Nursing and Midwifery Council

Fitness to Practise Committee

Substantive Hearing

4-11 October 2019

Nursing and Midwifery Council, 2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of registrant:	Mrs Jubilee Mildred Lindiwe Zondi
NMC PIN:	01A1558O
Part(s) of the register:	Registered Nurse – sub part 1 Adult Nursing (5 March 2002) Mental Health Nursing (18 January 2001)
Area of Registered Address:	England
Type of Case:	Misconduct
Panel Members:	Alexander Coleman (Chair, Lay member) Claire Rashid (Registrant member) Susan Field (Registrant member)
Legal Assessor:	William Hoskins
Panel Secretary:	Anjeli Shah
Mrs Zondi:	Not present and not represented
Nursing and Midwifery Council:	Represented by Leeann Mohamed, Case Presenter
Facts proved:	**All**
Facts not proved:	**N/A**
Fitness to practise:	**Impaired**
Sanction:	**Striking-off Order**
Interim Order:	**Interim Suspension Order for 18 months**

Details of charge (as amended):

That you, a registered nurse:

1) *On 19 April 2017 at 0420 administered Oramorph to Patient H who was on Patient Controlled Analgesia.* **(proved)**

2) *On 18 April 2017 did not document the administration of Morphine Sulphate Tablet in the Controlled Drug Book and/or did not administer Morphine Sulphate Tablet to Patient G.* **(proved in that did not administer)**

3) *On 5 October 2017 did not sign for or administer, or in the alternative, did not signed for but administered the following:* **(proved in its entirety in that did not sign for or administer)**

    a) *Humalog Mix 25 for Patient A at lunchtime*
    b) *Vitamin B Costrong for Patient B at 1400*
    c) *Thiamine for Patient B at around 1400*
    d) *Tramadol to Patient B at 1200*
    e) *Bumatanide to Patient C at 0800*
    f) *Movicol to Patient C at 0800*
    g) *Furosemide 20mg to Patient D at 0800*
    h) *Apixaban to Patient D at 0800*

4) *On 5 October 2017 at 0800 signed for but did not administer the following drugs to Patient E* **(proved in its entirety)**
    a) *Apixaban*
    b) *Cholecalciferol*
    c) *Levothyroxine*
    d) *Fludrocortisone*

5) *On 5 October 2017*
    a) *Said that you had administered Fludrocortisone at 0800 to Patient E when you had not* **(proved)**
    b) *Said that you did not have Fludrocortisone in a pot of medication when you did* **(proved)**

6) *Your actions in Charge 4(a) and/or 4(b) and/or 4(c) and/or 4(d) and/or 5(a) and/or 5(b) were dishonest* **(proved in its entirety)**

7) *Between 6 November 2017 to 24 August 2018 as per condition 5 of your Interim Conditions of Practice Order you failed to inform one or more of the following that you were subject to an Interim Conditions of Practice Order*
    a) *Your World Recruitment Group* **(proved)**
    b) *Queen Elizabeth Hospital* **(proved)**

c) *Gloucestershire Royal Hospital* **(proved)**

8) *Your actions in Charge 7 were dishonest in that you sought to mislead Your World Recruitment Group and/or Queen Elizabeth Hospital and/or Gloucestershire Royal Hospital in that you did not have any interim restrictions on your practice in order to gain and/or maintain employment.* **(proved in its entirety)**

9) *Between 23 March 2018 and 24 August 2018 worked 13 shifts at Queen Elizabeth Hospital and/or Gloucestershire Royal Hospital in breach of condition 1 and/or 3 of your Interim Conditions of Practice Order* **(proved in its entirety)**

10) *On or around 17 August 2018 did not immediately disconnect an NG tube for an unknown patient who was on a rest period* **(proved)**

11) *On 19 August 2018 administered 5000 Fragmin subcutaneously to Patient J which was not prescribed.* **(proved)**

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

Decision on Service of Notice of Hearing (Heard on Day 1)

The panel was informed at the start of this hearing that Mrs Zondi was not in attendance and that written notice of this hearing had been sent to Mrs Zondi's registered address by recorded delivery and by first class post on 2 September 2019. Notice of this hearing was delivered to Mrs Zondi's registered address on 3 September 2019.

The panel took into account that the notice letter provided details of the allegation, the time, dates and venue of the hearing and, amongst other things, information about Mrs Zondi's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

Ms Mohamed submitted that the Nursing and Midwifery Council ("NMC") 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.

In the light of all of the information available, the panel was satisfied that Mrs Zondi has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision on proceeding in the absence of the registrant (Heard on Day 1)

The panel next considered whether it should proceed in the absence of Mrs Zondi.

The panel had regard to Rule 21 (2) of the Rules which states:

> (2) Where the registrant fails to attend and is not represented at the hearing, the Committee—
>
> (a) shall require the presenter to adduce evidence that all reasonable efforts have been made, in accordance with these Rules, to serve the notice of hearing on the registrant;
>
> (b) may, where the Committee is satisfied that the notice of hearing has been duly served, direct that the allegation should be heard and determined notwithstanding the absence of the registrant; or
>
> (c) may adjourn the hearing and issue directions.

Ms Mohamed, on behalf of the NMC, referred the panel to an email from Mrs Zondi dated 11 September 2019, in which she stated:

> "I am happy for the panel to proceed with my case without me being present."

Ms Mohamed informed the panel that Mrs Zondi went on to put forward a number of other issues in this email, and then reiterated that she would not be attending the hearing, and that the panel could continue in her absence.

Ms Mohamed referred the panel to another email from Mrs Zondi dated 28 September 2019, in which she confirmed that she would not be attending and wished for the panel to proceed in her absence. Mrs Zondi stated her intentions and that she does not intend to work as a nurse, as well as putting forward other issues for the panel to consider.

Ms Mohamed also referred the panel to an email from an NMC case officer to Mrs Zondi dated 11 September 2019. In that email, the NMC case officer had explained a number of options available to Mrs Zondi. Mrs Zondi was asked whether she would like to request an adjournment of this hearing, and she was also provided with information about seeking financial assistance for travel and accommodation to attend this hearing.

