

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

**Substantive Order Review Hearing  
Wednesday, 25 September 2024**

Virtual Hearing

**Name of Registrant:** **Roque L Asotigue**

**NMC PIN:** 01K1954O

**Part(s) of the register:** Nurses part of the register Sub part 1  
RN1: Adult nurse, level 1 (27 November 2001)

**Relevant Location:** Somerset

**Type of case:** Misconduct/Lack of competence

**Panel members:** Dale Simon (Chair, Lay member)  
Timothy Kemp (Registrant member)  
Isobel Leaviss (Lay member)

**Legal Assessor:** Melissa Harrison

**Hearings Coordinator:** Amira Ahmed

**Nursing and Midwifery Council:** Represented by Bethany Brown, Case Presenter

**Mr Asotigue:** Present and represented by Catherine Collins, instructed by the Royal College of Nursing (RCN)

**Order being reviewed:** Suspension order (12 months)

**Fitness to practise:** Impaired

**Outcome:** **Conditions of practice order (12 months) to come into effect at the end of 30 October 2024 in accordance with Article 30 (1)**

## **Decision and reasons on review of the substantive order**

The panel decided to replace the current suspension order with a conditions of practice order for a period of 12 months

This order will come into effect at the end of 30 October 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of length by a Fitness to Practise Committee panel on 29 September 2023.

The current order is due to expire at the end of 30 October 2024.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved which resulted in the imposition of the substantive order were as follows:

*'That you, a registered nurse:*

- 1) *Between 6 May 2019 and 9 July 2020 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse in that:*
  - a) *On unknown dates before 2 July 2019:*
    - i) *...*
    - ii) *Removed your tunic to wash patients;*
    - iii) *On one or more occasion slept on the ward;*

- iv) *On 2 July 2019 told a patient their date of birth meant “death” in China;*
  
- b) *On 18 July 2019:*
  - i) *...*
  
  - ii) *...*
  
  - iii) *Were unable to identify that a patient was prescribed saline in their nebuliser;*
  
  - iv) *...*
  
  - v) *On one or more occasion tipped a pot of Patient C’s tablets directly into their mouth;*
  
  - vi) *Failed to arrange a bladder scan for Patient A;*
  
  - vii) *Required prompting to identify changes in prescriptions and / required monitoring for your patients;*
  
  - viii) *Did not administer Patient A’s 12pm dose on time;*
  
  - ix) *Did not safely dispose of a used syringe;*
  
  - x) *Required prompting to identify that Patient B was prescribed antibiotics and administer them;*
  
  - xi) *...*
  
  - xii) *Did not share all relevant information in your written and / or verbal handover;*

- xiii) *Referred to your patients by their bed number;*
  
- c) *Around 20 September 2019 told a patient they were “bigger up top” or words to that effect;*
  
- d) *On an unknown date around September or October 2019 did not escalate and / or handover to the night shift that one of your patients had a high NEWS score*
  
- e) *On 4 November 2019:*
  - i) *Did not introduce yourself or explain why you were there to a patient;*
  
  - ii) *Administered half doses of medication on two occasions;*
  
  - iii) *Did not dissolve soluble aspirin before giving to patient;*
  
  - iv) *Did not allow for ten seconds’ absorption before removing needle after administering insulin;*
  
  - v) *Gave one or more patients their medication on a spoon;*
  
  - vi) *Did not include sufficient information on a district nurse referral;*
  
- f) *Before 18 November 2019:*
  - i) *Sent a patient home with enoxaparin and supplements which had not been prescribed;*
  
  - ii) *Left a bottle of paracetamol on a patient’s table;*
  
  - iii) *Omitted medication due to one or more patients;*

- iv) *Did not check one or more patients' wristbands;*
- v) *Did not include sufficient information on MRSA screening labels;*
- vi) *Did not document handing over obtaining a patient's medication to another nurse;*
- g) *Before 13 December 2019 in relation to the patient in bed 26:*
  - i) *Did not complete documentation after 9.19am;*
  - ii) *Did not refer to pressure care and / or nutrition and / or hydration and / or mobility;*
- h) *Before 13 February 2020:*
  - i) *Gave a patient tablets on a spoon;*
  - ii) *Washed a patient while they were on the toilet;*
  - iii) *Left one or more boxes of medication on patients' tables;*
  - iv) *Did not complete documentation adequately*
- i) ...
- i) ...
- ii) ...
- iii) ...
- iv) ...

