provided the Trust with a further written statement, in which you accepted that on 29 July 2020, you had visited a patient alone.

As a result, you were interviewed by the Trust on 28 August 2020, during which you acknowledged that you were aware of the restriction on your duties, and you admitted that you had visited a patient alone on 29 July 2020 and had visited Patient C alone on 30 July 2020. You also accepted that you had documented your visit with Patient C on 30 July 2020 as a *'joint'* visit with Colleague A in Patient C's records, and you acknowledged that this was not an accurate account. Further you admitted that you had asked Colleague A to falsify Patient C's records, in that you asked her to state that it had been a *'joint'* visit.

On 29 January 2021, you attended a Patient's home (Patient A), to administer their Granulocyte-Colony Stimulating Factor (GCSF) injection. You crossed off two doses of GCSF on Patient A's Community Medicines Referral (CMR), thereby altering a CMR without the prescriber's instruction. You did not sign, date or give a reason for your amendments to the CMR. You are not a registered prescriber. You did not contact the prescriber/Patient A's GP or your manager before or after amending Patient A's CMR. You confirmed that you had in fact crossed off two doses of GCSF on Patient A's CMR and were unable to provide any explanation as to why you did not date, sign or include a reason for the amendments. Further you accepted that you did not consult Patient A's GP/the prescriber.

On 13 April 2021 a disciplinary meeting was held by the Trust, at which you were present. On the same day you were dismissed from your employment with the Trust.

### **Decision and reasons on application of no case to answer**

The panel considered an application from Ms Beavan that there is no case to answer in respect of charge 3c and the accompanying section of charge 4. This application was made under Rule 24(7).

In relation to this application, Ms Beavan submitted that there is no evidence upon which a panel properly directed could make a finding against you in relation to charge 3c and the accompanying section of charge 4. She submitted that the wording of charge 3c suggests you were seeking to impose a duty on, or giving an instruction to Witness 1, with the word *'should'* being used within the charge. She submitted that this indicated that the NMC's

case is that the WhatsApp message denoted something that you were telling Witness 1 to do. Ms Beavan submitted that it was not intended that way, nor was it taken that way by Witness 1. Ms Beavan submitted that Witness 1 was very clear in her evidence that she understood this message to simply be you reporting something that you had done yourself already, and not an instruction for her to do something. Ms Beavan therefore submitted that there is no evidence to support charge 3c and as a result there is no accompanying dishonesty as stated in charge 4, in relation to charge 3c. In these circumstances, it was submitted that this charge should not be allowed to remain before the panel.

Ms Khan submitted that the panel is aware of how charge 3c is drafted and the terminology used. Further she highlighted that the panel has heard Witness 1's evidence. She submitted that it is a matter for the panel to determine whether or not it is satisfied, upon the evidence presented that there is sufficient evidence to proceed with charge 3c and the accompanying section of charge 4.

The panel took account of the submissions made and heard and accepted the advice of the legal assessor.

In reaching its decision, the panel has made an initial assessment of all the evidence that had been presented to it at this stage. The panel was solely considering whether sufficient evidence had been presented, such that it could find the facts proved and whether you had a case to answer in relation to charge 3c and the accompanying section of charge 4.

The panel had regard to the evidence provided by Witness 1 given in her oral evidence and witness statement signed and dated 27 July 2022. Further the panel took into account Witness 1's statement regarding the incident on 30 July 2020, which she gave during the local investigation undertaken by the Trust. The panel noted that Witness 1 was consistent and clear in her evidence that the WhatsApp message she received was written as follows:

*"PS, [Patient C] I patched wound well so put for Sunday WM. 20 minutes lol".*

The panel noted that during Witness 1's oral evidence she clarified that WM, stood for wound management. The panel took into account that during Witness 1's oral evidence she stated that she interpreted the message at the relevant time and to date, as you reporting to her what you had done; in that you had organised another further visit for the forthcoming Sunday to undertake wound management, which would take 20 minutes.

The panel also had regard to Patient C's records regarding the visit you undertook on 30 July 2020. The panel noted the entry into Patient C's record of care '*For dressing change on Sunday*'. The panel took into account that Witness 1 in her oral evidence confirmed that this entry was made by you.