Ms Mohamed submitted that the NMC have tried to accommodate Mrs Zondi in attending this hearing, and Mrs Zondi had been given the option of requesting an adjournment. However, Mrs Zondi, in her correspondence with the NMC, had confirmed that she is happy for the panel to proceed in her absence. Ms Mohamed submitted that Mrs Zondi had voluntarily absented herself from this hearing. She submitted that the correspondence between the NMC and Mrs Zondi indicated that Mrs Zondi had clearly been given the option of requesting an adjournment, but had chosen not to take this. Ms Mohamed therefore submitted that the panel could not be satisfied that an adjournment would result in Mrs Zondi's attendance at a hearing on a future date. She invited the panel to balance this against the fact that the NMC have a number of witnesses scheduled to attend the hearing to give evidence as well as the public interest in the expeditious disposal of these matters. In these circumstances, Ms Mohamed invited the panel to proceed in the absence of Mrs Zondi.

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".

The panel had regard to the correspondence from Mrs Zondi, in which she stated on a number of occasions that she would not be in attendance at this hearing and that she wanted the panel to proceed in her absence:

- In an email dated 10 September 2019 Mrs Zondi stated that she would be unable to attend the hearing;

- In an email dated 11 September 2019 Mrs Zondi stated that she would not be attending the hearing and that she was happy for the panel to proceed with her case without her being present;
- In an email dated 28 September 2019 Mrs Zondi stated that she would prefer for the panel to proceed with the hearing without her attendance.

The panel has decided to proceed in the absence of Mrs Zondi. In reaching this decision, the panel has considered the submissions of Ms Mohamed and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R. v Jones (Anthony William), (No.2)* [2002] UKHL 5. It has had regard to the overall interests of justice and fairness to all parties.

The panel considered that Mrs Zondi had expressed a clear and settled intention on three occasions not to attend this hearing and that she wished for the panel to proceed in her absence. The panel noted that Mrs Zondi had been given the option of requesting an adjournment, as well as other measures to accommodate her attendance at this hearing. Mrs Zondi had chosen not to exercise those measures and she had not requested an adjournment. Based on the information before it, the panel did not consider that an adjournment would secure Mrs Zondi's attendance at a hearing on a future date. The panel was of the view that Mrs Zondi had voluntarily absented herself from this hearing.

The panel also noted that a number of witnesses were scheduled to attend this hearing to give oral evidence, and therefore not proceeding may inconvenience the witnesses, their employers and for those involved in clinical practice, the clients needing their professional services. The panel further had regard to the wider public interest in the expeditious disposal of these proceedings.

There is some disadvantage to Mrs Zondi in proceeding in her absence. She will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on her own behalf. However, in the panel's judgment, 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 by way of clarification any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mrs Zondi's decision to absent herself from the hearing, to waive her right to attend and/or be represented and to not provide evidence on her own behalf.

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

Decision and reasons on application pursuant to Rule 31 (Heard on Day 1)

The panel heard an application made by Ms Mohamed, on behalf of the NMC, under Rule 31 of the Rules for Ms 1 to give evidence via video-link. She referred the panel to an email from Ms 1 dated 3 October 2019 in which Ms 1 set out reasons for being unable to attend the hearing in person due to her health.

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Ms Mohamed informed the panel that Ms 1 was available to give evidence between 10:00 and 12:00 on day 2 of this hearing by video-link. She informed the panel that Ms 3 gave sole and decisive evidence in relation to charge 3. Ms Mohamed submitted that Mrs Zondi was not present at this hearing and the panel would be able to assess Ms 1's demeanour through video-link evidence. She submitted that there would be no prejudice to Mrs Zondi if Ms 1 were to give evidence by video-link, and that there were good grounds for Ms 1's non-attendance, as set out in her email to the NMC.

The panel accepted the advice of the legal assessor.

Rule 31 of the Rules provides that, so far as it is "fair and relevant", a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel noted that the NMC had made initial attempts to secure her attendance at this hearing in person, however she was no longer able to attend in person. The panel considered that Ms 1 had provided good reasons as to why she is unable to travel to attend the hearing in person, due to her health.
The panel noted that the best evidence is that given in person, however it considered that giving evidence by video-link would be better than no evidence at all. The panel noted that Ms 1 gave sole and decisive evidence in relation to charge 3, and it therefore considered that her evidence is relevant.

The panel considered whether there was a potential for unfairness to arise if it were to grant the application for Ms 1 to give evidence by video-link. The panel noted that Mrs Zondi was not present at this hearing and would therefore not have been cross-examining Ms 1 in any event. In giving evidence via video-link the panel would still be able to assess Ms 1's demeanour, and it would give her evidence what, if any, weight it deemed appropriate, once it had heard and evaluated all of the evidence presented. In this respect, the panel considered that there would be limited prejudice to Mrs Zondi if Ms 1 were to give evidence by video-link.

In these circumstances, the panel decided to grant the application for Ms 1 to give evidence by video-link, determining that it would be fair and relevant to do so. The panel would give Ms 1's evidence what it deemed appropriate weight once it had heard and evaluated all the evidence before it.

Decision and reasons on application pursuant to Rule 31 (Heard on Day 3)

The panel heard an application made by Ms Mohamed, on behalf of the NMC, under Rule 31 of the Rules for Ms 7 to give evidence by video-link. She informed the panel that Ms 7 was unable to attend this hearing in person, as she had been on holiday. Ms 7 had booked annual leave to spend time with her family, and on day 2 of this hearing, she had had a four hour drive coming back from her holiday meaning she did not get home until late in the evening.

Ms Mohamed submitted that Ms 7 is a registered nurse and is therefore aware of her obligations to give evidence. She informed the panel that this hearing was scheduled prior to Ms 7 providing an NMC witness statement, and therefore her availability had not been canvassed when the hearing was scheduled.

Ms Mohamed drew the panel's attention to an email from Ms 7 dated 8 October 2019, in which she confirmed why she was unable to attend the hearing in person. She also drew the panel's attention to an email from an NMC case officer dated 8 October 2019, in which it was confirmed that the hearing was listed prior to Ms 7 being contacted to provide a witness statement.

Ms Mohamed submitted that Mrs Zondi has objected to Ms 7 providing evidence by video-link but she had not provided reasons for that objection. She submitted that whilst the best evidence is that given in person, there would not be any prejudice or unfairness if Ms 7 gave evidence by video-link as the panel would still be able to assess her demeanour and body language.

Ms Mohamed submitted that Ms 7's evidence is important, and is in relation to charge 2. She submitted that another witness also gave evidence in relation to charge 2, however that evidence would amount to hearsay without the evidence of Ms 7.

