

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

**Substantive Hearing
Tuesday, 23 April 2024 – Thursday 25 April 2024
Monday, 29 April 2024 – Tuesday, 30 April 2024**

Virtual Hearing

Name of Registrant: Tracey June Mann

NMC PIN: 82Y2553E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing (Level 1) – 21 May 1985

Registered Nurse – Sub Part 3
Mental Health Nurse (Level 3) – 22 March 1988

Relevant Location: Essex and Uttlesford

Type of case: Misconduct

Panel members: Richard Weydert-Jacquard (Chair, Registrant member)
Richard Curtin (Registrant member)
Dr Tim Ward (Lay member)

Legal Assessor: Gillian Hawken (23 April 2024 – 24 April 2024)
Breige Gilmore (25 April 2024)
Sean Hammond (29 April 2024 – 30 April 2024)

Hearings Coordinator: Eleanor Wills

Nursing and Midwifery Council: Represented by Giedrius Kabasinskas, Case Presenter

Mrs Mann: Not present and not represented at this hearing

Facts proved: Charges 3ai, 3aii, 3bi, 3bii, 3ci, 3cii, 4, 5

Facts not proved: Charges 1a, 1b, 1c, 1d, 2a, 2b

Fitness to practise: Impaired

Sanction: **Suspension order (12 months)**

Interim order:

Interim suspension order (18 months)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Mann was not in attendance and that the Notice of Hearing letter had been sent to Mrs Mann's registered email address by secure email on 21 March 2024.

Mr Kabasinkas, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor. The panel was directed to an email from Mrs Mann to the NMC dated 1 February 2024, in which she confirmed that she accepts service via her registered email address.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Mann's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Mrs Mann has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on application for hearing to be held in private

An application pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules) to hear certain matters in private was accepted.

Decision and reasons on proceeding in the absence of Mrs Mann

The panel next considered whether it should proceed in the absence of Mrs Mann. It had regard to Rule 21 and heard the submissions of Mr Kabasinkas who invited the panel to continue in the absence of Mrs Mann.

Mr Kabasinkas submitted that Mrs Mann has made no application for an adjournment. He submitted that there has been no engagement by Mrs Mann with the NMC since 1 February 2024. Further he submitted that there had been no engagement at all by Mrs Mann with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion. Additionally, he submitted that Mrs Mann had voluntarily absented herself.

Mr Kabasinkas informed the panel that a witness is scheduled to give evidence today and not proceeding may inconvenience her and her employer. He informed the panel that this case was referred to the NMC in 2022. He submitted that further delay may have an adverse effect on the witness's ability to accurately recall events. Finally, he submitted that there is a public interest in the expeditious disposal of this case.

Mr Kabasinkas referred the panel to an email from Mrs Mann to the NMC dated 1 February 2024:

'I am so sorry not to have responded earlier. [PRIVATE].'

Mr Kabasinkas submitted that there is no evidence before the panel today to suggest that Mrs Mann is unable to engage in these proceedings or that she cannot attend, [PRIVATE].

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised

'with the utmost care and caution' as referred to in the case of *R v Jones (Anthony William)*_(No.2) [2002] UKHL 5.

The panel decided to proceed in the absence of Mrs Mann. In reaching this decision, the panel has considered the submissions of Mr Kabasinskas and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Mann;
- Mrs Mann has not engaged with the NMC since 1 February 2024 and has not responded to enquires in relation to this particular hearing.
- In Mrs Mann's email to the NMC dated 1 February 2024, Mrs Mann [PRIVATE].
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- A witness has attended today to give live evidence; not proceeding may inconvenience the witness, their employer and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2022.
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There may be some disadvantage to Mrs Mann in proceeding in her absence.

Although the evidence upon which the NMC relies was sent to her at her registered address, she made no response to the allegations. She will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the

evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mrs Mann's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

In these circumstances, the panel decided that it is fair to proceed in the absence of Mrs Mann. The panel will draw no adverse inference from Mrs Mann's absence in its findings of fact.

Details of charge

That you, a registered nurse:

1) In or around 2022:

- a) Left eye drops in Resident A's room. **[NOT PROVED]**
- b) Left an insulin pen in Resident B's room. **[NOT PROVED]**
- c) Left an inhaler in Resident C's room. **[NOT PROVED]**
- d) Left an insulin pen on an armchair. **[NOT PROVED]**

2) Between June 2022 and July 2022:

- a) On one or more occasion administered medication to two Residents from the same medication box. **[NOT PROVED]**
- b) Did not record the administration of the medication on either of Resident's MAR charts at 2 a) above. **[NOT PROVED]**

3) On 2/3 July 2022:

- a) In relation to Resident D
 - i) Did not administer Sinemet as prescribed. **[PROVED]**
 - ii) Did not record the missed dose on their MAR chart. **[PROVED]**
- b) In relation to Resident E

i) Did not administer Nitrofurantoin as prescribed. **[PROVED]**

ii) Did not record the missed dose on their MAR chart.