The panel had regard to the terminology of charge 3c:

*"On 30 July 2020 in a WhatsApp message to Colleague A stated words to the effect that she (colleague A) should 'put for Sunday ... 20 minutes lol'."*

The panel noted the wording of the charge, in that you were instructing Colleague A to '*put for Sunday....20 minutes lol*'.

In light of Witness 1's oral evidence and Patient C's records, the panel was of the view that there was nothing contained in the message, in its entirety, to indicate that you were inviting/instructing Witness 1 to make an entry on Patient C's record on your behalf. Further, the panel was of the opinion that you were simply informing Witness 1 that you had arranged a future appointment to follow up on Patient C's wound management and had given an indication as to how long that appointment would take.

The panel determined that, taking account of all the evidence before it, there was not a realistic prospect that it would find the facts of charge 3c proved. Therefore, there is no case for you to answer in respect of charge 3c and as a result the accompanying section of charge 4, in relation to charge 3c, is no longer for the panel's consideration.

### **Decision and reasons on facts**

At the outset of the hearing, the panel heard from Ms Beavan on your behalf, who informed the panel that you made full admissions to charges 1, 2a, 2b, 3a, 3b, 4 (in relation to charge 3a and charge 3b), 5a, 5b, 6a, 6b, 6c, 6d, 7a, 7b.

The panel therefore finds charges 1, 2a, 2b, 3a, 3b, 4 in relation to charge 3a and charge 3b), 5a, 5b, 6a, 6b, 6c, 6d, 7a, 7b proved, by way of your admissions.

The panel noted that, given that the application of no case to answer has been allowed in respect of charge 3c and therefore the corresponding component of charge 4 is also no longer for the consideration of the panel, there are no disputed facts for the panel's consideration.

### **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

At this stage, you gave evidence under oath as to whether the charges found proved amount to misconduct and whether your fitness to practise is currently impaired.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of that misconduct.



## Submissions on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a ‘*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*’

Ms Khan invited the panel to take the view that the facts found proved amount to misconduct. She submitted that the panel should have regard to the terms of ‘The Code: Professional standards of practice and behaviour for nurses and midwives 2015’ (the Code) in making its decision.

Ms Khan identified the specific, relevant standards where your actions amounted to misconduct. Ms Khan submitted that the facts found proved breached sections of the Code, which she outlined.

Ms Khan submitted that you breached the fundamental tenets of the nursing profession. She submitted that you were in possession of a potentially illegal item, the ‘*white powder*’, and took it into a patient’s home. You visited patients’ homes alone, in direct contravention to both verbal and written orders you had received from your employer, the Trust. You falsified Patient C’s records and directed Colleague A to also falsify Patient C’s records on your behalf. Further you autonomously decided to reduce Patient A’s injections outside your scope of practice, and without the relevant advice or authority, and despite it being contrary to Patient A’s prescription. Ms Khan submitted that although there is no evidence before the panel to suggest that any patients were harmed by your conduct, there was a considerable risk of harm.

Ms Khan submitted that the facts found proved against you are a departure from the professional standards expected of a Registered Nurse and are sufficiently serious to amount to misconduct.

Ms Beavan on your behalf, acknowledged that the charges, with the exception of charge 3c and the accompanying section of charge 4, have been found proved by way of your

admissions. She therefore submitted given the nature and number of said charges, that it is conceded that the facts found proved by way of your admissions, amounted to misconduct.

### **Submissions on impairment**

Ms Khan moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and *Cohen v General Medical Council* [2008] EWHC 581 (Admin).

Ms Khan submitted that you are currently impaired and that the 'limbs' of the Grant test can be answered in the affirmative. Ms Khan submitted that the facts found proved have breached the fundamental tenets of the profession and are significant and varied.

Ms Khan submitted that there was a risk of harm to patients whilst you were being investigated by the Trust in respect of the 'white powder' as it was unclear whether you were using the 'powder' yourself and therefore whether you posed a direct risk to the patients. She submitted that falsifying records means that patient records do not accurately reflect what has occurred and therefore patients are put at risk as well as colleagues if other healthcare professionals rely on the accuracy of the records. She submitted that crossing off medication could have led to a patient not having access to the medication they needed, which consequently would have an impact on how they responded to treatment and again placed them at potential risk of harm.

