

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

**Substantive Hearing  
Tuesday, 22 October 2024 – Thursday, 24 October 2024  
Monday, 28 October 2024 – Friday, 1 November 2024**

Virtual Hearing

**Name of Registrant:** Rufus Akintimehin

**NMC PIN:** 20E0385E

**Part(s) of the register:** Nurses Part of the Register – Sub Part 1  
RNA: Adult nurse, Level 1 (23 September 2020)

**Relevant Location:** London

**Type of case:** Misconduct

**Panel members:** Clara Cheetham (Chair, Lay member)  
Rosalyn Mloyi (Registrant member)  
Jane Dalton (Lay member)

**Legal Assessor:** Nigel Ingram (22 – 24 October 2024)  
Michael Hosford-Tanner (28 October 2024 – 1  
November 2024)

**Hearings Coordinator:** Zahra Khan

**Nursing and Midwifery Council:** Represented by Emmanuel Coniah, Case Presenter

**Mr Akintimehin:** Present and represented by James Marsland,  
instructed by The Royal College of Nursing (RCN)

**Facts proved by admission:** Charges 1d (iii), 1d (iv), 1e, 2b (i), and 2b (ii)

**Facts proved:** Charges 1a, 1b, 1c, 1d (i), 1d (ii), 2a, 2c (i), 2c (ii), 2c  
(iii), and 3 (only in relation to charges 1a, 1b, 1c, 1d  
(i), 1d (ii), 2a, 2b (i), and 2b (ii))  
Charge 3 (only in relation to charges 1d (iii) and 1d  
(iv))

**Facts not proved:**

**Fitness to practise:**

**Stage not reached**

**Sanction:**

**Stage not reached**

**Interim order:**

**Interim conditions of practice order replaced with interim suspension order**

## **Decision and reasons on application for hearing to be held in private in respect of [PRIVATE]**

At the outset of the hearing, Mr Coniah, on behalf of the Nursing and Midwifery Council (NMC), made a request that the entirety of this case be held in private on the basis that proper exploration of your case involves references to [PRIVATE] which is intrinsically linked and there may be references to [PRIVATE] made by other witnesses or by you. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Marsland, on your behalf, did not oppose 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.

The panel determined to go into private session in connection with [PRIVATE] as and when such issues are raised in order to [PRIVATE]. The panel determined that it would be possible to go in and out of private session to do so, as opposed to hearing the entirety of the case in private, which would not be justified.

## **Decision and reasons on application for special measures to be put in place in relation to Patient A under Rule 23**

Mr Coniah, on Day 1 of the hearing, made a request for special measures to be put in place to assist Patient A in giving her best evidence. He informed the panel that Patient A had indicated that she did not wish to be seen by you whilst she gave her evidence, nor did she wish to see you either.

Mr Coniah submitted initially that, since this is a virtual hearing, the request is for your camera and audio to be turned off throughout the duration of Patient A's evidence. However, he then submitted that this would not meet Patient A's request as you would still be able to see her. A solution would be for you to dial into the hearing, as opposed to joining with your camera, so that you can only hear Patient A and not see her, and she cannot see or hear you.

Mr Coniah submitted that any perceived unfairness can be mitigated by the fact that you are legally represented by Mr Marsland who will be able to take observations and feed them back to you as he will be able to see Patient A.

Mr Marsland had no objection to your camera being off but objected to you having to dial into the hearing as he submitted that you are entitled to see all of the evidence.

Mr Marsland submitted that it goes beyond striking the proportional balance between having special measures in place to put Patient A at ease when giving her evidence without allowing you to see her giving her evidence against you. He submitted that it does not appear obvious as to what the extra distress would be to Patient A if you were able to see her giving her evidence with your camera and audio off.

The panel accepted the advice of the legal assessor. He referred to Rule 23, in particular, Rule 23 (1) which sets out a number of ways that a witness may be treated as a vulnerable witness. He also referred to Rule 23 (2) and Rule 23 (3) which includes the measures that the panel can adopt as it considers necessary to enable it to receive evidence from a vulnerable witness. He reminded the panel of your right to a fair hearing.

The panel granted Mr Coniah's application.

The panel determined that Patient A is a vulnerable witness and accepted that Patient A should not be able to see (or to be seen by) you, or to hear you, but you will be able to hear her. If the hearing had been in person, then the panel considered that steps would be

taken to ensure that Patient A would not see you or hear you, and you would not see her, and a similar protection was necessary in this virtual hearing.

The panel considered whether this would be unfair to you. However, it noted that you are legally represented which mitigates any potential unfairness.

The panel therefore determined that, in order to best assist Patient A in giving her evidence, you will dial into the hearing room and your audio will remain muted for the entirety of Patient A's evidence, so that Patient A cannot see or hear you, and you will not see Patient A, although you will be able to hear her evidence.

### **Details of charge**

1) On 12 July 2021;

- a) Grabbed/touched Patient A's face;
- b) Pulled Patient A's face towards you;
- c) Attempted to kiss Patient A on the lips;
- d) Told Patient A words to the effect;
  - i) 'I Love you.'
  - ii) 'You are breaking my heart.'
  - iii) 'You look beautiful when not going through pain'
  - iv) 'I love seeing you smile'
- e) Massaged balm into Patient A's legs.