[PROVED]

c) In relation to Resident F

i) Administered an incorrect dose of Omeprazole. **[PROVED]**

ii) Did not record the incorrect dose on their MAR chart.

[PROVED]

4) On 3 July 2022 concealed a tablet under your handbag. **[PROVED]**

5) Your conduct at charge 4 was dishonest in that you intended to mislead Colleague A that medication was administered when you knew that it was not.

[PROVED]

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

Background

The NMC received a referral on 28 July 2022 from Moat House Care Home (“The Home”), where Mrs Mann worked as a staff nurse between April and July 2022. The referral raised concerns in relation Mrs Mann’s professional practice between 19 June 2022 and 3 July 2022 as follows:

Poor medication practice

It is alleged that Mrs Mann left medication in the bedrooms of residents which was not prescribed to them and that she left Insulin needles in a communal corridor. It is also alleged that Mrs Mann administered Parkinson’s medication, which though the correct dose was from another resident’s personal medication stock.

On 2/3 July 2022 it is alleged that Mrs Mann did not administer a resident their Parkinson tablet as prescribed. It is also alleged that Mrs Mann did not administer antibiotics to a resident as prescribed and that she had administered an incorrect dosage of Omeprazole.

Poor record keeping

It is alleged that Mrs Mann failed to complete Medication Administration Record (“MAR”) Charts.

Dishonesty

It is alleged that Mrs Mann tried to conceal one tablet of medication under her bag during a count of the medication for Resident A.

As a result of these concerns, Mrs Mann was dismissed by the Home on 11 July 2022 for an unsuccessful probationary period.

Mrs Mann provided a statement of response to the allegations made by the Home. Mrs Mann stated that there was a *‘toxic working environment’* and *‘stresses and conflicts contributing to my resignation’*; that *‘Since leaving my post I have completed an RCN module on Medication Management and avoidance of errors. I have also written a reflective account of my error with one medication. I can forward these to the NMC if required.’*

The panel was informed by Mr Kabasinskas that this information as stated above, was requested from Mrs Mann by the NMC, but no response was received.

Decision and reasons on facts

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 Kabasinskas on behalf of the NMC.

The panel drew no adverse inference from the non-attendance of Mrs Mann.

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 witness called on behalf of the NMC:

- Witness 1: Registered Nurse, Deputy Manager at the Home, at the time of the allegations.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC alongside Mrs Mann's written response.

The panel then considered each of the disputed charges and made the following findings.

Charge 1

“That you, a registered nurse, In or around 2022:

- a) Left eye drops in Resident A's room.
- b) Left an insulin pen in Resident B's room.
- c) Left an inhaler in Resident C's room.
- d) Left an insulin pen on an armchair.”

This charge is found NOT proved.

In reaching this decision, the panel took into account that this charge is drafted in vague terms, in that Residents A-C are not identified in the NMC bundle, and there are no specified dates relating to when the alleged conduct occurred. The charge is drafted to cover a very broad period of time. The panel further took into consideration that no MAR charts have been provided in relation to these charges, hence there is no evidence before it to indicate when any of these medications were due to be administered. Therefore, there is no evidence of who was responsible for administering these medications.

The panel took into account Witness 1's oral evidence and her written statement signed and dated 16 January 2023. The panel had particular regard to the following excerpts from that statement:

'I do not recall precisely the date this happened but it would have been in 2022. I am not sure, but I think there were three bedrooms in which I found medication prescribed for other residents; eye drops, insulin pen, and an inhaler.'

'During the rest of that day, I also found eye drops and inhalers in other residents' rooms'.

'I do not know what happened exactly in relation to the use of this medication found open in different rooms, but I know the medication was used daily by all the nurses...I do not remember anything else as Tracey [Mrs Mann] was responsible for administering the medication I found, I knew it was her as she was the only nurse on duty the night before.'

The panel noted Mrs Mann's response to charge 1b:

'I refuted this on all points as I had never administered insulin at any point since my starting date and therefore it would have been impossible for me to have left any needles anywhere.'

The panel noted Mrs Mann's response to charge 1d:

‘On one occasion had left a securely closed box containing a glucometer and its tools outside of the medication room.’

The panel took into account that there was no corroborating evidence provided to it in relation to these charges and that the evidence relied on, by the NMC, is solely Witness 1’s account and the context of the allegations. The panel determined that Witness 1’s testimony, with regards to what she observed on an unspecified day, was unclear and vague in relation to these charges. The panel was of the view that Witness 1’s evidence involved a series of presumptions and suppositions which led to the conclusion that Mrs Mann was on duty at the time of these allegations and that she was at fault.

The panel was not satisfied that the NMC has provided sufficient evidence to discharge its burden of proof in relation to charges 1a – 1d, and therefore the panel concluded that charge 1, in its entirety, is NOT proved.

Charge 2

“That you, a registered nurse, between June 2022 and July 2022:

- a) On one or more occasion administered medication to two Residents from the same medication box.
- b) Did not record the administration of the medication on either of Resident’s MAR charts at 2 a) above.”