The panel accepted the advice of the legal assessor.

Rule 31 of the Rules provides that, so far as it is “fair and relevant”, a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel considered that Ms 7’s evidence was relevant, in relation to charge 2. The panel considered that there were good reasons for Ms 7’s non-attendance at this hearing, noting that she was a post-investigation witness, and the hearing had been scheduled prior to her being contacted, and therefore her availability had not been sought. Ms 7 was on holiday and had other commitments which prevented her from travelling to attend this hearing in person.

The panel considered whether any unfairness or prejudice to Mrs Zondi would arise if it were to grant the application for Ms 7 to give evidence by video-link. In this regard, the panel noted that Mrs Zondi, in her email to the NMC dated 28 September 2019, stated that she did not want Ms 7 to give evidence via video-link. However, Mrs Zondi had not provided any reasons for this objection. Furthermore, in her email, Mrs Zondi went on to say: “I will not have anymore conversation with you…”

The panel considered that Mrs Zondi had been given the opportunity to provide reasons for objecting to Ms 7 giving evidence by video-link, but she had not done so. Mrs Zondi went on to state that she did not want to speak to the NMC anymore, and the panel noted, as earlier determined, that she had voluntarily absented herself from this hearing, and therefore it would have been difficult to ask Mrs Zondi to elaborate on why she did not want Ms 7 to give evidence by video-link. Mrs Zondi was not present at this hearing, and therefore would not have been in a position to cross-examine Ms 7 in any event. The panel considered that whilst the best evidence is that given in person, giving video-link evidence is the next best form, and the panel would be able to assess Ms 7’s demeanour in this manner, and then give her evidence what it deemed appropriate weight, once it had heard and evaluated all of the evidence before it. The panel

therefore considered that any prejudice and unfairness arising from Ms 7 giving evidence by video-link would be minimal.

In these circumstances, the panel decided to grant the application for Ms 7 to give evidence by video-link, determining that it would be fair and relevant to do so. The panel would give Ms 7's evidence what it deemed appropriate weight once it had heard and evaluated all the evidence before it.

Decision and reasons on application to amend the charge (Heard on Day 3)

After the close of the NMC's case on facts, the panel heard an application made by Ms Mohamed, on behalf of the NMC, to amend the wording of charge 3 a). The proposed amendment was to change the timing of "08:00" to "lunchtime".

Ms Mohamed submitted that during Ms 1's oral evidence, Ms 1 referred to Patient A's medication administration record ("MAR") chart, where it indicated that Patient A was due to be administered Humalog Mix 25 at lunchtime. This was consistent with Ms 1's witness statement. Ms Mohamed submitted that it was unclear where the 08:00, as referred to in charge 3 a), originated from. She submitted that it was clear from Ms 1's evidence that the medication should have been administered at lunchtime, and that there was a blank space in the box on Patient A's MAR chart, in the lunchtime box where it should have been signed if it had been administered.

Ms Mohamed submitted that the amendment would reflect when the medication should have been administered. She submitted that amending a charge at this late stage could be seen as unfair or prejudicial to Mrs Zondi. However, Ms Mohamed submitted that Mrs Zondi would have been aware of these charges and would have been sent all of the documentation to be considered at this hearing. She submitted that in looking at Patient A's MAR chart, it was clear that the time for the Humalog Mix 25 to be administered was always lunchtime, and not 08:00. Ms Mohamed submitted the amendment would reflect the version of events as alleged, and therefore this should be reflected in the charge.

The panel accepted the advice of the legal assessor.

Rule 28 of the Rules states:

> 28.— (1) At any stage before making its findings of fact, in accordance with rule 24(5) or (11), the Investigating Committee (where the allegation relates to a

fraudulent or incorrect entry in the register) or the Fitness to Practise Committee, may amend—

(a) the charge set out in the notice of hearing; or

(b) the facts set out in the charge, on which the allegation is based,

unless, having regard to the merits of the case and the fairness of the proceedings, the required amendment cannot be made without injustice.

(2) Before making any amendment under paragraph (1), the Committee shall consider any representations from the parties on this issue.

The panel considered that the timing in charge 3 a) of "08:00" was a mere technical error, and that amending the charge to include "lunchtime" would not materially alter the substance of the charge. The panel considered that such an amendment would reflect the time the medication was due to be administered, as reflected in Patient A's MAR chart and in Ms 1's witness statement and her oral evidence.

The panel considered that Mrs Zondi would have been sent all documentation in this case, including Ms 1's witness statement and Patient A's MAR chart, in which it stated that the medication was due to be administered at lunchtime. The panel therefore considered that amending the charge would reflect the evidence in this matter. It noted that this application was made at a later stage, but considered that no unfairness would arise to Mrs Zondi in its being granted.

The panel therefore determined that this amendment, as applied for, was in the interests of justice. The panel was satisfied that there would be no prejudice to Mrs Zondi and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

Background

The NMC received a referral from Queen Alexandra Hospital, where at the time of some of the alleged incidents, Mrs Zondi was working as an Agency Nurse on Ward C6, the cardiology and gastro ward ("Ward 1"). This referral related to alleged medication errors which occurred on 5 October 2017.

During the course of the NMC's investigation, further alleged errors came to light which occurred in April 2017, when Mrs Zondi was working as an Agency Nurse on Ward 3/2, the trauma and orthopaedic ward ("Ward 2"), of Nevill Hall Hospital, part of Anuerin Bevan University Health Board.

It is alleged that on 19 April 2017 Mrs Zondi administered Oramorph to Patient H, who was on Patient Controlled Analgesia. Ms 6, a Band 5 Staff Nurse on Ward 2, attended work the morning after the alleged error and notified other members of staff.

It is alleged that on 18 April 2017 Mrs Zondi did not document the administration of Morphine Sulphate Tablet ("MST") in the controlled drugs book and/or that she did not administer MST to Patient G.

It is alleged that on 5 October 2017 Mrs Zondi made a number of medication and/or recording errors in that she failed to administer and/or failed to record that she had administered the following:

- Humalog Mix 25 for Patient A at lunchtime;
- Vitamin B Costrong for Patient B at 14:00;
- Thiamine for Patient B at around 14:00;
- Tramadol to Patient B at 12:00;
- Bumatanide to Patient C at 08:00;
- Movicol to Patient C at 08:00;
- Furosemide 20mg to Patient D at 08:00;
- Apixaban to Patient D at 08:00.