Ms Khan submitted that you have shown limited insight to date in respect of the 'white powder' incident, charge 1. She submitted that you accepted the item was on your person but suggested that you had forgotten that you had it in your possession. Further when this allegation was put to you during your interview, undertaken by the Trust in their local investigation, Ms Khan submitted that you gave no explanation as to why it is that you had

not disposed of the '*white powder*' immediately. She submitted that if the powder itself was so significant that you removed it from your friend, as you alleged, then consequently the item should have been of significance enough for you to have remembered you had it in your possession and that you had a duty to dispose of it in an appropriate way. Ms Khan submitted that due to the limited insight shown by you, that in these circumstances the panel might not be satisfied that there is no risk repetition if you were allowed to practise unrestricted.

Ms Khan submitted that in relation to charge 2 it was made clear to you on multiple occasions that you were not to undertake visits with patients independently. However, Ms Khan submitted that within just hours of being reminded of this restriction on your practice you decided to visit a patient without another staff member being in attendance, therefore directly disobeying an order from a manager. Ms Khan submitted that at the time you knew you were under investigation for another serious matter and that in itself was not a sufficient deterrent to secure your professional behaviour or your compliance with direct orders. Therefore, Ms Khan submitted that there is a risk of repetition.

In relation to charge 3, Ms Khan submitted having visited a patient alone, knowing that this was not permitted, you went on to falsify records yourself and then also invited a colleague to do so, not only putting your registration at risk but also encouraging a colleague to do put their registration at risk. She submitted in doing so your actions were dishonest, as found proved by way of admission in charge 4. Ms Khan submitted that dishonesty is not a type of behaviour that can be easily remedied and is indicative of attitudinal issues. She submitted that if the panel does find that this conduct is remediable then her submission is that it has not been adequately remedied in this case. Ms Khan submitted that your reflections are self-serving in that you attempt to justify your actions before suggesting, by way of explanation, as to why it is these matters might have occurred. Ms Khan submitted that your remorse and acceptance are therefore limited. Further Ms Khan highlighted that despite the ongoing local investigation by the Trust, you were not deterred in your actions, in that you not only visited a patient alone on the 29 July 2020 but also the following day on 30 July 2020 and sought to falsify records to hide this. Ms Khan submitted that despite the passage of time, you continue to have limited insight into the seriousness of the conduct found proved and the impact your actions might have had on your patients,

colleagues and the wider nursing profession and therefore there remains a risk of repetition.

In relation to charges 5-7, Ms Khan submitted that you accepted that you were considerably distracted and again provided an explanation for your actions. Ms Khan submitted that your explanation was unclear and confusing as to why you varied the dosage of the medication for Patient A. Further she informed the panel that ultimately you were unauthorised to make the amendment to the medication. Ms Khan submitted that in your reflective piece you suggested that Patient A showed you another prescription with a different dosage which caused you some confusion. Ms Khan submitted that this again demonstrates you shifting the blame. She submitted that you acted unnecessarily outside the scope of your limitations and could have proactively queried the prescription as you had sufficient time to do so. Ms Khan submitted that you attempted to justify your behaviour again and do not appreciate the gravity of your actions or the impact on the patient and therefore there is a risk of repetition due to your limited insight.

Ms Khan submitted that in relation to all the charges that the facts found proved raise fundamental concerns about your attitude, professionalism, and trustworthiness as a Registered Nurse. She submitted that you have limited insight and remorse and that there is little evidence of strengthening of practice and therefore there is an ongoing risk of repetition and subsequent risk of harm.

Ms Khan submitted that you have breached core tenets of the nursing profession and specifically you have breached the requirement to be honest and act with integrity. She submitted that a finding of impairment is required in order to maintain public confidence in the profession and to uphold proper professional standards. She submitted that public confidence in the profession would be undermined if such behaviour was not marked as unacceptable.

Ms Khan therefore invited the panel to make a finding that your fitness to practise is currently impaired.

Ms Beavan on your behalf, highlighted to the panel that the issue of impairment is a present day and not a retrospective test. She submitted that the conduct which led to these charges dated back between three to four years ago. She submitted that during that time, you have remained working without restriction and without further incident. Ms Beavan informed the panel that you have made a number of very candid admissions regarding your conduct and the charges you face. She submitted that you have admitted to all of the proven charges with the one remaining matter having been dealt with by way of a finding of no case to answer.