2) On 14 July 2021;

- a) Attempted to touch Patient A's face;
  
- b) After Patient A complained of chest pain you used words to the effect;
  - i) 'I'll just massage it for you'
  - ii) 'You don't want me to massage it for you?'
  
- c) When confronted by Patient A about you trying to kiss/make advances towards her on 12 July 2021, used words to the effect;
  - i) 'It is not my fault'
  - ii) 'You are pretty'
  - iii) 'This is natural'

3) Your actions in one or more charges 1 a), 1 b), 1 d) & 2 a), 2 c) i & 2 c) ii) were sexually motivated as you sought sexual gratification from one or more of your acts.

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

## **Background**

The charges arose whilst you were employed as a registered nurse by Barts Health NHS Trust ('the Trust'). The regulatory concerns relate to incidents that took place on at least two occasions on a ward at Royal London Hospital (within the Trust) in July 2021, whilst you were working as a staff nurse and caring for Patient A.

[PRIVATE].

You were referred to the NMC on 9 August 2021 by the Associate Director of Nursing at the Trust. This has resulted in the charges set out above being referred to this panel for

consideration. Essentially the charges allege that you, when a staff nurse at the Trust in July 2021, failed to maintain professional boundaries when you allegedly on 12 July 2021 held Patient A's face and attempted to kiss her on the lips and that on 14 July 2021 you attempted to touch her face and offered to massage her chest. It is also alleged that on 14 July 2021 you were confronted by Patient A about the incident on 12 July 2021 and you used words which might indicate that you admitted the incident on 12 July 2021. The words used on 14 July 2021, together with the offer to massage Patient A's chest, were captured on a video by Patient A. There is evidence from another nurse that shortly after the alleged incident on 12 July 2021, Patient A raised with her the apparently hypothetical matter of how to raise a complaint. The nurse then gave Patient A on advice on how it might be investigated and the evidence that might be needed. Patient A says that this, together with ongoing 'harassment' by you, is what prompted her to video the interaction on 14 July 2021. It is alleged that your actions were sexually motivated as you sought sexual gratification from your acts.

### **Decision and reasons on application to amend the charge**

During its deliberations at the facts stage, the panel noticed that charge 3 does not include or refer to charges 1c, 2b(i), and 2b(ii). The panel invited both Mr Coniah and Mr Marsland to join the hearing to obtain their views regarding this matter.

Mr Coniah submitted that there is an error within charge 3 in that charge 1c is not referred to and, instead of charge 3 referring to charges 2c(i) and 2c(ii), charges 2b(i) and 2b(ii) should replace this. He submitted that the proposed amendment would provide clarity and more accurately reflect the evidence. Charge 3 should read as follows:

3) Your actions in one or more charges 1 a), 1 b), **1 c)**, 1 d) & 2 a), ~~2 e) i & 2 e) ii~~ **2 b) i) and 2 b) ii)** were sexually motivated as you sought sexual gratification from one or more of your acts.

Mr Marsland had no objection to charges 1c, 2b(i), and 2b(ii) being included within charge 3. He submitted that in doing so there is no material impact on the charge, nor does it change the nature and conduct of the case.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to make the amendment, as applied for, to ensure clarity and accuracy.

#### **Details of charge (as amended)**

1) On 12 July 2021;

- a) Grabbed/touched Patient A's face;
- b) Pulled Patient A's face towards you;
- c) Attempted to kiss Patient A on the lips;
- d) Told Patient A words to the effect;
  - i) 'I Love you.'
  - ii) 'You are breaking my heart.'
  - iii) 'You look beautiful when not going through pain'
  - iv) 'I love seeing you smile'
- e) Massaged balm into Patient A's legs.



2) On 14 July 2021;

a) Attempted to touch Patient A's face;

b) After Patient A complained of chest pain you used words to the effect;

i) 'I'll just massage it for you'

ii) 'You don't want me to massage it for you?'

c) When confronted by Patient A about you trying to kiss/make advances towards her on 12 July 2021, used words to the effect;

i) 'It is not my fault'

ii) 'You are pretty'

iii) 'This is natural'

3) Your actions in one or more charges 1 a), 1 b), 1 c), 1 d) & 2 a), 2 b) i) and 2 b) ii) were sexually motivated as you sought sexual gratification from one or more of your acts.

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

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

At the outset of the hearing, the panel heard from Mr Marsland who informed the panel that you made partial and/or full admissions to some of the charges as follows:

Charge 1a – you made a partial admission in that you accept that you 'touched' Patient A's face, but not 'grabbed' Patient A's face as the charge is written.

Charge 1d (iii), charge 1d (iv), charge 1e, charge 2b (i), and charge 2b (ii) – you made full admissions to these charges.

Charge 2c (i), charge 2c (ii), and charge 2c (iii) – you made partial admissions in that you accept that you said the words listed within these charges, but do not accept that these words were said in the context of Patient A confronting you in relation to you trying to kiss/make advances towards her on 12 July 2021.