Ms 1, a Ward Pharmacist on Ward 1 was checking the MAR charts on 6 October 2017, and discovered there were some missed medication doses for the charts completed by Mrs Zondi.

It is alleged that on 5 October 2017 Mrs Zondi signed for but did not administer Apixaban, Cholecalciferol, Levothyroxine and Fludrocortisone to Patient E. It is further alleged that Mrs Zondi said she had administered Fludrocortisone at 08:00 to Patient E when she had not, and that she said she did not have Fludrocortisone in a pot of medication when she did. Ms 2, a Ward Coordinator on Ward 1, had a conversation with Mrs Zondi regarding these matters. It is also alleged that these actions were dishonest.

As a result of the referral from Queen Alexandra Hospital, Mrs Zondi was made subject to an interim conditions of practice order for a period of 18 months on 6 November 2017. It is alleged that Mrs Zondi did not inform Your World Recruitment Group ("the Agency"), Queen Elizabeth Hospital or Gloucestershire Royal Hospital that she was subject to an interim conditions of practice order.

Ms 3, a Clinical Advisor at the Agency, whilst conducting a PIN check on 24 August 2018, became aware that Mrs Zondi had been made subject to an interim conditions of practice order. Mrs Zondi had allegedly not disclosed this to Ms 3 and the Agency. Ms 3 then made a referral to the NMC.

It is alleged that Mrs Zondi was dishonest in that she sought to mislead the Agency and/or Queen Elizabeth Hospital and/or Gloucestershire Royal Hospital that she did not have any interim restrictions on her practice in order to gain and/or maintain employment.

It is alleged that between 23 March 2018 and 24 August 2018 Mrs Zondi worked 13 shifts at Queen Elizabeth Hospital and/or Gloucestershire Royal Hospital, which was in breach of certain conditions of the interim conditions of practice order. No arrangements

had been made for the supervision of Mrs Zondi during these shifts, and she had not been assessed and signed off as competent in medicines management prior to undertaking these shifts. Ms 3 provided a list of the 13 shifts that Mrs Zondi had worked between 6 November 2017 and 24 August 2018, through the Agency.

It is further alleged that on 17 August 2018 when Mrs Zondi was working as an Agency Nurse at Gloucestershire Royal Hospital she did not immediately disconnect a nasogastric (“NG”) tube for a patient who was on a rest period. Furthermore, it is alleged that on 19 August 2018, when Mrs Zondi was again working as an Agency Nurse at Gloucestershire Royal Hospital, she administered 5000 Fragmin subcutaneously to Patient J when this was not prescribed.

Decision on the findings on facts and reasons

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case. The panel heard oral evidence from six witnesses called on behalf of the NMC. The panel also heard submissions from Ms Mohamed, on behalf of the NMC.

The panel accepted the advice of the legal assessor, which included reference to the case of *Ivey v Genting Casinos* [2017] UKSC 67.

The panel is 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 the facts will be proved if the panel is satisfied that it is more likely than not that the incidents occurred as alleged.

The panel heard oral evidence from the following witnesses:

- Ms 1, a then Ward Pharmacist on Ward 1;
- Ms 2, a Band 6 Sister at Queen Alexandra Hospital;
- Ms 3, a Clinical Advisor at the Agency;
- Ms 4, a then Staff Nurse at Gloucestershire Royal Hospital;
- Ms 5, a Registered Nurse at Gloucestershire Royal Hospital;
- Ms 6, a then Band 5 Staff Nurse on Ward 2; and
- Ms 7, a then registered Nurse at Nevill Hall Hospital.

The panel considered the overall credibility and reliability of all of the witnesses it had heard from. The panel considered that all of the NMC's witnesses were helpful and sought to provide assistance with the questions asked. The panel made the following observations in relation to each of the witnesses individually:

Ms 1

The panel considered that Ms 1 was credible and reliable. Ms 1 provided helpful knowledge in relation to the alleged incidents to the panel. The panel noted that Ms 1 is a pharmacist, not a nurse but provided useful information about her own professional knowledge of nursing practices on Ward 1.

Ms 2

The panel considered that Ms 2 was credible and reliable. Ms 2 provided helpful professional knowledge, and was able to speak clearly about her recollection of the alleged incidents.

Ms 3

The panel considered that Ms 3 was credible and reliable. Ms 3 provided helpful information to the panel including that in relation to which shifts Mrs Zondi had undertaken through the Agency.

Ms 4

The panel considered that Ms 4 was credible and reliable and provided helpful information to assist the panel.

Ms 5

The panel considered that Ms 5 was credible and reliable. Ms 5 provided helpful information in relation to her recollection of the alleged incidents.

Ms 6

The panel considered that Ms 6 was credible and reliable. Ms 6 provided clear, helpful and professional knowledge in relation to the procedures of Ward 2.

Ms 7

The panel considered that Ms 7 was credible and reliable. Ms 7 provided helpful information to assist the panel.

The panel then considered each charge and made the following findings:

Charge 1:

That you, a registered nurse:

1) On 19 April 2017 at 0420 administered Oramorph to Patient H who was on Patient Controlled Analgesia.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 6, the evidence of Ms 3, the datix report for the incident on 19 April 2017, Patient H's MAR chart, Patient H's clinical notes, the email from Aneurin Bevan University Health Board to Ms 3 dated 20 April 2017, Mrs Zondi's local statement dated 24 April 2017 and Mrs Zondi's regulatory concerns response form dated 5 November 2018.

The panel had regard to Patient H's MAR chart, which indicated that on 19 April 2017 Patient H was on Patient Controlled Analgesia ("PCA"). In the box for the Oramorph prescription there was a note which said "not with PCA", which had been written by the prescriber. The panel noted that on the MAR chart, there was an entry at 04:20 where 10mg of Oramorph was signed as being administered by Mrs Zondi.

The panel had regard to Patient H's clinical notes in which a record was made by another nurse that the patient had been given Oramorph at 04:20.

The panel also noted the email from Aneurin Bevan University Health Board to Ms 3 which set out a complaint made regarding Mrs Zondi, including that she "gave oramorph to a patient on PCA".