Ms Beavan submitted that you have provided the panel with several very detailed reflections which demonstrate that you have been able to objectively evaluate your failings and the decisions which led to the conduct that took place. She submitted that you have taken responsibility for your actions. Ms Beavan submitted that it is not accepted that your reflections or indeed your oral evidence is self-serving, but that it is submitted that you have reflected deeply and accepted the wrongdoing of your actions and are remorseful. Ms Beavan submitted that you have reflected on your character and sought to understand why it is you behaved in such a way.

Ms Beavan submitted that you have been open and cooperative with the internal investigation and have then gone on to admit all of the proven charges before the NMC. She submitted that you have not sought to hide or shy away from your actions and recognise the very serious errors in your judgment. Ms Beavan submitted that your actions were not born out of malice or self-gain but from a sense of trying to do right by others, albeit you accept in a completely wrong way.

Ms Beavan submitted that you recognise that in confiscating the unknown '*white powder*' your actions were foolish and not in keeping with the standards of the profession. However, Ms Beavan submitted that you did so instinctively in order to protect a friend who was vulnerable at that time. Ms Beavan submitted that it was the wrong action done with good intentions and that this is repeated to some extent in relation to your decisions to attend patient visits alone when you were under restricted duties. She submitted that you did so in order to help your colleagues, as everyone was working under difficult circumstances during the COVID-19 period. Ms Beavan submitted that you again

recognise that this was poor judgment on your part, but she submitted that it was motivated by a sense of trying to help at the time.

Ms Beavan submitted that in relation to your dishonest conduct that you have reflected at length about your foolish actions and that you understand cases of dishonesty are more difficult to remediate. However, Ms Beavan sought to remind the panel that simply because something is more difficult does not make it tantamount to impossible to put right. She submitted that you have provided reflections and have demonstrated insight into what led to the conduct at the time and have sought to reassure the panel that it will not occur again. Ms Beavan submitted that in relation to the scale of seriousness of dishonesty that your conduct falls on the less serious end in that there was no misuse of power, no direct personal or financial gain, no premediated or systemic deception. She submitted that the dishonesty was spontaneous and occurred in an isolated event, namely in relation to your visit to Patient C on 30 July 2020.

Ms Beavan submitted that you have undergone training to understand the importance of honesty and communication and that you realised through this training that your lack of self confidence in your pursuit of being liked and being seen as a team player contributed to your poor decision making. She submitted that you have identified the root cause which underpinned your dishonest actions and have taken action to rectify your '*character flaw*'. Ms Beavan submitted that you have been candid with the panel and have reassessed how you handle when others ask you for favours and are direct with people in ensuring that you do not become easily distracted. She submitted that you have grown in confidence having questioned your motivations for how you acted in the past.

Ms Beavan referred the panel to the testimonials provided by colleagues and submitted that it is evident that you are well liked and well respected. She submitted that you have opened up to your colleagues about your past conduct and reflected with them about your actions and sought advice. Ms Beavan submitted that this along with your cooperation with both the internal investigation and with the NMC demonstrates your commitment going forward in an honest and open manner.

Ms Beavan therefore submitted that there is strong supporting evidence that you have remedied your dishonest conduct.

Further Ms Beavan sought to highlight to the panel that witnesses who investigated this matter, gave previous statements which included their opinion on how they felt that you came across. Ms Beavan drew the panel's attention to the importance of bearing in mind cultural and linguistic differences in a case like this and reminded the panel that it is not the opinion of others that matters, it is whether the panel is satisfied that you have shown necessary insight and remediation.

Ms Beavan submitted that you do acknowledge and understand the seriousness of your actions. She submitted that you have continued to work without restriction for the past three years and have undertaken training in all areas of your practice and sought out additional training. Ms Beavan submitted that you have been able to demonstrate through your continued practice that you can practise safely, competently, kindly, and professionally. Ms Beavan submitted that you are not an individual with an attitudinal issue or someone who is in some way incompatible with the nursing profession but simply an individual who made some significant errors of judgment that were borne from a kind heart. She submitted, that you have since sought to rectify your errors, by both reflecting within yourself and with others and have continued to work on your practice to ensure the public's trust and confidence in the profession is upheld.