This charge is found NOT proved.

In reaching this decision, the panel again considered the timeline alluded to in this charge to be vague and took into account that the charges do not specify the residents involved in these allegations. Furthermore, the panel crucially did not have sight of the relevant MAR charts upon which Witness 1’s testimony relies in relation to these charges. The panel took into account that there is no corroborating evidence

before it to suggest that Mrs Mann was the nurse responsible for dispensing these medications. The panel noted that there was no corroborating evidence that these discrepancies, in the running balance of these medications, occurred. The panel was of the view that Witness 1's evidence gives an unclear account of what she believes occurred and involves an unsubstantiated assumption that these discrepancies occurred on a particular night and were the fault of Mrs Mann. Consequently, the panel considered that the NMC has provided insufficient evidence to discharge its burden of proof and could not be satisfied that on the balance of probabilities, this charge occurred as alleged.

The panel found charge 2, in its entirety, NOT proved.

Charge 3 a)

“That you, a registered nurse, on 2/3 July 2022:

a) In relation to Resident D

i) Did not administer Sinemet as prescribed.

ii) Did not record the missed dose on their MAR chart.”

This charge is found proved.

In reaching this decision, the panel took into account that the identity of the resident and the date/s of when the allegations occurred are specified. The panel had sight of the MAR Chart and a Form relating to the missed dose of Sinemet for Resident D, dated 20 June 2022 to 17 July 2022. The panel had regard to the fact that there was no record for the missed dose of Sinemet for Resident D on the 2/3 July 2022 at 20:00. The panel took into consideration the contemporaneous incident report form dated 3 July 2022, in which it was stated that:

‘The Nurse T.M. [Mrs Mann] did not administer the Parkinson’s medication for [Resident D]’

The panel noted that the Sinemet medication was meant to be administered at 20:00 on the night shift of 2/3 July 2022 and that this was the time at which the shift change for the day and night nurse occurred. Consequently, the panel determined that there is some level of ambiguity as to whether the day or night nurse was responsible for administering this medication. However the panel had regard to the incident report form dated 3 July 2022, which contained no such suggestion that there was any ambiguity as to whose responsibility it was to administer the medication. Further the panel accepted the consistent and clear account of Witness 1 provided during her oral evidence and in her witness statement signed and dated 16 January 2023.

The panel, in light of Witness 1's account and the corroborating evidence, determined that on the balance of probabilities charge 3a, in its entirety, is found proved.

Charge 3 b)

“That you, a registered nurse, on 2/3 July 2022:

b) In relation to Resident E

i) Did not administer Nitrofurantoin as prescribed.

ii) Did not record the missed dose on their MAR chart.”

This charge is found proved.

In reaching this decision, the panel had sight of the MAR Chart and a Form relating to the missed dose of Antibiotics for Resident E, dated 29 June 2022 to 28 July 2022. The panel had regard to the fact that there was no record for the missed dose of Nitrofurantoin for Resident E on the 2/3 July 2022 at 6:30am. The panel also took into account the contemporaneous incident report form dated 3 July 2022, in which it was stated that:

‘[Resident E] did not receive her antibiotics (Nitrofurantoin) at 6:30am.... The nurse T.M. [Mrs Mann] did not administer...’

The panel noted that the missed dose occurred at 6:30am, when Mrs Mann would have been the night nurse on duty, therefore the panel was of the view that there could be no ambiguity as to whose responsibility it was to administer the medication, given that she was the only nurse on duty. The panel accepted the clear and consistent account provided by Witness 1 in her oral evidence and her written statement signed and dated 16 January 2023.

The panel, in light of the corroborating evidence, determined, on the balance of probabilities, that charge 3b, in its entirety, is found proved.

Charge 3 c)

“That you, a registered nurse, on 2/3 July 2022:

- c) In relation to Resident F
 - i) Administered an incorrect dose of Omeprazole.
 - ii) Did not record the incorrect dose on their MAR chart.”

This charge is found proved.

In reaching this decision, the panel had sight of the MAR Chart and Form relating to the incorrect dose of Omeprazole for Resident F, dated 20 June 2022 to 17 July 2022. The panel noted that on the MAR Chart and a Form that the running balance evidenced that only one omeprazole capsule was administered, not two as prescribed. The panel had regard to the fact that there was no record for the incorrect dose of Omeprazole for Resident F on the 2/3 July 2022. The panel also took into account the contemporaneous incident report form dated 3 July 2022, in which it was stated that:

‘The nurse administered one capsule (Omeprazole) instead of 2 capsules.’

The panel accepted the clear and consistent account of Witness 1, which she provided in her oral evidence and written statement signed and dated 16 January 2023.

The panel was satisfied, on the balance of probabilities, that the charges occurred as alleged. The panel therefore determined, given the corroborating evidence, that charge 3c, in its entirety, is found proved.

Charge 4

“That you, a registered nurse, on 3 July 2022 concealed a tablet under your handbag.”