The panel noted Mrs Zondi's local statement in response to the complaint. In relation to this alleged incident Mrs Zondi made the following comment: "Let alone the patient who was on PCA, who was on hourly PCA observations". The panel did not consider this was a response as such to this allegation. Mrs Zondi went on to say at the end of the statement:

> "About other patients I gave them medication according to the doctors prescription, the correct medication at the correct time and the correct doses".

The panel also had regard to Mrs Zondi's regulatory response form, in which she ticked yes, that she accepted the regulatory concern of poor practice in medicines management and administration.

Having regard to the totality of the evidence, the panel considered that it was clear that Patient H was receiving analgesia by a PCA pump on 19 April 2017, and that this was not to be administered with Oramorph. The panel considered that the MAR chart and Patient H's clinical notes indicated that Mrs Zondi had administered Oramorph to Patient H at 04:20. Whilst Mrs Zondi stated that she gave the patients medication as per their prescription, at the correct time and with the correct dose, she also accepted poor practice in medicines administration.

The panel concluded that, on the balance of probabilities, it was more likely than not that on 19 April 2017 at 04:20 Mrs Zondi administered Oramorph to Patient H who was on PCA.

Therefore, this charge is found proved.

Charge 2:

That you, a registered nurse:

2) On 18 April 2017 did not document the administration of Morphine Sulphate Tablet in the Controlled Drug Book and/or did not administer Morphine Sulphate Tablet to Patient G.

This charge is found proved in that did not administer MST to Patient G.

In reaching this decision, the panel took into account the evidence of Ms 6, the evidence of Ms 7, Patient G's MAR chart, an extract of the controlled drugs book for 18-19 April 2017, the datix report for the incident on 18 April 2017, the multi-disciplinary team ("MDT") communication sheet, Mrs Zondi's local statement dated 24 April 2017 and Mrs Zondi's regulatory concerns response form dated 5 November 2018.

The panel noted that in Ms 6's evidence she referred to an incident where Mrs Zondi did not administer Patient G's MST, but she had signed the patient's MAR chart to indicate this had been administered. Ms 6 said that Ms 7 submitted a datix report when she became aware of the incident.

The panel noted that it was Ms 7's evidence that when she was doing morning drug rounds on 19 April 2017 Patient G told her that she had not received her MST the night before. Ms 7 told the panel that whilst some patients do not always remember which medication they had and had not received, Patient G did not appear confused, and was clear that she had not received the MST.

The panel noted that on Patient G's MAR chart Mrs Zondi had signed for the administration of MST in the evening on 18 April 2017.

The panel noted that in the controlled drugs book record whilst there was a signature for the administration of MST at 10:30 on 18 April 2017, there was no signature to indicate this had been administered in the evening, at 22:30 when the next dose of MST was due to be administered.

The panel noted the MDT communication sheet, where there was an entry at 17:30 which stated that Patient G said she did not receive her MST last night, but on looking at the MAR chart this was signed for. The record went on to state that in checking the controlled drugs book, there was no record of the medication being given. There was also an entry at 06:35 which stated that Patient G asked for Oramorph at 04:00. The panel also noted that it was Ms 6's evidence that the patient requesting Oramorph at 04:00 on 19 April 2017 would be consistent with the fact that she did not receive her prescribed pain relief, MST, the night before, which was to be administered at 12 hourly doses.

The panel also had regard to the datix report which stated that a bank agency nurse had signed for MST 10mg on the MAR chart, the patient stated she did not have her MST and on checking the controlled drugs book, no MST was signed out for the patient. The controlled drug tablets were also counted and were correct. It was also Ms 6's evidence that when Ms 7 counted the tablets there was the correct number, without one missing to indicate that one MST had been administered.

The panel noted Mrs Zondi's local statement in response to the complaint where she stated:

> "About other patients I gave them medication according to the doctors prescription, the correct medication at the correct time and the correct doses".

The panel also had regard to Mrs Zondi's regulatory response form, in which ticked yes, that she accepted the regulatory concern of poor practice in medicines management and administration.

Having regard to the totality of the evidence, the panel considered it was clear that Patient G was prescribed MST at 12 hourly intervals, and that Mrs Zondi had signed the MAR chart to indicate this had been administered on the evening of 18 April 2017. Having regard to the datix report, the MDT communication sheet, the controlled drugs book record and the evidence of Ms 6 and Ms 7, the panel considered that it was more likely than not that Mrs Zondi did not administer the MST on 18 April 2017. Whilst noting Mrs Zondi's response that she always administered medication according to the doctor's prescription, at the right time and with the right dose, the panel noted that Mrs Zondi accepted poor practice in medicines administration and management.

The panel concluded that, on the balance of probabilities, it was more likely than not that on 18 April 2017 Mrs Zondi did not administer MST to Patient G.

Therefore, this charge is found proved.

Charge 3:

That you, a registered nurse:

3) On 5 October 2017 did not sign for or administer, or in the alternative, did not signed for but administered the following:

Whilst the panel considered the sub-charges within charge 3 individually, it made the following observations which it considered applicable to the entirety of the charge.

The panel took into account the evidence of Ms 1, Mrs Zondi's email response dated 16 October 2017 and Mrs Zondi regulatory response form dated 5 November 2018.

It was the evidence of Ms 1 that on the morning of 6 October 2017 she was checking the MAR charts, as per her general duties, and noticed medication which had not been signed for, for patients who had been in the care of Mrs Zondi the previous day. Ms 1 then proceeded to go through all of the MAR charts which Mrs Zondi had completed on 5 October 2017. Ms 1 discovered four MAR charts had missing signatures for some medicines, indicating that those medicines were not administered.

For obvious reasons Ms 1 adopted the approach that if a medication had not been signed for it had not been administered.

The panel noted Mrs Zondi's email response in which she stated:

> "On 5th of October 2017 I was working at Queen Alexander Hospital in ward c6…All my patients were missing checking for lunchtime. When I was giving medication, the patient in side room 16 missed her medication because the drug chart went missing. I looked for it I could not find it anywhere. I asked from other staff and doctors and no one knew about it. I then thought that maybe it went to pharmacy with other drug charts for the ordering of medication, because during my shift I found out that a lot of patients had no medication."

The panel also noted the evidence of Ms 1 that she was on the ward all day during her shifts, and that MAR charts never left the ward during weekdays to go the pharmacy, they only did so on weekends. Ms 1 explained to the panel the processes to be followed when a patient's medication was unavailable, in terms of an electronic ordering system. It was also Ms 1's evidence that she would have expected Mrs Zondi to have approached her if she faced difficulties during her shift, such as if drugs were not available on the ward or charts were missing.