- j) *On 9 July 2020 did not administer the below medication to Resident A:*
  - i) *Amitriptyline*
  - ii) *Atorvastatin*
  - iii) *...*
  - iv) *...*
  
- k) *On 9 July 2020 recorded administration of Senna and / or Paracetamol on Resident A's MAR chart*
  
- l) *On 9 July 2020 administered Resident B's Alendronic acid to Resident C*
  
- 2) *On 8 April 2020:*
  - a) *Entered a Covid-positive patient's room without donning personal protective equipment ('PPE');*
  
  - b) *Left a Covid-positive patient's room and entered another patient's room without washing your hands;*
  
  - c) *Entered a patient's room without donning personal protective equipment ('PPE');*
  
  - d) *Left a Covid-positive patient's room and went into the sluice without removing your PPE;*
  
- 3) *On 9 April 2020 entered a patient's room without donning personal protective equipment ('PPE');*
  
- 4) *Before 30 July 2020 did not inform ICG Medical / Cromwell Staffing about a disciplinary investigation by your employer, Somerset NHS Foundation Trust;*

- 5) *Before 30 July 2020 did not inform ICG Medical / Cromwell Staffing that you had been referred to the Nursing and Midwifery Council ('NMC');*
- 6) *On 21 May 2020 incorrectly told ICG Medical / Cromwell Medical Staffing that there were no concerns and / or complaints about your practice;*
- 7) *Your actions at 4 and / or 5 and / or 6 above were dishonest in that:*
  - a) *You knew you had been the subject of action plans and / or capability processes and / or disciplinary action by Somerset NHS Foundation Trust;*
  - b) *You knew you had been referred to the NMC;*
  - c) *You knew you were required to inform ICG Medical / Cromwell Medical Staffing of any disciplinary investigation and/or NMC referral;*
  - d) *You intended to mislead ICG Medical / Cromwell Medical Staffing to accept there were no concerns about your practice;*

*AND in light of the above, your fitness to practise is impaired by reason of your lack of competence in relation to charge 1 and / or your misconduct.'*

The original substantive panel determined the following with regard to impairment:

*'The panel finds that patients were put at risk of potential harm as a result of your misconduct. Your misconduct has breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.*

*The panel was satisfied that despite the wide range of misconduct in this case, it is capable of being addressed.*

*The panel first considered that your level of insight and was of the view that it is developing. It had regard to the admissions you have made and your reflective statement which has demonstrated some understanding of how your actions put*

*patients at a risk of harm. It noted your reflective statement has also demonstrated some understanding of why what you did was wrong and how this impacted negatively on the reputation of the nursing profession. The panel decided that whilst you had shown some insight, you had not shown sufficient insight, and you did not appear to accept ownership for the reasons for the wide ranging failures but instead placed the reason for the failure on the demands on the ward and being very busy.*

*The panel noted the remorse expressed in your reflective statement for your misconduct and it was of the view that your remorse is genuinely held.*

*The panel went on to carefully consider the evidence before it, as to whether or not you have taken steps to strengthen your practice. It took account of the considerable relevant training you have undertaken. It also took into consideration the experience that you have gained working as a health care assistant, which was limited, as you have been unable to work as a nurse due to the interim suspension order currently imposed on your nursing practice. The panel took account of the positive references and testimonials provided on your behalf which suggest there has been no issues with your work as a health care assistant. The panel acknowledged that the responsibilities of a health care assistant are different to those expected of a nurse and that in this role you have not had the opportunity to administer medication.*

*The panel decided that you have not sufficiently strengthened your nursing practice in relation to the charges found proved for dishonesty, communication and medication administration. It concluded that you still have some reflection to undertake into your failings, particularly regarding your dishonesty.*

*In all of the circumstances, the panel is of the view that there remains a real risk of repetition of your misconduct based on your developing but insufficient insight and your lack of progress in sufficiently strengthening your 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 decided that a finding of impairment on public interest grounds is required because public confidence in the profession would be undermined if a finding of impairment were not made in this case. Consequently, it finds that your fitness to practise is impaired on the grounds of public interest. In all the circumstances, the panel was not satisfied that you could kindly, safely and professionally return to unrestricted nursing practice at this time.*

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

The original substantive panel determined the following with regard to sanction:

*'The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.*

*It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

*The panel next considered whether 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 considered the factors outlined in the SG. The panel decided that whilst the failings in this case were wide-ranging over a period of time, it rejected the NMC's submission that you had demonstrated deep-seated attitudinal concerns. The panel did so give your demonstration of remorse, your developing insight and the steps you have taken to strengthen your practice.*

*The panel was of the view that whilst there are some identifiable areas of your nursing practice which can be addressed by way of assessment and/or retraining and therefore may appropriately be subject to conditions, such as administration of medication, infection control and handover and communication reports. The panel concluded however, that the misconduct in relation to your dishonesty could not be so addressed.*

*The panel therefore concluded that it could not formulate any conditions which are practical, proportionate, measurable and workable to address the concerns of dishonesty. The panel decided that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public.*

*The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG outlines the factors where a suspension order may be appropriate. The panel considered the factors in the SG in relation to this case.*

*The panel noted that this was not a single incident of misconduct but was instead a single period of misconduct over a 20 year nursing career of no similar failings, which took place in a new environment, a ward setting, that you had not been exposed to previously in your nursing career.*

*It has concluded that you have demonstrated 'no evidence of harmful deep-seated personality or attitudinal problems' as previously outlined above.*

*The panel bore in mind that there has been 'no evidence of repetition of behaviour since the incident' as you have been unable to work as a nurse and there is no suggestion that there have been any concerns raised during your recent career as a healthcare assistant (although the panel bore in mind that the responsibilities between these roles are different). The panel was satisfied that you have insight.*

*The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with 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.*

*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 was mindful that you have been subject to an interim suspension order for three years however it decided that a suspension order for a period of 12 months was appropriate and proportionate in this case to mark the seriousness of the misconduct. The panel was also of the view that this time would allow you to reflect on your dishonest misconduct and how you have addressed it.*

*At 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 the order, or it may replace the order with another order.*

*Any future panel reviewing this case may be assisted by:*

- *Continued engagement with the NMC including your attendance at any future hearing.*
- *A reflective account or oral evidence which indicates you have developed your insight into how you have addressed the dishonesty charges found proved.*
- *Your plans in relation to your nursing career in the future.*
- *Any up-to-date references in relation to your current practice from your most recent employer.'*

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

The panel has considered carefully whether your fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. The NMC guidance DMA-1 sets out the question that will help decide whether a professional's fitness to practise is impaired which is:

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

In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle and your bundle including training certificates, your reflective pieces and the testimonial from the Operations Manager at your current workplace. It has taken account of the

submissions made by Ms Brown on behalf of the NMC and submission from Ms Collins on your behalf.

Ms Brown outlined the background to the case. She submitted that the question of whether your fitness to practice is currently impaired is a matter for the panel to decide. She explained that your reflective piece on your previous dishonesty did not give an explanation for why the dishonesty took place. She submitted that the previous panel felt that your insight was still developing but you have not shown this panel that you have a full understanding of the impact of your actions on others.

Ms Brown acknowledged that you are currently working as a Healthcare Assistant (HCA), and you have been able to follow policies and procedures and have not received any negative feedback from your employer. However, in your reflective piece you did not give an explanation on why you did not previously follow policies in your role as a registered nurse. Ms Brown submitted that you have not demonstrated that you will not repeat your previous actions and therefore there remains a risk of repetition. She submitted that you have failed to take full ownership for your dishonesty in this case. Ms Brown therefore submitted that your fitness practice remains impaired in relation to both public protection and in the wider public interest.

Ms Brown submitted that a conditions of practice order will not adequately address the concerns in respect of your dishonesty. She submitted that a further period of suspension is required to allow you time to demonstrate that you have fully reflected on the dishonesty in this case.

Ms Collins submitted that you had made admissions in relation to dishonesty at the first opportunity. She submitted that you had a long-standing, blameless career prior to the incidents which gave rise to these charges. Ms Collins referred the panel to the multiple training certificates and wide range of learning undertaken by you. She submitted that in your reflective statement you addressed the concerns relating to the dishonesty charges. She submitted that in your current role as a HCA you have observed other nurses in how they administer medication to keep your knowledge up to date.

Ms Collins submitted that you accept and acknowledge that dishonesty does tarnish the reputation of nurses and explained that you have shown in your reflective statement deep regret and remorse for your actions. She submitted that you informed the care agency that you are currently employed by that you are subject to a suspension order imposed by the NMC. She submitted that this is evidence that you did not and would not repeat your dishonesty.