Because there were qualifications to some of the admissions, the panel did not announce any of the charges as proved at the start of the hearing, but left the matter until the conclusion of the evidence.

The panel therefore now finds charges 1d (iii), charge 1d (iv), charge 1e, charge 2b (i), and charge 2b (ii) proved in their entirety, by way of your full admissions.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Coniah and Mr Marsland. The documentary evidence is contained in the exhibits bundle and it was agreed by Mr Coniah and Mr Marsland that the panel should receive into evidence the documents, including statements made in the internal Trust investigation, though hearsay, with the panel then to determine what weight, if any, to attach to that documentary evidence.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel heard live evidence from the following witnesses called on behalf of the NMC:

- Patient A: Your patient at Royal London Hospital at the time of the incident.
- Witness 2: Senior Nurse in Specialist Medicine at Barts Health NHS Trust at the time of the incident.
- Witness 3: Charge Nurse in a ward at Royal London Hospital at the time of the incident.
- Witness 4: Senior Nurse at Barts Health NHS Trust at the time of the incident.

The panel also heard evidence from you under oath.

Before making any findings on the facts, the panel accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by both the NMC and Mr Marsland.

At the outset of its findings on the facts, the panel was of the view that the central issue in determining the disputed charges is whether you attempted to kiss Patient A on the lips. The panel considered the matter carefully and considered the different accounts given by Patient A and you concerning the incident on 12 July 2021. The panel had regard to a video dated 14 July 2021 taken by Patient A as follows:

*[You] – Baby you say you are having chest pain?*

*[Patient A] – whimpers*

*[You] – Is it cramping?*

*[Patient A] – no it's just chest pain*

*[You] – Ok, you want me to massage it for you? [Chuckles]*

*[Patient A] – It's in my chest*

*[You] – It's in your chest*

*[Patient A] – How can you massage my chest?*

*[You] – You don't want me to massage your chest for you, are you afraid?*

*[Patient A] – I'm afraid*

*[You] – Afraid of what?*

*[Patient A] – That you will try to kiss me again, you tried to kiss me the other day...*

*[You] – say what?*

*[Patient A] – [muffled] you tried to kiss me the other day when .... [Inaudible]*

*[You] - [gesticulates with right hand] I said I'm sorry, [waves with right hand] I'm sorry – I won't do that again*

*[Patient A] [whimpers] – ok*

*[You] – It's not my fault*

*[Patient A] – why is it not your fault?*

*[You] – [shrugs both shoulders, gestures with right hand] because you're pretty*

*[Patient A] – Ok, this one will go in the arm then*

*[You] [appears to be preparing something at the end of the bed, is on the patient's Right side throughout]*

*[You] – where do you want it?*

*[Patient A] – [points to left upper arm - visual obscured]*

*[You] – [appears to be leaning over patient and preparing skin area with swab]*

*[You] so I'm sorry for that*

*[Patient A] – Ok – but I'm your patient remember*

*[You] – [shrugs shoulders, whilst raising arms and hands open as in 'what can I do' gesture]*

*[You] Yeah I know you are my patient, but there are times you know this is nature – you understand? – try to understand, don't be offended*

...

*[You] ... [appears to be administering injection – still on patient's right side leaning over to left arm]*

*[You] – [waving left hand] ..... {Inaudible} I won't try it again*

*[Patient A] – Ok'.*

The panel did not base its decisions solely on any simple words of apology to Patient A, such as 'sorry', as an admission by you. Rather, it considered that the words used by you on 14 July 2021 captured on the video and in part admitted by you in charges 2c (i), (ii), and (iii), when challenged by Patient A that you had tried to kiss her on 12 July 2021, amounted to admissions by you. The panel determined that the words used by you clearly related to the attempted kiss allegation. This includes where you repeatedly said that you 'won't do that again' and apparently sought to justify your actions by saying to Patient A 'it is not my fault... you are pretty... this is natural'. The panel considered your explanation for saying the words captured on the video as implausible given the context within which they were said. Accordingly, the panel considered that there are several admissions by you of attempting to kiss Patient A on 12 July 2021.

Against its central finding, the panel then considered each of the disputed charges, and the evidence on those charges, and made the following findings.

### **Charge 1a**

"That you a registered nurse, whilst working at the Royal London Hospital;

1) On 12 July 2021;

a) Grabbed/touched Patient A's face"

### **This charge is found proved.**

In reaching this decision, the panel took into account your oral evidence; Patient A's NMC witness statement dated 18 August 2023, Patient A's oral evidence, and video footage that Patient A recorded dated 14 July 2021 which consists of a conversation between you and Patient A; Witness 2's NMC witness statement dated 4 February 2023, notes from the Trust's Investigation Meeting dated 4 August 2021 whereby Witness 2 was interviewed by

Witness 4, and Witness 2's oral evidence; Witness 4's Investigation Report dated 17 September 2021, and Witness 4's oral evidence.

The panel first noted that you admitted to 'touching' Patient A's face, but you did not admit to 'grabbing' Patient A's face. The panel clarified with Mr Coniah and Mr Marsland that it proposed to treat the allegation of 'grabbed/touched' as grabbed or touched, and that as you had admitted touching, the central issue was whether you had grabbed Patient A's face. This approach was agreed by Mr Coniah and Mr Marsland as being appropriate.