The panel also had regard to Mrs Zondi's regulatory response form, in which ticked yes, that she accepted the regulatory concern of poor practice in medicines management and administration.

The panel then went on to consider the sub-charges within charge 3 individually and made the following findings:

Charge 3 a):

That you, a registered nurse:

3) On 5 October 2017 did not sign for or administer, or in the alternative, did not signed for but administered the following:
    a) Humalog Mix 25 for Patient A at 0800

This charge is found proved in that Mrs Zondi did not sign for or administer the medication.

In reaching this decision, the panel took into account the evidence of Ms 1 and Patient A's MAR chart.

The panel noted the evidence of Ms 1, that Patient A was prescribed Humalog Mix 25, which was to be administered at lunchtime on 5 October 2017 but Mrs Zondi did not put her signature on the MAR chart to indicate that she administered this medication. Ms 1 therefore concluded the medication had not been administered.

The panel had regard to Patient A's MAR chart, where the box for Patient A's lunchtime dose of Humalog Mix 25 was blank with no signature.

The panel also noted Ms 1's evidence that Patient A's blood sugar increased significantly to 19.8 prior to the evening meal on 5 October 2017. Ms 1 said that this blood sugar rise would have been consistent with not receiving the prescribed insulin at the required interval (lunchtime).

On the basis of all the evidence, the panel considered that it was more likely than not that Mrs Zondi did not sign for or administer Humalog Mix 25 for Patient A at lunchtime on 5 October 2017.

Therefore, this charge is found proved.

Charge 3 b):

That you, a registered nurse:

3) On 5 October 2017 did not sign for or administer, or in the alternative, did not signed for but administered the following:
    b) Vitamin B Costrong for Patient B at 1400

This charge is found proved in that Mrs Zondi did not sign for or administer the medication.

In reaching this decision, the panel took into account the evidence of Ms 1 and Patient B's MAR chart.

The panel noted the evidence of Ms 1 that Patient B was prescribed Vitamin B Costrong and this was due to be administered around 14:00 but Mrs Zondi did not sign for this.

The panel had regard to Patient B's MAR chart where the box for Patient B's 14:00 dose of Vitamin B was blank with no signature.

On the basis of all the evidence, the panel considered that it was more likely than not that Mrs Zondi did not sign for or administer Vitamin B Costrong for Patient B at 14:00 on 5 October 2017.

Therefore, this charge is found proved.

Charge 3 c):

That you, a registered nurse:

3) On 5 October 2017 did not sign for or administer, or in the alternative, did not signed for but administered the following:
    c) Thiamine for Patient B at around 1400

This charge is found proved in that Mrs Zondi did not sign for or administer the medication.

In reaching this decision, the panel took into account the evidence of Ms 1 and Patient B's MAR chart.

The panel noted the evidence of Ms 1 that Patient B was prescribed Thiamine and this was due to be administered around 14:00 but Mrs Zondi did not sign for this.

The panel had regard to Patient B's MAR chart where the box for Patient B's 14:00 dose of Thiamine was blank with no signature.

On the basis of all the evidence, the panel considered that it was more likely than not that Mrs Zondi did not sign for or administer Thiamine for Patient B at 14:00 on 5 October 2017.

Therefore, this charge is found proved.

Charge 3 d):

That you, a registered nurse:

3) On 5 October 2017 did not sign for or administer, or in the alternative, did not signed for but administered the following:
    d) Tramadol to Patient B at 1200

This charge is found proved in that Mrs Zondi did not sign for or administer the medication.

In reaching this decision, the panel took into account the evidence of Ms 1 and Patient B's MAR chart.

The panel noted the evidence of Ms 1 that Patient B was prescribed Tramadol, it was to be given at 12:00 on 5 October 2017 and Mrs Zondi did not sign for this medication.

The panel had regard to Patient B's MAR chart where the box for Patient B's 12:00 dose of Tramadol was blank with no signature.

On the basis of all the evidence, the panel considered that it was more likely than not that Mrs Zondi did not sign for or administer Tramadol to Patient B at 12:00 on 5 October 2017.

Therefore, this charge is found proved.

Charge 3 e):

That you, a registered nurse:

3) On 5 October 2017 did not sign for or administer, or in the alternative, did not signed for but administered the following:
    e) Bumatanide to Patient C at 0800

This charge is found proved in that Mrs Zondi did not sign for or administer the medication.

In reaching this decision, the panel took into account the evidence of Ms 1 and Patient C's MAR chart.

The panel noted it was the evidence of Ms 1 that Patient C was prescribed Bumatanide for 08:00 on 5 October 2017 but it was not administered as indicated by the lack of signature on the MAR chart.

The panel had regard to Patient C's MAR chart where the box for Patient C's 08:00 dose of Bumatanide was blank with no signature.

On the basis of all the evidence, the panel considered that it was more likely than not that Mrs Zondi did not sign for or administer Bumatanide to Patient C at 08:00 on 5 October 2017.

Charge 3 f):

That you, a registered nurse:

3) On 5 October 2017 did not sign for or administer, or in the alternative, did not signed for but administered the following:
f) Movicol to Patient C at 0800

This charge is found proved in that Mrs Zondi did not sign for or administer the medication.

In reaching this decision, the panel took into account the evidence of Ms 1 and Patient C's MAR chart.

The panel noted it was the evidence of Ms 1 that Movicol was supposed to have been administered at 08:00 on 5 October 2017 but the lack of signature by the administrator indicates that it was not given.

The panel had regard to Patient C's MAR chart where the box for Patient C's 08:00 dose of Movicol was blank with no signature.

On the basis of all the evidence, the panel considered that it was more likely than not that Mrs Zondi did not sign for or administer Movicol to Patient C at 08:00 on 5 October 2017.

Therefore, this charge is found proved.

Charge 3 g):

That you, a registered nurse:

3) On 5 October 2017 did not sign for or administer, or in the alternative, did not signed for but administered the following:
    g) Furosemide 20mg to Patient D at 0800

This charge is found proved in that Mrs Zondi did not sign for or administer the medication.

In reaching this decision, the panel took into account the evidence of Ms 1 and Patient D's MAR chart.