Ms Collins submitted that a conditions of practice order would be workable in this case. She submitted that conditions could include medications management, keeping to the duty of candour set out by the NMC, providing a report from your line manager, not working as the sole nurse but working on the same shift as but not directly supervised by another registered nurse and a Personal Development Plan (PDP).

The panel heard and accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether your fitness to practise remains impaired.

The panel found that you have acknowledged that your dishonesty has had an impact on others. It determined that you have taken responsibility for your actions regarding the dishonesty and have demonstrated that you would not act dishonestly in the future as you disclosed that you were subject to a suspension order when applying for your current role as a HCA. The panel therefore determined that you have demonstrated sufficient insight into the impact of your dishonesty and that the public protection and public interest concerns of the original panel have been addressed. Consequently, the panel found that your fitness to practice was not currently impaired by virtue of your dishonesty

In its consideration of whether you have taken steps to strengthen your practice in relation your clinical misconduct, the panel took into account the 80 hours of online training courses consisting of 40 modules of various topics that you have undertaken over the last two months. The panel noted that some of the courses taken were not specifically linked to

the areas of your practice that were in question. However, you had not provided any information on how these training courses have strengthened your practice. The panel also had regard to the fact that you have not practiced as a nurse for over four years, and in all the circumstances the panel was not satisfied that you could return to practice safely, kindly and effectively without restriction. The panel therefore determined that there is still a risk of repetition in this case and decided that a finding of continuing impairment is necessary on the grounds of public protection in relation to your clinical misconduct.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that a well-informed member of the public would be concerned to find that you were able to practice unrestricted at this time and therefore, a finding of continuing impairment on public interest grounds is also required in relation to your clinical misconduct.

For these reasons, the panel finds that your fitness to practise remains impaired.

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

Having found your fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was*

*unacceptable and must not happen again.*' The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel considered substituting the current suspension order with a conditions of practice order. Despite the seriousness of your misconduct, there has been evidence produced to show that you have addressed the original panel's concerns in regards to the dishonesty findings, demonstrated remorse and provided evidence of taking training courses to strengthen your practice.

The panel was satisfied that it would be possible to formulate practicable and workable conditions that would serve to protect the public and the reputation of the profession. It noted that a conditions of practice order would offer you the opportunity to further strengthen your practice and demonstrate that you are able to practice kindly, safely and effectively.

The panel decided that the public would be suitably protected as would the reputation of the profession by the implementation of the following conditions:

For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

1. You must limit your practice to one substantive employer
2. You must not practice as the sole nurse in charge.
3. You must ensure that you are supervised by another registered nurse any time you are working. Your supervision must consist of:
  - Working at all times on the same shift as, but not always directly observed by, another registered nurse.



4. You must have weekly meetings with you your line manager, nominated supervisor or mentor to discuss your clinical performance and personal development.
5. You must be directly supervised by a registered nurse when administering medication until signed off as competent by your line manager, nominated supervisor or mentor.
6. You must create a personal development plan (PDP) and agree it with your line manager, nominated supervisor or mentor within a month of your commencement of employment. Your personal development plan must address concerns about:
  - communication whilst at work (with patients and colleagues)
  - medication administration
  - infection control

Send your case officer a report before the next review hearing from your line manager, nominated supervisor and mentor. This report must show your progress towards achieving the aims set out in your PDP.

7. You must keep us informed about anywhere you are working by:
  - a) Telling your case officer within seven days of accepting or leaving any employment.
  - b) Giving your case officer your employer's contact details.
8. You must keep us informed about anywhere you are studying by:
  - a) Telling your case officer within seven days of accepting any course of study.
  - b) Giving your case officer the name and contact details of the organisation offering that course of study.
9. You must immediately give a copy of these conditions to:
  - a) Any organisation or person you work for.

- b) Any employers you apply to for work (at the time of application).
  - c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
10. You must tell your case officer, within seven days of your becoming aware of:
- a) Any clinical incident you are involved in.
  - b) Any investigation started against you.
  - c) Any disciplinary proceedings taken against you.
11. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
- a) Any current or future employer.
  - b) Any educational establishment.
  - c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 12 months.

This conditions of practice order will take effect upon the expiry of the current suspension order, namely the end of 30 October 2024 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by your continued engagement with the NMC including your attendance at any future hearing.

This will be confirmed to you in writing.

That concludes this determination.