This charge is found proved.

In considering this charge the panel paid particularly close attention to the word ‘*concealed*’, and adopted the Oxford English Dictionary (‘OED’) definition of the word:

‘Not allow to be seen; hide; - prevent (something) from being known; keep secret’.

In reaching this decision, the panel accepted Witness 1’s account of the events provided to the panel in her oral evidence and her written statement signed and dated 16 January 2023. Witness 1 stated, *“I saw Tracey put a tablet underneath her handbag. From my point of vision, it was quite obvious she was trying to hide the tablet. I was shocked.”* In answer to a direct question from the panel, Witness 1 confirmed that she saw Mrs Mann take the tablet and put it under her bag. Witness 1 said that she then reported the matter verbally to her manager.

The panel was of the view that Witness 1’s account is credible, in that she was consistent and clear, and accepted that she had observed Mrs Mann attempting to conceal a tablet under her handbag.

The panel noted that Mrs Mann was made aware of the allegations against her and has been given the opportunity to respond. In the absence of any evidence to the contrary provided by Mrs Mann the panel determined that, on the balance of probabilities the allegation occurred as described by Witness 1.

The panel found charge 4 proved.

Charge 5

“Your conduct at charge 4 was dishonest in that you intended to mislead Colleague A that medication was administered when you knew that it was not.”

This charge is found proved.

When considering charge 5 the panel adopted in its approach the test for dishonesty laid out in the case of *Ivey v Genting Casinos (UK) Ltd (t/a Crockfords Club)* [2017] UKSC 67:

‘What was the defendant’s actual state of knowledge or belief as to the facts; and was his conduct dishonest by the standards of ordinary decent people?’

The panel referred to the NMC guidance *‘Making decisions on dishonesty charges and the professional duty of candour’* reference *‘DMA-8’*, last updated 27 February 2024.

In reaching this decision, the panel took into account Mrs Mann’s response to the allegations which highlighted that due to the number of medication error concerns regarding her practice Mrs Mann...

‘..had been as careful as possible during that shift. Obsessively so as I did not want to be called into account.’

The panel took into account Witness 1's oral evidence and her written statement signed and dated 16 January 2023. The panel accepted Witness 1's clear and consistent account of the events, in that Mrs Mann deliberately concealed the tablet and when confronted sought to cover it up and became defensive and angry.

The panel, in light of its finding that charge 4 is found proved and having adopted the OED definition of '*concealed*', determined that this was a deliberate act by Mrs Mann, in that she made a decision to conceal a tablet, at that moment in time. The panel concluded that, given the contextual circumstances, Mrs Mann was motivated to falsify the medication stock count, to avoid her practice regarding medication errors being '*called into account*'.

The panel concluded that there was no evidence before it to suggest an alternative innocent explanation, for the deliberate act of concealing the tablet from another registered nurse, given the contextual circumstances and Witness 1's account that Mrs Mann became defensive and angry when confronted.

The panel was mindful that a registered nurse has a professional duty of candour. The panel concluded that an ordinary decent member of the public, fully informed of the context of the charge, would find that Mrs Mann's actions were dishonest.

The panel found charge 5 proved.

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 Mrs Mann's 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.

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, Mrs Mann's 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.*'

Mr Kabasinkas invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code) in making its decision.

Mr Kabasinkas referred the panel to the case of *Nandi v GMC* [2004] EWHC 2317 (Admin), in which Mr Justice Collins stated that:

"the adjective 'serious' must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners. It is of course possible for negligent conduct to amount to serious professional misconduct, but the negligence must be to a high degree."

Mr Kabasinkas highlighted that these allegations were raised by another registered nurse who deemed that Mrs Mann's conduct fell seriously short of what is expected of a registered nurse. He submitted that the charges found proved amount to serious misconduct as they took place when Mrs Mann was acting in the course of her

professional practice, when administering medication or when communicating with another registered nurse.

Mr Kabasinkas submitted that Mrs Mann, given the facts found proved, breached the following parts of the Code.

'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

1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay

8 Work co-operatively

To achieve this, you must:

8.2 maintain effective communication with colleagues

8.4 work with colleagues to evaluate the quality of your work and that of the team

8.5 work with colleagues to preserve the safety of those receiving care

8.6 share information to identify and reduce risk

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:

10.1 complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event.

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.

14 Be open and candid with all service users about all aspects of care and treatment, including when any mistakes or harm have taken place

To achieve this, you must:

14.1 act immediately to put right the situation if someone has suffered actual harm for any reason or an incident has happened which had the potential for harm.

14.2 explain fully and promptly what has happened, including the likely effects, and apologise to the person affected and, where appropriate, their advocate, family or carers.

14.3 document all these events formally and take further action (escalate) if appropriate so they can be dealt with quickly.

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.'

Mr Kabasinkas submitted that the charges found proved can be described in the following way:

- Failure to administer medication to two residents.
- Administering the wrong dose of medication to a resident
- Failure to complete MAR Charts for three residents
- Concealing a tablet with the intention of misleading another registered nurse that medication was administered when it was not.