The panel noted it was the evidence of Ms 1 that Patient D was prescribed Furosemide 20mg, due to be administered at 08:00 on 5 October 2017, however this was not signed for indicating that the medication was not administered.

The panel had regard to Patient D's MAR chart where the box for Patient D's 08:00 dose of Furosemide was blank with no signature.

On the basis of all the evidence, the panel considered that it was more likely than not that Mrs Zondi did not sign for or administer Furosemide 20mg to Patient D at 08:00 on 5 October 2017.

Therefore, this charge is found proved.

Charge 3 h):

That you, a registered nurse:

3) On 5 October 2017 did not sign for or administer, or in the alternative, did not signed for but administered the following:
    h) Apixaban to Patient D at 0800

This charge is found proved in that Mrs Zondi did not sign for or administer the medication.

In reaching this decision, the panel took into account the evidence of Ms 1 and Patient D's MAR chart.

The panel noted the evidence of Ms 1 that Patient D was prescribed Apixaban which was meant to be administered at 08:00 on 5 October 2017 but the medication was not signed for, indicating that it was not administered.

The panel had regard to Patient D's MAR chart where the box for Patient D's 08:00 dose of Apixaban was blank with no signature.

On the basis of all the evidence, the panel considered that it was more likely than not that Mrs Zondi did not sign for or administer Apixaban to Patient D at 08:00 on 5 October 2017.

Therefore, this charge is found proved.

Charge 4:

That you, a registered nurse:

4) On 5 October 2017 at 0800 signed for but did not administer the following drugs to Patient E

a) Apixaban

b) Cholecalciferol

c) Levothyroxine

d) Fludrocortisone

This charge is found proved in its entirety.

In reaching this decision, the panel took into account the evidence of Ms 2, Patient E's MAR chart and Mrs Zondi's regulatory response form dated 5 November 2018.

Whilst the panel noted that this charge had four sub-charges in relation to different medications, the panel considered the charge collectively, as it related to one patient, and the incident arose out of a conversation Ms 2 had with Mrs Zondi.

The panel had regard to Patient E's MAR chart where Mrs Zondi had signed for the administration of Apixaban, Cholecalciferol, Levothyroxine and Fludrocortisone at 08:00 on 5 October 2017.

The panel noted the evidence of Ms 2, that she had a conversation with Mrs Zondi when Mrs Zondi was preparing for the 18:00 drug round on 5 October 2017. Ms 2's evidence was that this conversation arose following a query Mrs Zondi raised with her regarding the dose of Fludrocortisone to be administered to Patient E. When Ms 2 looked at Patient E's MAR chart she noticed that this dose should have been administered at 08:00 on 5 October 2017, and that this had been signed for. Ms 2 asked Mrs Zondi why she was asking about the dosage of a medication she had already administered, to which Mrs Zondi responded "because it has been troubling my mind". Mrs Zondi later admitted to Ms 2 that she had not administered Fludrocortisone in the morning.

The panel further noted Ms 2 told the panel that she had a formal conversation with Mrs Zondi in Ms 2's office. The panel had regard to the record of the conversation which Ms

2 provided. This stated that Mrs Zondi apologised and recognised she had lied and had not given the morning tablets. Mrs Zondi stated that the reason she did not administer the morning tablets was because this patient was always being cleaned, and on the commode when she tried to give the tablets. Mrs Zondi also said her team had a lot of patients that had a lot of medical needs.

The panel also had regard to Mrs Zondi's regulatory response form, in which ticked yes, that she accepted the regulatory concern of poor practice in medicines management and administration.

The panel considered that it was clear from the evidence before it that Mrs Zondi had signed for the administration of Patient E's 08:00 medication on 5 October 2017, and it noted that she acknowledged during a conversation with Ms 2 that she had not in fact administered this medication.

The panel concluded that, on the balance of probabilities, it was more likely than not that Mrs Zondi signed for but did not administer Apixaban, Cholecalciferol, Levothyroxine and Fludrocortisone to Patient E at 08:00 on 5 October 2017.

Therefore, this charge is found proved in its entirety.

Charge 5 a):

That you, a registered nurse:

5) On 5 October 2017

a) Said that you had administered Fludrocortisone at 0800 to Patient E when you had not

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 2.

The panel noted the evidence of Ms 2 that during a conversation with Mrs Zondi, Mrs Zondi told her that she had given one tablet of Fludrocortisone to Patient E in the morning on 5 October 2017. However, Mrs Zondi later admitted to Mrs Zondi that she had not administered the Fludrocortisone in the morning.

The panel considered that this evidence was clear, noting Mrs Zondi's admission at the time to Ms 2 that she had not administered Fludrocortisone to Patient E in the morning.

The panel concluded that, on the balance of probabilities, it was more likely than not that Mrs Zondi said she had administered Fludrocortisone to Patient E at 08:00 on 5 October 2017 when she had not.

Therefore, this charge is found proved.

Charge 5 b):

That you, a registered nurse:

5) On 5 October 2017

b) Said that you did not have Fludrocortisone in a pot of medication when you did

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 2 and Mrs Zondi's email response dated 16 October 2017.

The panel noted Ms 2's evidence that during the conversation with Mrs Zondi where Mrs Zondi queried the dose of Fludrocortisone for Patient E, Ms 2 noticed that Mrs Zondi was still holding the medication pot for Patient E in her hands. Ms 2 asked Mrs

Zondi if there was any Fludrocortisone in the pot, and Mrs Zondi said “no”. Ms 2 asked this question again, and again Mrs Zondi said “no”. Ms 2 then asked to see the pot, and when Ms 2 looked at the contents she could see there were four Fludrocortisone tablets along with other tablets in the pot.

The panel further noted Ms 2 told the panel that she had a formal conversation with Mrs Zondi in Ms 2’s office. The panel had regard to the record of the conversation which Ms 2 provided. During that conversation Mrs Zondi stated her reason for lying about the drug pot having no Fludrocortisone was because she panicked.

The panel noted Mrs Zondi’s local email response to this incident, and the fact that she commented on the dosage for the Fludrocortisone, however she did not appear to provide a substantive explanation for her actions.

The panel considered that the evidence was clear, in that Mrs Zondi had told Ms 2 that there was no Fludrocortisone in the medication pot for Patient E, however when Ms 2 examined the contents of the pot she found there was Fludrocortisone tablets inside.