Ms Beavan therefore invited the panel to return a finding of no current impairment.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council (No 2)* [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin), and *Cohen v General Medical Council* [2008] EWHC 581 (Admin).

## **Decision and reasons on misconduct**

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

***'1 Treat people as individuals and uphold their dignity***

*To achieve this, you must:*

***1.2 make sure you deliver the fundamentals of care effectively.***

***2 Listen to people and respond to their preferences and concerns.***

*To achieve this, you must:*

***2.1 work in partnership with people to make sure you deliver care effectively.***

***8 Work co-operatively***

*To achieve this, you must:*

***8.2 maintain effective communication with colleagues***

***10 Keep clear and accurate records relevant to your practice.***

*This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.*

*To achieve this, you must*

***10.2 identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need.***



**10.3** complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements.

**10.4** attribute any entries you make in any paper or electronic records to yourself, making sure they are clearly written, dated and timed, and do not include unnecessary abbreviations, jargon or speculation.

### **13 Recognise and work within the limits of your competence**

To achieve this, you must, as appropriate:

**13.2** make a timely referral to another practitioner when any action, care or treatment is required.

**13.3** ask for help from a suitably qualified and experienced professional to carry out any action or procedure that is beyond the limits of your competence.

**13.4** take account of your own personal safety as well as the safety of people in your care.

### **18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations.**

To achieve this, you must:

**18.1** prescribe, advise on, or provide medicines or treatment, including repeat prescriptions (only if you are suitably qualified) if you have enough knowledge of that person's health and are satisfied that the medicines or treatment serve that person's health needs.

**18.3** make sure that the care or treatment you advise on, prescribe, supply, dispense or administer for each person is compatible with any other care or

*treatment they are receiving, including (where possible) over-the-counter medicines.*

**19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice.**

*To achieve this, you must:*

**19.1** *take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place.*

**20 Uphold the reputation of your profession at all times.**

*To achieve this, you must:*

**20.1** *keep to and uphold the standards and values set out in the Code.*

**20.2** *act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment.*

**20.3** *be aware at all times of how your behaviour can affect and influence the behaviour of other people.*

**20.8** *act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to.'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that the facts found proved against you amounted to misconduct. The panel noted that your failings are numerous, serious and relate to your professional conduct.

In relation to charge 1 the panel noted the wording of the charge in that it has been found proved by your admission, that you '*attended a patient's home in possession of a bag of white powder*'. The panel noted that it has no evidence before it to ascertain what exactly

the white powder was. However, the panel took into account your actions at the time, in that you stated you came into possession of the '*white powder*' as you considered it necessary to take the '*white powder*' off of a friend to protect him, given his mental state at the time. Further the panel had regard to your oral evidence given under oath, and it was of the view that you clearly thought that the '*white powder*' was an illegal drug.

The panel took into consideration that the '*white powder*' was then in your possession for two days until it dropped from your pocket in a patient's house. The panel was mindful that you stated you were going to give the '*white powder*' to the police, but that you forgot the '*white powder*' was in your possession. The panel noted that you therefore did not dispose of the suspected drug in an appropriate manner. Further the panel took into account that upon reflection you acknowledged that had the '*white powder*' in fact been an illegal drug as you thought it was, that your conduct would have put patients at risk of harm. The panel determined that, when you visited the patient's home, you remained in actual possession of what you thought to be an illegal drug. As such your conduct found proved amounted to misconduct.

In relation to charge 2, the panel determined that your conduct found proved amounted to misconduct, in that you directly disregarded an order given by your managers, in the Trust verbally and in writing. The panel had regard to the fact that you undertook unsupervised visits with patients on two occasions, having been directly ordered not to, whilst you were being investigated for the previously raised '*white powder*' concern.

In relation to charge 3 and 4, the panel concluded that your conduct found proved by your admission, amounted to misconduct in that you falsified Patient C's record and encouraged a colleague to also falsify Patient C's record on your behalf, and in doing so you were aware that you were being deliberately dishonest.

In relation to charge 5-7, the panel determined that your conduct found proved amounted to misconduct, in that you autonomously decided to alter Patient A's medication without the correct consultation and authorisation by an appropriate healthcare professional.