Mr Kabasinkas submitted that medication administration is a fundamental part of the nursing profession. He submitted that the medication errors were not isolated and involved multiple residents. He submitted that failures in documentation of medication results in inaccurate patient records. Mr Kabasinkas further submitted that Mrs Mann's actions in charge 3 fell below the standard expected of a registered nurse and does amount to misconduct.

Mr Kabasinkas submitted in relation to charge 4 and 5, that honesty is a fundamental cornerstone of the nursing profession and to comply with their professional duty of candour a registered nurse must be honest, open, and truthful in all their dealings with residents and the public. He submitted that concealing a tablet to create a misleading impression that the medication was administered, when in fact it was not, again fell below the standards expected of a registered nurse and amounts to misconduct.

Submissions on impairment

Mr Kabasinkas 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 cases 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.

Mr Kabasinkas submitted that all four limbs of the "test" laid out in *CHRE v NMC and Grant* are engaged. He submitted that Mrs Mann demonstrated failures across

fundamental areas of nursing practice. He submitted that failure to administer medication or administering the wrong dose of medication put residents at risk of harm and could have led to a detrimental impact on the residents' health and wellbeing. He submitted that failures in documentation meant that Mrs Mann did not leave an accurate record of her medication administration for other nurses. This could have led to a confusion with resident's medication or colleagues mistakenly administering a second dose. Mr Kabasinkas submitted that the fact that Mrs Mann concealed medication, in order to cover up that she had failed to administer medication, calls into question her trustworthiness and raises concerns regarding her attitude.

Mr Kabasinkas referred the panel to the case of *Cohen v GMC*; which includes the following matters to consider when determining current impairment:

'Whether the conduct which led to the charges is easily remediable, second that it has been remedied and third that it is highly unlikely to be repeated.'

Mr Kabasinkas submitted in relation to the medication administration and record keeping errors that they are easier to remediate. He referred the panel to Mrs Mann's undated statement in which she made some admissions about her poor practice and raised contextual issues regarding staffing at the Home. Mr Kabasinkas informed the panel that Mrs Mann described the working environment as *'toxic'* and that she believed this referral to be *'malicious'* due to her having raised concerns about the Home in general. Mr Kabasinkas informed the panel that Mrs Mann stated in her undated statement that she had undertaken training in medication, but he submitted that there is no evidence of this before the panel today. He submitted that Mrs Mann has had very limited engagement with the NMC and that there is also the larger issue of Mrs Mann's dishonest behaviour, which is indicative of a deep-rooted attitudinal issue, which is harder to remediate.

Mr Kabasinkas submitted that there is no evidence that the conduct, which led to the charges found proved, has been remedied. He stated that no evidence has been provided to the panel to demonstrate that Mrs Mann has strengthened her practice. Mr Kabasinkas informed the panel that Mrs Mann in her undated statement

mentioned that she had undertaken a reflective piece, he submitted that Mrs Mann has not provided this to the NMC and the onus is on her to do so. Mr Kabasinkas submitted that there is no evidence of Mrs Mann's insight or steps she has undertaken to address the concerns. He referred the panel to an email dated 9 August 2022, in which Mrs Mann informs the NMC that she has not been working since she has left the Home. Additionally, that there was no evidence of Mrs Mann's employment in a clinical setting and therefore no evidence of good practice.

Mr Kabasinkas submitted that Mrs Mann has not demonstrated sufficient insight or provided evidence of having undertaken appropriate steps to address any concerns arising from the findings and therefore there is nothing before the panel to suggest that a risk of repetition in the future is reduced. Mr Kabasinkas submitted that a finding of impairment is necessary on the ground of public protection.

Mr Kabasinkas submitted that Mrs Mann cannot practise safely and effectively. He submitted that honesty and integrity are fundamental tenets of the nursing profession. He argued that charges 4 and 5 undermine the professional standards and raise fundamental concerns about Mrs Mann's trustworthiness as a registered professional. He therefore submitted that a finding of impairment on the ground of public interest is necessary to maintain the public's trust and confidence in the nursing profession and to uphold the professional standards.

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), and *Cohen v General Medical Council* [2008] EWHC 581.