The panel had regard to Patient A's NMC witness statement dated 18 August 2023. It noted that Patient A stated:

*'...He was staring at me quite intensively. I was waiting for him to walk away but he didn't and instead he grabbed my face with one hand and pulled it towards him. This caused me to have a lot of pain in my shoulder and legs...'*

The panel also noted that, during Patient A's oral evidence, she demonstrated how you 'grabbed' her face. She explained that the action had been sudden, unexpected, and painful. She said that she did not speak at the time as she was 'in shock'.

Further, the panel had regard to Witness 2's NMC witness statement dated 4 February 2023. It noted that Witness 2 stated:

*'... On Monday she had cramps in her legs from her illness and so she had allowed Rufus to massage her legs with a cream. Then in the same interactions he had held her face...'*

The panel also had regard to notes from the Trust's Investigation Meeting dated 4 August 2021 whereby Witness 2 was interviewed by Witness 4. It noted that Witness 2 told Witness 4 that:

*'Patient A informed us that [you] tried to kiss her on Monday, "held my face, he tried to kiss her", she pushed him away at the same time he professed his dying [sic] love for her...'*

The panel noted that, during Witness 2's oral evidence, she had said that it had been difficult for her to fully observe Patient A's demonstration of the hold as Patient A had been lying down in her hospital bed at the time of the explanation. Consequently, Witness 2 was not clear on the precise nature of the hand hold.

The panel had regard to Witness 4's Investigation Report dated 17 September 2021. It noted that the report stated that you:

*'... grabbed [Patient A's] face with both hands and pulled her forward in an attempt to kiss her...'*

The panel determined that 'grabbed' implies stronger contact than 'touched'. It was of the view that, to Patient A, the hold felt like a grab due to the suddenness, force, and unexpectedness of it. The panel noted that, although there was a variation in the evidence about whether you used one or two hands to hold Patient A's face, it was satisfied that your action was more than a touch and more consistent with grabbing.

In your oral evidence, you stated that it was Patient A who grabbed hold of your hand as you were trying to leave her bedside towards the end of your shift. You stated that she had complimented you on the care you had given her saying she was very grateful and that she wanted you to come back the following day and look after her. You said you told her that you were off work the following day but would return the day after. You stated you agreed to ask to be allocated to her bay but told her that this was not guaranteed to happen. You stated that as she had hold of one of your hands, that is when you 'tapped' her on the cheek using the other. You stated that after you walked away and were writing your notes, you realised that you were wrong for tapping her on the face and went back to apologise. The panel noted that Patient A rejected your description of these events and

also noted that you did not report your apology to anyone, neither did you record it in Patient A's notes as would be expected of a nurse. The panel therefore found your description of events implausible and preferred Patient A's recollection.

The panel determined that Patient A's description of the incident was consistent throughout her evidence in that she described being first stared at by you, which she thought was odd, and then you came towards her. The panel noted that Patient A then reported this to Witness 2 and described the method of the hold to her face which caused pain to Patient A. The panel accepted the evidence of Patient A that she had suffered pain as a result of the grabbing on 12 July 2021. The panel also noted that Witness 2 described Patient A as being upset, scared, crying, and confused when she reported the incident.

The panel bore in mind the video footage dated 14 July 2021 whereby Patient A filmed a conversation of her questioning you about your actions towards her on 12 July 2021. In this video, when challenged about attempting to kiss Patient A, you replied that you 'won't do that again'. The panel further noted that Patient A felt pain in her shoulders and legs when you grabbed her and described needing to push you away which suggests that there was force involved.

The panel determined that it was more likely than not that you grabbed Patient A's face on 12 July 2021.

The panel therefore found charge 1a proved.

### **Charge 1b**

"That you a registered nurse, whilst working at the Royal London Hospital;

1) On 12 July 2021;

b) Pulled Patient A's face towards you"



**This charge is found proved.**

In reaching this decision, the panel took into account your oral evidence; Patient A's NMC witness statement dated 18 August 2023, Patient A's oral evidence, and video footage that Patient A recorded dated 14 July 2021 which consists of a conversation between you and Patient A; Witness 2's NMC witness statement dated 4 February 2023, notes from the Trust's Investigation Meeting dated 4 August 2021 whereby Witness 2 was interviewed by Witness 4, and Witness 2's oral evidence; Witness 4's Investigation Report dated 17 September 2021, and Witness 4's oral evidence.