The panel found that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

### **Decision and reasons on impairment**

The panel next went on to decide if as a result of the misconduct, your fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

*‘The question that will help decide whether a professional’s fitness to practise is impaired is:*

*“Can the nurse, midwife or nursing associate practise kindly, safely and professionally?”*

*If the answer to this question is yes, then the likelihood is that the professional’s fitness to practise is not impaired.’*

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients’ and the public’s trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

*‘In determining whether a practitioner’s fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be*

*undermined if a finding of impairment were not made in the particular circumstances.'*

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

*'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:*

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel was satisfied that all four limbs of the Grant "test" were engaged.

The panel determined that patients were put at risk of harm as a result of your misconduct, in that you brought a potentially illegal drug into a patient's home, and you amended Patient A's medication without having the correct authority to do so or having consulted an appropriate healthcare professional. The panel determined that your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that you did in the past act dishonestly, in light of your admissions to charges 3a, 3b and the accompanying section of charge 4.

Regarding insight, the panel considered that you have engaged with proceedings and have made admissions to all the charges found proved. The panel noted that you have demonstrated an understanding of how your actions put the patient at a risk of harm, in relation to charge 1. In relation to your conduct in charges 5-7, the panel was of the view that you did not provide a sufficiently clear or cogent explanation for how the alteration in the medication came about and therefore did not appear to have a full understanding of the risk your conduct posed to the patient. Further the panel was of the view that you did not have a full understanding of how your conduct, in relation to charge 2, in that you disobeyed direct orders from your superiors, poses a risk of harm to patients in the future. The panel noted that you demonstrated an understanding of why what you did was wrong however you had a limited understanding of how this impacted negatively on the reputation of the nursing profession. The panel had regard to the fact that you were genuinely remorseful for your past conduct. However, the panel was of the view that you have not sufficiently articulated how you would handle a similar situation, in which you felt the need to depart from any guidance, standard operating procedure or instructions, differently in the future. The panel was therefore of opinion that your insight is currently developing.

The panel noted that dishonest conduct is inherently not easy to remediate but given the circumstances in which the dishonest conduct arose, the panel was satisfied that the misconduct in this case is capable of being addressed. The panel did however note that the charges before it are very serious in nature, especially those relating to your dishonest conduct in that they relate directly to your nursing practice and involved the encouragement of another colleague to be dishonest.

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 reflective pieces you have undertaken and the relevant training and testimonials you have provided. The panel was of the view that the reflective pieces demonstrated limited insight in that you have not demonstrated an understanding or analysis of the root cause of your misconduct. The panel noted that the training you have undertaken mostly included mandatory training and that the additional training you undertook in May 2024, specifically to address the dishonest conduct, was a 3-hour online course in honesty and

communication. The panel was of the view that this training was not sufficient to satisfy the panel that you have strengthened your practice to sufficiently mitigate the public protection concerns. The panel acknowledged that you have worked unrestricted for the past three years without incident. However, the panel was mindful that you have practised in an acute medical ward, not autonomously in a community setting since the concerns arose.

The panel determined that there is a risk of repetition of the charges found proved in light of your developing insight and the limited evidence provided to it at this time to demonstrate your strengthening of practice. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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.

The panel determined that a finding of impairment on public interest grounds is required in light of the fact that you deliberately disobeyed direct orders from your superiors which were given on numerous occasions, you then falsified records and asked a colleague to falsify records on your behalf, in order to cover up the fact that you directly disobeyed orders. Further you altered a patient's prescription without the correct authority to do so. Therefore, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case. The panel also determined that a finding of impairment on public interest grounds is required in order to mark the seriousness of your dishonest conduct and to uphold the standards of the profession.

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

## **Sanction**

The panel has considered this case very carefully and has decided to make a suspension order for a period of 6 months. The effect of this order is that the NMC register will show that your registration has been suspended.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

### **Submissions on sanction**

Ms Khan informed the panel that in making its determination, the panel should first consider proportionality, in that it should find a fair balance between your rights and the overarching objective of the NMC, which is public protection.

Ms Khan invited the panel to consider the following aggravating features that have been identified in the facts found proved.