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 Mrs Mann's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Mann's 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 [in relation to charge 3]

1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay [in relation to charge 3]

8 Work co-operatively

To achieve this, you must:

8.2 maintain effective communication with colleagues [in relation to charges 3a ii, 3b ii, 3c ii]

8.5 work with colleagues to preserve the safety of those receiving care [in relation to charges 3a ii, 3b ii, 3c ii]

8.6 share information to identify and reduce risk [in relation to charges 3a ii, 3b ii, 3c ii]

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:

10.1 complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event. [in relation to charges 3a ii, 3b ii, 3c ii]

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. [in relation to charges 3a ii, 3b ii, 3c ii]

10.3 complete records accurately... [in relation charges 3a ii, 3b ii, 3c ii]

14 Be open and candid with all service users about all aspects of care and treatment, including when any mistakes or harm have taken place

To achieve this, you must:

14.3 document all these events formally and take further action (escalate) if appropriate so they can be dealt with quickly. [in relation charge 3a ii, 3b ii, 3c ii]

16 Act without delay if you believe that there is a risk to patient safety or public protection

To achieve this, you must

16.4 acknowledge and act on all concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so [in relation to charge 4 and 5]

16.5 not obstruct, intimidate, victimise or in any way hinder a colleague, member of staff, person you care for or member of the public who wants to raise a concern [in relation to charge 4 and 5]

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 [in relation to charges 3a i, 3b i, 3c i]

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
[in relation to all charges]

20.2 act with honesty and integrity at all times... [in relation to charge 4
and 5].’

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

The panel when considering charge 3 in its entirety, noted that there are three separate medication administration and documentation errors, involving three different residents and three different medications, which occurred during one night shift. The panel determined that this points to wider concerns regarding Mrs Mann ability to administer medication and to document correctly the administration of that medication. The panel therefore determined that when taken collectively, the particulars found proved in charge 3 amounted to misconduct.

The panel when considering charge 4, bore in mind that it had adopted the OED definition of ‘conceal’, and had determined that Mrs Mann’s act of concealing a tablet under her handbag was a deliberate act. The panel therefore determined that charge 4 did constitute serious professional misconduct.

The panel determined that charge 5 amounted to serious misconduct as it involved an act of dishonesty in clinical setting with a direct implication to patient care.

The panel found that Mrs Mann’s 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, Mrs Mann’s 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 determined that all four limbs of the “test” are engaged.

The panel determined that residents were put at risk of unwarranted harm as a result of Mrs Mann’s misconduct. The panel took into consideration that Mrs Mann failed to administer medication to two residents and administered the incorrect dose of medication to a third patient. The panel noted that Mrs Mann failed to complete MAR Charts for three residents resulting in inaccurate patient records. Further the panel took into account that Mrs Mann concealed a tablet which was meant to be administered to a resident and had acted dishonestly in doing so.

The panel was of the view that Mrs Mann’s misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel has specific regard to the fact that Mrs Mann acted dishonestly within the context of direct clinical care and therefore determined that she had breached her duty of candour as a registered nurse.

Regarding insight, the panel considered that Mrs Mann did provide a response to the allegations made by the Home, which included some acknowledgment of her poor practice and mentioned that she had undertaken a reflective piece and a Royal College of Nursing ('RCN') module on medication management and avoidance of errors. The panel considered that no evidence of Mrs Mann's remorse had been presented to it, and further determined that there was no evidence of *'in depth'* reflection, meaningful insight, or any evidence of strengthened practice.

Furthermore, the panel took into account that Mrs Mann has not demonstrated an understanding of, how her actions put residents at a risk of harm or an understanding of why what she did was wrong and how this impacted negatively on the reputation of the nursing profession.

The panel was satisfied that the misconduct in relation to the medication administration and documentation errors in this case are capable of being addressed. The panel decided that the misconduct in relation to Mrs Mann's dishonesty may be indicative of an attitudinal issue which is harder to remediate. However, the panel determined that Mrs Mann's dishonesty was spontaneous in nature, rather than premeditated, confined to a single *'one-off'* episode rather than long-standing. Although the panel acknowledged that this occurred within a clinical setting and had the potential to cause harm to a resident, there was no evidence that it did so. Consequently, the panel considered that it was on the lower end of the spectrum of dishonesty, and therefore did not indicate an attitudinal issue at this point in time.

The panel was of the view that the misconduct in relation to Mrs Mann's dishonesty could be remedied through reflection and insight into her failings. However, the panel determined it has no evidence before it to suggest that Mrs Mann has undertaken remedial steps or strengthening of her practice to address the charges found proved. Although Mrs Mann alludes to having undertaken remedial steps by having written a reflective piece and completed a RCN module in medication management and avoidance of errors, the panel has no objective evidence of this before it.

The panel could not be satisfied that the risk of repetition/future harm is low, given the absence of remorse, *'in-depth'* reflection, meaningful insight and evidence of

strengthened practice. Therefore, the panel determined that there was no evidence before it that Mrs Mann would act any differently in the future. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind 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. The panel determined that a well-informed member of the public, fully informed of the context of the case, would be very concerned to find that Mrs Mann has been allowed to practise unrestricted, given the nature of the charges, specifically charge 4 and 5 which relate to Mrs Manns dishonesty. The panel concluded that public trust and confidence in the nursing profession and the NMC as the regulator would be undermined if a finding of impairment was not made. Further the panel determined that a finding of impairment is required to uphold the professional standards.