The panel had regard to Patient A's NMC witness statement dated 18 August 2023. It noted that Patient A stated:

*'... He was staring at me quite intensively. I was waiting for him to walk away but he didn't and instead he grabbed my face with one hand and pulled it towards him. This caused me to have a lot of pain in my shoulder and legs...'*

The panel also had regard to notes from the Trust's Investigation Meeting dated 4 August 2021 whereby Witness 2 was interviewed by Witness 4. It noted that Witness 2 told Witness 4 that:

*'Patient A informed us that RA [you] tried to kiss her on Monday, "held my face, he tried to kiss her", she pushed him away at the same time he professed his dying [sic] love for her...'*

Further, the panel had regard to Witness 4's Investigation Report dated 17 September 2021. It noted that the report stated that you:

*'... grabbed [Patient A's] face with both hands and pulled her forward in an attempt to kiss her...'*

The panel noted that, as Patient A described pain in her shoulders and legs, it was of the view that this suggests that there would have been some force of movement in relation to pulling her face towards you. Further, the panel was mindful that Patient A's evidence was consistent with what it found proved in charge 1a and also consistent in relation to the alleged intention behind the movement which was for you to grab Patient A's face into a position where she was the subject of your kiss.

The panel determined that it was more likely than not that you pulled Patient A's face towards you on 12 July 2021.

The panel therefore found charge 1b proved.

### **Charge 1c**

"That you a registered nurse, whilst working at the Royal London Hospital;

1) On 12 July 2021;

c) Attempted to kiss Patient A on the lips"

### **This charge is found proved.**

In reaching this decision, the panel took into account your oral evidence; Patient A's NMC witness statement dated 18 August 2023, Patient A's oral evidence, and video footage that Patient A recorded dated 14 July 2021 which consists of a conversation between you and Patient A; Witness 2's NMC witness statement dated 4 February 2023, notes from the Trust's Investigation Meeting dated 4 August 2021 whereby Witness 2 was interviewed by Witness 4, and Witness 2's oral evidence; Witness 4's Investigation Report dated 17 September 2021 and Witness 4's oral evidence.

The panel had regard to Patient A's NMC witness statement dated 18 August 2023. It noted that Patient A stated:

*'... He had puckered up lips and tried to kiss me on the lips. I was quite drowsy but managed to push him away...'*

The panel also had regard to notes from the Trust's Investigation Meeting dated 4 August 2021 whereby Witness 2 was interviewed by Witness 4. It noted that Witness 2 told Witness 4 that:

*'Patient A informed us that RA [you] tried to kiss her on Monday, "held my face, he tried to kiss her", she pushed him away at the same time he professed his dying love for her...'*

Further, the panel had regard to Witness 4's Investigation Report dated 17 September 2021. It noted that the report recorded the allegation that you:

*'... grabbed [Patient A's] face with both hands and pulled her forward in an attempt to kiss her...'*

The panel had regard to the video footage dated 14 July 2021 whereby Patient A filmed a conversation of her questioning you about your actions towards her on 12 July 2021. It also had regard to the transcript of this video. It noted that you said to Patient A:

*'You don't want me to massage your chest for you, are you afraid'.*

In the video, Patient A responded:

*'I'm afraid'.*

In the video, you responded to Patient A:

*'Afraid of what?'*

In the video, Patient A then responded:

*'That you will try to kiss me again, you tried to kiss me the other day... you tried to kiss me the other day...'*

In the video, your response was:

*'[gesticulates with right hand] I said I'm sorry, [waves with right hand] I'm sorry – I won't do that again...'*

The panel noted Patient A's description of the incident in that this occurred while she was in her hospital bed with the curtains closed, and that nobody else was there except you and her. It was mindful that when Patient A stated to you twice that you tried to kiss her, you responded that you would not do that again. This suggested to the panel an acceptance by you that the attempted kiss did occur. Although in the video Patient A does not specifically mention that the attempted kiss was to her lips, the panel was satisfied that according to Patient A's description of how she was held on her face, and pulled towards you, and that you had 'puckered up lips', that the kiss was intended for her lips.

The panel accepted that Patient A was distressed by your attempted kiss and noted that her distress was evident to Witnesses 2 and 3, when she reported the matter to them on 14 July 2021.

The panel noted that your explanation as to why you apologised to Patient A and said you would not 'do it again' was because you were attempting to 'cool' the situation down and did not want to upset Patient A further. However, the panel also noted that, in the video, you went on to apparently justify to Patient A as to why you attempted to kiss her in that you told her it was 'not my fault', it is 'nature', and that she is 'pretty'. In your oral evidence, when asked why on this occasion you had called Patient A 'pretty', at one stage you told

the panel that this was to compliment Patient A on how she looks when she is not in pain. At another stage, you said that it was because you had wanted to cheer Patient A up.

The panel found Patient A's evidence to be clear and consistent and your explanation to be contradictory and implausible given the nature of the conversation that was heard on the video.

The panel determined that it was more likely than not that you attempted to kiss Patient A on the lips on 12 July 2021.

The panel therefore found charge 1c proved.

#### **Charge 1d (i) and charge 1d (ii)**

“That you a registered nurse, whilst working at the Royal London Hospital;

1) On 12 July 2021;

d) Told Patient A words to the effect;

i) ‘I Love you.’

ii) ‘You are breaking my heart.’”

#### **These charges are found proved.**

The panel decided to look at charges 1d (i) and charge 1d (ii) collectively as they are intrinsically linked.