- Limited insight
- Conduct which put patients at risk of harm

Ms Khan invited the panel to impose a suspension order for a period of 6 months, in line with the sanction bid provided to you in your Notice of Hearing on 24 April 2024, in order to maintain public confidence in the profession and declare and uphold professional standards. She submitted that the alternative disposals would not protect the public nor address the public interest concerns.

Ms Khan submitted that your misconduct caused Patient A distress which amounts to actual harm and that your decision-making failures throughout are directly linked to your practice as a nurse. She submitted that your failure to demonstrate a meaningful level of insight, remorse and remediation are also indicative of an attitudinal problem.

Ms Khan submitted that no further action or a caution order are not suitable in this case given the seriousness of the facts found proved. She submitted that a conditions of



practice order would not be an appropriate sanction as it is difficult to remediate attitudinal concerns or dishonesty. Further she submitted that a conditions of practice order could not be formulated which would sufficiently address the public protection or public interest concerns identified in this case given the serious nature of the facts found proved.

Ms Khan submitted that in relation to the imposition of a suspension order that you have developing insight in relation to your dishonest conduct, medication administration and management issues identified. She submitted that in this case the misconduct is not fundamentally incompatible with you remaining on the register and therefore a suspension order would be appropriate and proportionate in this case. Further she submitted that a suspension order is necessary to mark the importance of maintaining public confidence in the profession and to send a clear message to the public and the profession regarding the standards of behaviour expected of a Registered Nurse.

Ms Khan invited the panel to impose a suspension order for a period of six months as the appropriate and proportionate order, having considered the impact any period of suspension would have on you and the need to protect the public and address the public interest.

Ms Beavan, on your behalf, submitted that a conditions of practice order would be sufficient to protect the public and address the public interest concerns identified.

Ms Beavan informed the panel that you have been practising as a Registered Nurse for three almost four years since the concerns arose, with no further incident having arisen. She submitted that any risk you pose is therefore manageable by conditions as evidenced by your prolonged period of good and safe practice. Ms Beavan referred the panel to the testimonials you provided from colleagues in support of your practice and submitted that they are overwhelmingly positive about your work and attitude. Ms Beavan submitted that you have continued to reflect on your previous conduct alone and with the assistance of colleagues.

Ms Beavan submitted that a suspension order is not required to mark the seriousness of your past conduct, nor is it required to uphold public confidence. Ms Beavan submitted

that a well-informed member of the public appraised of the entire case would not be concerned to find that you are practising under a conditions of practice order.

Ms Beavan highlighted that the panel had previously stated that you have demonstrated genuine remorse and that your insight was developing. She submitted that a conditions of practice order would allow you a further opportunity to develop your insight and remedy your past errors whilst in practice. Ms Beavan submitted that you have clearly demonstrated that you want to right your past wrongdoings and she invited the panel to impose a conditions of practice order to support you in doing so.

Ms Beavan invited the panel to consider the following conditions.

- Indirect supervision
- Maintaining a reflection log and/or attending regular meetings with a manager/supervisor/mentor to address the issues of:
  - Honesty and integrity
  - Self confidence in your practice
  - Medication administration and management
  - Record keeping

Regarding mitigating features, Ms Beavan submitted that no actual harm did in fact come to any patient. She submitted regarding your personal circumstances that you qualified as a Registered Nurse in 2018, therefore you were relatively inexperienced in 2020. Further she submitted that you were working alone in a community setting during COVID and that your initial induction and support in the workplace was somewhat limited.

Ms Beavan outlined how you would be impacted by the imposition of a suspension order if the panel were minded to impose one. She submitted that you are currently practising as a Registered Nurse employed by an agency, on an Acute ward in a local hospital. She informed the panel that recently you have been able to obtain fewer shifts which has resulted in financial difficulties. She informed the panel that you have no family in the UK and that your only relatives are based abroad. Ms Beavan submitted that you live alone

with your dog and have financial responsibilities which would be difficult to maintain if a suspension order were to be imposed.

### **Decision and reasons on sanction**

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- A pattern of misconduct over a period of time.
- Conduct which put patients at risk of suffering harm.
- A breach of duty of candour.

The panel also took into account the following mitigating features:

- Your admissions
- Evidence of your developing insight, including your remorse
- Evidence of a period of three almost four years of good practice, since the concerns arose.

The panel considered factors of personal mitigation but, in light of the facts found proved by your admissions, determined to attach little to no weight to them.