The panel determined that there were no charges found proved, which pointed to Mrs Mann not practising '*kindly*'. However, it considered that the misconduct found in this case indicated that Mrs Mann did not practise '*safely or professionally*'. Furthermore, that she could not likely practise '*safely or professionally*' in the future without first demonstrating remorse, '*in-depth*' reflection, meaningful insight and evidence of strengthened practice in relation to medication administration, medication documentation and crucially her dishonesty. Having regard to all of the above, the panel was satisfied that Mrs Mann's 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 12 months. The effect of this order is that the NMC register will show that Mrs Mann's registration has been suspended.

Submissions on sanction

Mr Kabasinkas informed the panel that in the Notice of Hearing, dated 21 March 2024, the NMC had advised Mrs Mann that it would seek the imposition of a striking-off order if it found Mrs Mann's fitness to practise currently impaired.

Mr Kabasinkas submitted when considering sanction, the panel must have regard to aggravating and mitigating features. He submitted the following aggravating features are present in this case:

- Conduct which puts residents at risk of harm
- Lack of insight into failings
- Dishonesty, in that Mrs Mann breached her duty of candour

Mr Kabasinkas submitted in relation to mitigating features that there are none. He acknowledged that the panel has not heard from Mrs Mann, but that it has had before it some written submissions from Mrs Mann. Mr Kabasinkas submitted that in regulatory proceedings where the purpose of a sanction is to protect the public and not to punish a registered nurse, personal mitigation is usually less relevant.

Mr Kabasinkas submitted that the charges found proved are too serious to be dealt with by way of no order or a caution order. He submitted that a conditions of practice order may address the concerns relating to medication administration and management. However, the concerns which include an element of dishonesty are difficult to remediate and cannot be mitigated by a conditions of practice order, as the public's trust and confidence in the nursing profession would not be sufficiently addressed.

Mr Kabasinkas therefore submitted that the sanctions which should be considered are suspension or strike off. He referred the panel to the NMC guidance '*Considering sanctions for serious cases*', reference 'SAN-2', last updated 27 February 2024 and highlighted the section titled '*Cases involving dishonesty*'.

'Honesty is of central importance to a nurse, midwife or nursing associate's practice. Therefore allegations of dishonesty will always be serious and a nurse, midwife or nursing associate who has acted dishonestly will always be at some risk of being removed from the register...Generally, the forms of dishonesty which are most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register will involve:

- *deliberately breaching the professional duty of candour by covering up when things have gone wrong, especially if it could cause harm to people receiving care.'*
- ...

Nurses, midwives and nursing associates who have behaved dishonestly can engage with the Fitness to Practise Committee to show that they feel remorse, that they realise they acted in a dishonest way, and tell the panel that it will not happen again. Where the professional denies dishonesty, it is particularly important that they make every effort to attend the hearing so that the Committee can hear at first hand their response to the allegations.'

Mr Kabasinkas directed the panel to the case of *Professional Standards Authority for Health and Social Care v Nursing and Midwifery Council and Anor* [2023] EWHC 331 (Admin) at paragraph 86:

'... Having ruled out lesser sanctions, when the Committee turned to consider suspension order, it should have considered, first, whether this was a case of fundamental incompatibility' [with remaining on the register].

Mr Kabasinkas submitted that Mrs Mann had a responsibility to be open and honest about what happened, she had a duty to report matters and be open and honest with

her colleagues. He submitted that Mrs Mann's act of *'concealment'* whilst spontaneous is still indicative of behaviour that has not been remedied. He further submitted that the *'concealment'* was intentional, to hide the fact that medication had not been administered. He submitted that it calls into question Mrs Mann's compatibility with the staying on register. Mr Kabasinkas submitted that Mrs Mann's ability to stay on the register is incompatible and therefore the appropriate sanction in this matter is a striking-off order.

Mr Kabasinkas referred the panel to the appropriate NMC guidance *'Striking-off order'*, reference *'SAN-3E'*, last updated 27 February 2024.

- *'Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?'*
- *'Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate is not removed from the register?'*
- *'Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?'*

Mr Kabasinkas submitted that in this case there is a finding of impairment on public protection and public interest grounds. He submitted that Mrs Mann's conduct raises serious concerns which are more difficult to put right. Mr Kabasinkas referred the panel to the relevant NMC guidance *'Serious concerns which are more difficult to put right'*, reference *'FTP-3a'*, last updated 27 February 2024. Mr Kabasinkas submitted that whilst a suspension order would protect the public it would not uphold the public trust and confidence in the profession. He therefore submitted that a striking-off order is the appropriate and proportionate sanction.

Mr Kabasinkas referred the panel to the case of *General Medical Council v Khetyar* [2018] EWHC 813 (Admin).

Mr Kabasinkas submitted that in summary the crucial question is whether Mrs Mann's conduct is incompatible with her being on the register, and if the panel determine that its answer is yes, then a striking-off order must be considered. If the panel determine that its answer is no, then it may consider suspension.

Decision and reasons on sanction

Having found Mrs Mann's 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:

- Misconduct which put residents at risk of harm
- Lack of insight into the misconduct

The panel acknowledged that Mrs Mann mentioned in her response to the allegations that there was a '*toxic working environment*'. However, the panel noted that it was unable to 'test' this assertion under oath and that there was no corroborating evidence provided to it.