In reaching this decision, the panel took into account your oral evidence; Patient A's NMC witness statement dated 18 August 2023, Patient A's oral evidence, and video footage that Patient A recorded dated 14 July 2021 which consists of a conversation between you

and Patient A; Witness 2's NMC witness statement dated 4 February 2023, notes from the Trust's Investigation Meeting dated 4 August 2021 whereby Witness 2 was interviewed by Witness 4, and Witness 2's oral evidence; Witness 4's Investigation Report dated 17 September 2021, and Witness 4's oral evidence.

The panel had regard to Patient A's NMC witness statement dated 18 August 2023. It noted that Patient A stated:

*'... He had puckered up lips and tried to kiss me on the lips. I was quite drowsy but managed to push him away. When I did this, he said that I was breaking his heart and that he loved me which he repeated a few times. I said that he should leave me alone as I was quite scared and confused. When he left, I didn't know what to do. No one was around as they were all at handover. Usually with this sort of thing I would tell my family straight away, but I didn't know what to do...'*

The panel had regard to Witness 2's NMC witness statement dated 4 February 2023. It noted that Witness 2 stated:

*'... Then in the same interactions he had held her face, she showed us with her hands how he had done that and said that he had tried to kiss her. He had also said that he loved her. [Patient A] said that she had pushed him off her...'*

The panel also had regard to notes from the Trust's Investigation Meeting dated 4 August 2021 whereby Witness 2 was interviewed by Witness 4. It noted that Witness 2 told Witness 4 that:

*'[Patient A] informed us that RA [you] tried to kiss her on Monday, "held my face, he tried to kiss her", she pushed him away at the same time he professed his dying [sic] love for her...'*

Further, the panel had regard to Witness 4's Investigation Report dated 17 September 2021. It noted that the report recorded the allegation that you:

*'... responded that he [you] loved her and [Patient A] was stunned and repeated 'no', to which nurse RAF [you] responded 'you are breaking my heart.'*

The panel determined that Patient A's oral evidence was consistent with her statement and the report she made to Witnesses 2 and 3 after the incidents.

The panel found that you had attempted to kiss Patient A on lips, which was just before it is alleged you said the words in these charges to Patient A.

The panel determined that it was more likely than not that you told Patient A words to the effect that you loved her and that she was breaking your heart on 12 July 2021. This is consistent with the actions found proved in charges 1a to 1c including Patient A's rejection of you by pushing you away. The panel has rejected your assertion that you said *'I love seeing you smile when not in pain'* which is the same explanation that you gave when admitting that you said that Patient A was 'pretty'. The panel also rejected your evidence that you could not remember saying that Patient A was breaking your heart, after she had pushed you away.

The panel therefore found charges 1d (i) and 1d (ii) proved.

#### **Charge 1d (iii) and charge 1d (iv)**

"That you a registered nurse, whilst working at the Royal London Hospital;

1) On 12 July 2021;

d) Told Patient A words to the effect;

- iii) 'You look beautiful when not going through pain'
- iv) 'I love seeing you smile'".

**These charges are now found proved by way of your full admissions.**

The panel therefore found charges 1d (iii) and 1d (iv) proved.

### **Charge 1e**

"That you a registered nurse, whilst working at the Royal London Hospital;

1) On 12 July 2021;

e) Massaged balm into Patient A's legs"

**This charge is now found proved by way of your full admission.**

The panel therefore found charge 1e proved.

### **Charge 2a**

"That you a registered nurse, whilst working at the Royal London Hospital;

2) On 14 July 2021;

a) Attempted to touch Patient A's face"

**This charge is found proved.**

In reaching this decision, the panel took into account your oral evidence; Patient A's NMC witness statement dated 18 August 2023, Patient A's statement to the Trust dated 19



August 2021, Patient A's oral evidence, and video footage that Patient A recorded dated 14 July 2021 which consists of a conversation between you and Patient A

The panel had regard to Patient A's NMC witness statement dated 18 August 2023. It noted that Patient A stated:

*'When morning came and he was back on shift he proceeded to bring me pain relief so I thought I would talk to him about what happened and video it on my phone. He was acting very calm like he hadn't done anything the night before. I recorded him confessing to what he did and that he had asked to rub my chest. He tried to harass me and touch my face which I didn't manage to get on camera as it happened before I started recording....'*

The panel also had regard to Patient A's statement to the Trust dated 19 August 2021 which stated:

*'14/07/21 – RA [you] came to see [Patient A] following morning handover and acted as though nothing had happened. RA stroked [Patient A's] face and [Patient A] could not stand being near him. [Patient A] requested pain relief which she usually did not need to do so that she could interact with RA [you]. [Patient A] decided to video RA's [your] interaction with her as she wanted him to admit his behaviour towards her on video as proof of his actions. The video was taken at 13:47'.*

The panel noted that, in your oral evidence, you described your action as 'tapping' Patient A's face and that it was a 'comforting gesture' albeit you denied doing so on 14 July 2021.

The panel was mindful that when Patient A gave her account as to when she asked you to get pain relief it was so that she could set up the video recording. The panel also accepted Patient A's evidence that her decision to set up the video was also prompted by the fact that you had already been over familiar (as typified by you calling her 'Baby'), flirting, and attempting to touch her face again that morning.