The panel was of the view that the charges before it, in their entirety are serious in nature involving dishonest conduct. The panel then considered where on the spectrum of dishonesty your dishonest conduct falls. The panel noted that your dishonest conduct involved you directly disobeying verbal and written orders and then falsifying patient

records to cover up your actions. Further you then encouraged a colleague to falsify patient records on your behalf to help you cover up your actions. The panel determined that you did not act with honesty and integrity, which is a fundamental tenet of the nursing profession. The panel took into account that your dishonest conduct was reasonably spontaneous in that it was limited to a 24-hour period. The panel noted that you stated you disobeyed the orders in order to help your team members, given that there was an apparent high workload. The panel took into consideration that you did not receive any direct personal gain or financial gain, as a result of your dishonest conduct. The panel therefore determined given the contextual circumstances, that your dishonest conduct was not at the highest end of the spectrum of dishonesty.

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 and public interest concerns 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 placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel took into account that you have engaged with the local investigation and your regulator and have practised as a Registered Nurse without incident since these concerns arose. The panel was of the view that your insight is still developing and that there is limited evidence of strengthening of your practice at this time. The panel also noted that

your dishonest conduct could be indicative of an attitudinal problem which is inherently difficult to remediate. The panel was of the view that practical and workable conditions could be formulated to address the public protection concerns identified in relation to your medication administration and management errors but not in relation to your dishonest conduct. The panel therefore determined that the placing of conditions on your registration would not adequately protect the public.

Furthermore, the panel was of the view that a conditions of practice order would not address the public interest. The panel was of the view that a well-informed member of the public, appraised of the context of the case, would be very concerned to learn that you had been allowed to practise under a conditions of practice order given the serious nature of the charges found proved.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel was of the view that your dishonest conduct was isolated to a 24-hour period but could not be addressed by a conditions of practice order. The panel noted that your dishonest conduct might be indicative of an attitudinal problem but determined there is no evidence before it of 'harmful' or 'deep-seated' personality or attitudinal problems. The panel took into account that you have been practising as a Registered Nurse since the concerns arose and that there has been no evidence of repetition of the behaviour. The panel previously determined that there is a risk of repetition given the limited evidence of your strengthening of practice and developing insight at this time. In light of the contextual circumstances and the panel's determination that your dishonest conduct was not at the

highest end of the spectrum of dishonesty, the panel was satisfied that in this case, the misconduct was not fundamentally incompatible with you remaining on the Register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction to sufficiently protect the public and address the public interest.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a Registered Nurse.

The panel determined that a suspension order for a period of six months was appropriate in this case to mark the seriousness of the misconduct and to allow you the opportunity to develop your insight.

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 or extend the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Your continued engagement and attendance at any future hearing
- A further detailed reflection particularly addressing the subject of honesty, probity and ethics.

- Evidence of your strengthening of practice and maintenance of your professional skills.
- Evidence of further testimonials and character references, which reference your enhanced insight, from employers and/or friends.

This will be confirmed to you in writing.

### **Interim order**

As the suspension order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until the suspension sanction takes effect. The panel heard and accepted the advice of the legal assessor.

### **Submissions on interim order**

The panel took into account the submissions made by Ms Khan. She invited the panel to impose an interim suspension order. She informed the panel that you have a right to appeal this order and that this order does not come into effect until a 28-day period has elapsed and, she submitted the concerns during this period would obviously stay the same. She invited the panel to impose the interim suspension order on the same reasons that have been previously set out in the panel's decision for the substantive suspension order, in order to protect the public and address the public interest. Ms Khan invited the panel to impose the interim suspension order for a period of 18 months in order to cover the length of any appeal period.

The panel also took into account the submissions of Ms Beavan on your behalf. Ms Beavan did not oppose the application to impose an interim suspension order. Ms Beavan however cautioned the panel against imposing the interim suspension order for the maximum period, 18 months in light of the fact that it was only deemed necessary to impose a substantive suspension order for a period of 6 months in this case.

## **Decision and reasons on interim order**

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months in order to cover the length of any appeal period.

If no appeal is made, then the interim suspension order will be replaced by the substantive suspension order 28 days after you are sent the decision of this hearing in writing.

That concludes this determination.