The panel therefore could not be satisfied that this was a mitigating feature. Furthermore, the panel considered there were no other grounds that could constitute mitigating features in this case.

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, an order that does not restrict Mrs Mann's practice would not be appropriate in the circumstances. The panel noted that there are two distinct areas of misconduct in this case, medication administration/documentation errors and dishonesty. 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 Mrs Mann's 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 considered that a caution order would not protect the public. Further, 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 Mrs Mann's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG.

The panel determined that the misconduct relating to Mrs Mann's medication administration and documentation errors could have been managed by conditions had there been some level of insight or evidence of remediation/strengthening of practice. However, the panel noted that there is no evidence of *'in depth'* reflection, meaningful insight, or any evidence of strengthened practice or remediation before it at this time. The panel was of the view that, had Mrs Mann demonstrated consistent engagement with the NMC and had she provided evidence of developing insight, that conditions of practice may have been possible to formulate to address her dishonest conduct. However, in the absence of engagement and given the lack of present insight, the panel determined that conditions of practice would not be workable in this case. In light of Mrs Mann's lack of engagement, the panel determined that it cannot be satisfied that, even if conditions could be formulated, Mrs Mann would comply with them. Furthermore, the panel concluded that the placing of conditions on Mrs Mann's registration would not adequately address the seriousness of this case and would not protect the public nor address the wider public interest concerns.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a 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 mindful that the medication administration/documentation errors and the act of ‘concealment’ all occurred during one shift on the 2/3 July 2022. Whilst the duty of candour had been breached in this case, the panel considered that Mrs Mann’s dishonest conduct was opportunistic/spontaneous in nature and there was no evidence that she was motivated by personal gain. The panel therefore noted that there was no information before it to evidence harmful deep-seated personality or attitudinal problems. The panel bore in mind that there was no evidence of repetition of behaviour since the incident.

The panel took into account that it has not been presented with any evidence of meaningful insight, but it was of the view that a period of suspension would provide Mrs Mann with the opportunity to reflect on the medication administration/documentation errors and dishonesty and provide a future panel with said evidence.

The panel was satisfied that in this case, the misconduct was in principle capable of remediation and therefore was not fundamentally incompatible with remaining on the register. Furthermore, the panel was confident that a suspension order is the least restrictive sanction, which sufficiently mitigates the public protection concerns and addresses the public interest, in this case.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, the panel concluded that it would be disproportionate. In making this decision, the panel carefully considered the submissions of Mr Kabasinkas in relation to the sanction that the NMC was seeking in this case, a striking-off order. The panel determined that charges found proved do raise fundamental questions about Mrs Mann's professionalism. The panel was of the view that the NMC has not demonstrated either through documentary evidence or the testimony of Witness 1, that Mrs Mann had/has a deep-seated personality or attitudinal problem. The panel determined that the dishonesty was spontaneous/opportunistic and limited to one instance, therefore it was satisfied that public confidence in the nursing profession can be maintained by a less restrictive sanction. Further the panel was satisfied that a suspension order is sufficient to protect the public and maintain professional standards.

Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mrs Mann's 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 Mrs Mann. 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 12 months was appropriate in this case to mark the seriousness of this case, given the breach of duty of candour and lack of insight.

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 would be assisted by:

- In depth reflections on the impact of the misconduct on:
 - Patients
 - Colleagues
 - Public perception of the nursing profession
- Evidence of strengthened practice in relation to:
 - medication administration
 - medication documentation

This will be confirmed to Mrs Mann 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 Mrs Mann's 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 Mr Kabasinkas. He submitted that the panel first has to look at the evidence of concern. He submitted given that the panel has made a finding of fact in relation to charges 3, 4 and 5 in their entirety, there is evidence of concern. Mr Kabasinkas submitted that the panel next have to consider the nature and seriousness of concern. He submitted that in relation to the charges found proved, the panel determined that those charges amount to misconduct. Further he submitted that the panel determined that Mrs Mann's fitness to practice is currently impaired by reason of her misconduct, as there is an ongoing risk of repetition. Mr Kabasinkas submitted that the panel made a finding of impairment on the ground of public protection and therefore the necessity

test for an interim order is met. Further he submitted that the panel made a finding of impairment on the ground of the wider public interest, and in this matter, he submitted that a member of the public would be concerned to find that a registered nurse, with such charges found proved, is permitted to practice whilst her substantive suspension order is coming into effect.

Mr Kabasinkas therefore submitted that an interim order is required on the grounds of public protection and wider public interest. He submitted that an interim order should mirror the substantive order imposed, therefore he stated that an interim suspension order should be imposed due to the reasons already identified in the panel's determination for imposing a substantive suspension order.

Mr Kabasinkas submitted that the interim suspension order should be for a duration of 18 months to cover any appeal period.

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 to cover the likely period of any appeal.

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

That concludes this determination.