You denied touching Patient A that day and stated that all you had done was to introduce yourself to her as her nurse that day and proceed to give her pain relief as you noted that she seemed different as she was in pain. You said that it was at this point that you mentioned the words noted in charges 1d (iii) and 1d (iv) in order to cheer Patient A up. You said you compliment all your patients in order to make them feel good and cheer them up. This is not inconsistent with Patient A's evidence that you were over familiar and flirting on the morning of 14 July 2021.

The panel noted Patient A's description of the type of touch that had occurred on the morning of 14 July 2021, describing it as 'stroking' and different from the touch on 12 July 2021 which she had described as 'grabbing'.

The panel determined that it was more likely than not that you attempted to touch Patient A's face on 14 July 2021.

The panel therefore found charge 2a proved.

**Charge 2b (i) and charge 2b (ii)**

"That you a registered nurse, whilst working at the Royal London Hospital;

2) On 14 July 2021;

b) After Patient A complained of chest pain you used words to the effect;

i) 'I'll just massage it for you'

ii) 'You don't want me to massage it for you?'".

**These charges are now found proved by way of your full admissions.**

The panel therefore found charges 2b (i) and 2b (ii) proved.

### **Charge 2c**

“That you a registered nurse, whilst working at the Royal London Hospital;

2) On 14 July 2021;

c) When confronted by Patient A about you trying to kiss/make advances towards her on 12 July 2021, used words to the effect;

i) ‘It is not my fault’”

ii) ‘You are pretty’”

iii) ‘This is natural’”

The panel accepted that you admitted to saying these words, but you had denied that they were said in the context of being confronted by Patient A about you trying to kiss/make advances towards her on 12 July 2021. You stated that you said these words to placate Patient A and to ‘cool’ the situation as you did not want her to be upset and to help alleviate her pain. The panel found your explanation to be implausible given the context that these words were said as evidenced in the video recording.

The panel determined that these words evidenced an admission to you having tried to kiss/make advances towards Patient A. They were said directly after the accusation was levelled by Patient A and appeared to be you trying to give reasons for why it had happened.

**This charge is found proved in its entirety on the basis that the panel found that you attempted to kiss and make advances towards Patient A on 12 July 2021.**

The panel therefore found charges 2c (i), 2c (ii), and 2c (iii) proved.

### Charge 3

“3) Your actions in one or more charges 1 a), 1 b), 1 c), 1 d) & 2 a), 2 b) i) and 2 b) ii) were sexually motivated as you sought sexual gratification from one or more of your acts”

**This charge is found proved in relation to charges 1a, 1b, 1c, 1d (i), 1d (ii), 2a, 2b (i), and 2b (ii).**

In reaching this decision, the panel took into account all the evidence before it, including its findings on charges 1a, 1b, 1c, 1d, 2a, 2b (i), and 2b (ii) which are all found proved.

In relation to charges 1a, 1b, and 1c, the panel determined that your actions were sexually motivated as you sought sexual gratification by grabbing and pulling Patient A's face towards you so that you could attempt to kiss Patient A on the lips. You forcefully put Patient A in a position where she was the subject of your kiss/advances which left her feeling scared, confused, and unsafe.

The panel had regard to Patient A's NMC witness statement dated 18 August 2023. It noted that Patient A stated:

[PRIVATE]

In relation to charges 1d (i) and 1d (ii), the panel determined that your actions were sexually motivated as you sought sexual gratification through using language associated with romance which indicated your intentions. Your actions caused Patient A emotional distress.

In relation to charges 1d (iii) and 1d (iv), the panel determined that, although inappropriate, your actions were not sexually motivated as there is no other evidence that you told Patient A that *'you look beautiful when not going through pain'* or *'I love seeing you smile'*

except for your own responses to the charges and admissions. There appears to be no record of Patient A and the other witnesses mentioning that you used these words.

In relation to charge 2a, the panel determined that your actions were sexually motivated as you sought sexual gratification by attempting to touch Patient A's face. Patient A described the touch as 'stroking' her face. There was no clinical intervention related to your action meaning that you had no reason to touch Patient A's face. Further, Patient A described this action happening whilst you were simultaneously flirting, being over familiar, and harassing her. Patient A's evidence has been consistent, and the panel established that your touching of her face was part of a pattern of ongoing harassment which had started two days previously on 12 July 2021.

The panel noted that you and Patient A stated that she called you 'Uncle' as an older gentleman out of respect according to your shared culture. You stated that in return you called her 'Sister', however this term was not mentioned by Patient A. The panel however noted in the video recorded on 14 July 2021, you called Patient A 'Baby'. It was of the view that this term suggested over-familiarity and romantic intentions. When asked, you accepted that the word 'Baby' was inappropriate although you were unable to give a reason why you thought this, or how you thought this could be perceived.

In relation to charges 2b (i) and 2b (ii), the panel determined that your actions were sexually motivated as you sought sexual gratification by first offering to massage Patient A's chest and then repeating this offer. The panel noted that, in the video, you introduce yourself to Patient A by saying '*Baby you say you are having chest pain*'. The panel was of the view that your response as to why you chose to offer the massage to Patient A's chest was not plausible. You told the panel that it was in an attempt to relieve Patient A's pain; however, at the time you were in the process of administering morphine to Patient A by injection, a strong and fast acting pain relief medication which you said, if effective, would have shown its efficacy in approximately five to ten minutes. The panel also noted the evidence of Witnesses 2 and 3 who told it that there was no clinical justification for offering a chest massage to Patient A as a method of relieving her pain. Further, the panel

established from the video that you immediately followed the offer by laughing. It determined that this indicated you were aware that the offer was inappropriate. Furthermore, you immediately then asked Patient A if she was afraid which is suggestive of you considering that the offer could feel both inappropriate and threatening to her.

The panel therefore found charge 3 proved in relation to charges 1a, 1b, 1c, 1d (i), 1d (ii), 2a, 2b (i), and 2b (ii).

The panel found charge 3 not proved in relation to charges 1d (iii) and 1d (iv).

### **Interim Order**

As the case was to be adjourned after handing down the panel's decision on facts on 1 November 2024 due to lack of time, the panel was aware that it was under a duty to consider whether or not it should make an interim order. Rule 32 deals with postponement and adjournment. Rule 32 (5) states:

*'the Practice Committee shall consider whether or not to make an interim order and shall*

*(a) invite representations from the parties (where present) on this issue;*

*(b) deliberate in private;*

*(c) announce its decision in the presence of the parties (where present);*

*(d) give reasons for its decision; and*

*(e) notify the registrant of its decision in accordance with article 31(14) of the Order'*

The panel invited representations from the parties.

Mr Coniah stated that the NMC will apply for a High Court extension regarding the current interim order that was imposed on 26 August 2021 and is still in place, as the interim order is due to expire on 22 November 2024. It was originally imposed as an interim suspension

order but replaced on review to an interim conditions of practice order by a panel on 4 April 2023.

The NMC provided the panel with the determination from the most recent interim order review hearing which was held on 2 August 2024 whereby the interim conditions of practice order was confirmed.

Mr Coniah submitted that the current interim conditions of practice order at least is necessary on the grounds of public protection and public interest and the NMC was neutral as to whether the panel sought to vary that order.

Mr Marsland submitted that, having made its findings on facts, the question for the panel is whether an interim conditions of practice order remains sufficient or whether it now needs to be an interim suspension order. He submitted that the interim conditions of practice order remains proportionate as it has managed, and continues to manage the concerns in this case without difficulty. He submitted that there has not been a material change in the risk itself, and that a member of the public would be satisfied that the risk continues being managed with the interim conditions of practice order in place, until the panel make its findings on misconduct, impairment, and/or sanction.

The panel accepted the advice of the legal assessor. The panel could only make an interim order if it was satisfied that such an order was necessary for the protection of the public, otherwise in the public interest or in your own interest. The panel also had particular regard to the guidance issued by the NMC in assessing how to make interim orders (Decision Factors in Making Interim Orders INT-2).

The panel was aware that the overarching objective of the NMC was public protection and that it required to be proactive in dealing with material before it that raised public safety issues.

The panel gave careful consideration to all of the material it had before it. The panel then went on to consider whether or not in light of the evidence the concerns were sufficiently serious enough to identify material risks. The panel assessed the nature and circumstances of the fitness to practise concern. The panel considered that the concerns identified are serious and have a material risk of impacting on your professional practice and putting patients at risk.

The panel then considered the implications going forward in terms of risk. The panel considered the potential risks of allowing you to continue to practise without restriction until the conclusion of the substantive hearing. The panel considered that the facts it has found proved showed that you assaulted a patient in a sexually motivated manner and then again harassed that particularly vulnerable young female patient two days later, also in a sexually motivated manner. Accordingly, the panel concluded that the risk of repetition of such behaviour is high and that the risk is one of serious harm to such patients. Consequently, an interim order is necessary for the protection of the public.

The panel also considered that such an order was in the public interest. The panel considered that a well-informed member of the public would be shocked and concerned if you were permitted to practise without restriction in light of the seriousness of the facts found proved. These included repeated actions towards a very vulnerable patient in your care that were sexually motivated in that you had sought sexual gratification from them.

The panel concluded that the current interim conditions of practice order would not be appropriate or proportionate in this case. They will not adequately protect the public due to the panel's findings at the facts stage. The charges found proved are not clinically related, but rather behavioural and, by their very nature, covert. The panel noted that there have been no reported concerns while you have been working under a current interim conditions of practice order. In the light of the evidence the panel has heard and its finding on fact, it considers that any knowledge of repetition would rely upon a proactive step being made by a patient or other member of the public. Therefore, the current interim conditions of practice order does not provide sufficient public protection. The panel further



went on to consider varying the current interim conditions of practice order and the panel did not consider that there were any workable conditions that would address the current risk.

The panel therefore replaced the current interim conditions of practice order with an interim suspension order. The interim suspension order will replace the current interim conditions of practice order with immediate effect.

Unless this matter concludes, a panel will hold a review hearing every six months. At the review hearing the panel may revoke the order, confirm the order, or replace the order.

This will be confirmed to you in writing.

That concludes this determination.