The panel concluded that, on the balance of probabilities, it was more likely than not that on 5 October 2017 Mrs Zondi said she did not have Fludrocortisone in a pot of medication when she did.

Therefore, this charge is found proved.

Charge 6:

That you, a registered nurse:

6) Your actions in Charge 4(a) and/or 4(b) and/or 4(c) and/or 4(d) and/or 5(a) and/or 5(b) were dishonest

This charge is found proved in its entirety.

In reaching this decision, the panel took into account the evidence of Ms 2 and Mrs Zondi's email response dated 16 October 2017.

The panel had regard to the legal test for dishonesty. The panel must first ascertain the actual state of the individual's knowledge or belief as to the facts. Once this has been established, the question of whether the conduct was honest or dishonest is to be determined by applying the standards of ordinary decent people; in a regulatory context such as this, that would be the standard of ordinary decent nurses.

The panel considered whether Mrs Zondi's's actions were dishonest individually, in relation to charges 4a)-d), 5a) and 5b).

Charge 4a)-d)

The panel noted that it was through a conversation with Ms 2 regarding Mrs Zondi's knowledge of the correct dose of Fludrocortisone to administer where it became apparent that Mrs Zondi had not administered Patient E's 08:00 medication. The panel considered that Mrs Zondi knew she had not administered this medication, having regard to the conversation she had with Ms 2, where she admitted she had not administered the patient's morning medication. However, Mrs Zondi still signed Patient E's MAR chart to indicate that she had administered Patient E's 08:00 medication.

The panel noted Mrs Zondi's email response at the time, where she expressed the difficulties she faced during her shift, being busy and behind with patients, and it considered she did appear to be overwhelmed. However, the panel also considered that signing the MAR chart was a conscious act on Mrs Zondi's part. Such an action would indicate to any healthcare professional reading the MAR chart that the patient's medication had been administered. The panel considered that Mrs Zondi's actions were done with the intention of misleading, in order to make it look like Patient E's 08:00 medication had been administered, when it had not been.

Notwithstanding the pressure Mrs Zondi expressed she felt under on her shift on 5 October 2017, the panel considered that such actions would be regarded as dishonest according to the standards of ordinary decent people, as well as ordinary decent practitioners, as Mrs Zondi's actions created an impression that she had administered medication which she had not administered.

The panel concluded that on the balance of probabilities Mrs Zondi's actions in relation to charge 4a)-d) were dishonest.

Charge 5a)

The panel noted that during her conversation with Ms 2, Mrs Zondi stated that she had administered Fludrocortisone to Patient E. However, Mrs Zondi later admitted that she had not administered Fludrocortisone to Patient E at 08:00 on 5 October 2017. During a formal conversation with Ms 2, Mrs Zondi stated the reason she did not administer the morning tablets to Patient E was because the patient was always being cleaned, and was on the commode when she tried to give the tablets. Mrs Zondi also stated that her team had a lot of patients that had a lot of medical needs.

The panel considered that it was clear that Mrs Zondi knew she had not administered Fludrocortisone to Patient E, yet she told Ms 2 she had administered this. The panel considered that this would have given Ms 2, another healthcare professional, the impression that the medication had been administered, when it had in fact not. The panel considered that this was a conscious act on Mrs Zondi's behalf to mislead Ms 2 into believing she had administered the Fludrocortisone to Patient E. The panel considered that such an action would be regarded as dishonest according to the standards of ordinary decent people, as well as ordinary decent practitioners, as Mrs Zondi's actions created an impression that she had administered medication which she had not administered.

The panel concluded that on the balance of probabilities Mrs Zondi's action in relation to charge 5a) was dishonest.

Charge 5b)

The panel noted that during her conversation with Mrs Zondi, Ms 2 asked Mrs Zondi twice whether there was any Fludrocortisone in the pot of medication she was holding. On both of those occasions, Mrs Zondi replied "no". Ms 2 then examined the contents of the pot and found there were four Fludrocortisone tablets within. Mrs Zondi later told Ms 2 that the reason she had lied about this was because she panicked.

The panel considered that it was clear from Ms 2's evidence that the medication pot did contain Fludrocortisone tablets, yet Mrs Zondi told her that it did not. The panel considered that Mrs Zondi's responses to Ms 2 were misleading, and it considered that this was a conscious act on Mrs Zondi's part, in order to continue giving the impression that Fludrocortisone had been administered to Patient E at 08:00 when it had not.

The panel noted the pressures Mrs Zondi expressed in her email response at the time, and the fact that this appeared to be a busy shift and she was overwhelmed with her workload. However, the panel considered that Mrs Zondi's action in stating there was no Fludrocortisone in the medication pot when it was present was part of a wider pattern of behaviour in trying to mislead Ms 2 into believing all of Patient E's 08:00 medication had been administered when it had not been. The panel considered that Mrs Zondi's action would be regarded as dishonest according to the standards of ordinary decent people, as well as ordinary decent practitioners, as Mrs Zondi's action created an impression that she had administered medication which she had not administered.

The panel concluded that on the balance of probabilities Mrs Zondi's action in relation to charge 5b) was dishonest.

Therefore, this charge is found proved in its entirety.

Charge 7 a):

That you, a registered nurse:

7) Between 6 November 2017 to 24 August 2018 as per condition 5 of your Interim Conditions of Practice Order you failed to inform one or more of the following that you were subject to an Interim Conditions of Practice Order

a) Your World Recruitment Group

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 3 and Mrs Zondi's regulatory response form dated 5 November 2018.

The panel noted the evidence of Ms 3 that during a monthly PIN check on 24 August 2018, Mrs Zondi's interim conditions of practice order came to light. Ms 3 telephoned Mrs Zondi shortly after becoming aware of the interim order, and Mrs Zondi admitted to Ms 3 that she had not declared this to anyone at the Agency.

The panel also had regard to Mrs Zondi's regulatory response form, in which she ticked yes, that she accepted the regulatory concern in relation to dishonestly breaching her interim conditions of practice order. Mrs Zondi went on to state:

> "Yes, I did work and failed to tell them about interim order…"

The panel considered that the evidence was clear, namely that Mrs Zondi had not declared her interim conditions of practice order to Ms 3 or anyone at the Agency, and by Mrs Zondi's own admission of this in the regulatory response form.

The panel concluded that, on the balance of probabilities, it was more likely than not that between 6 November 2017 and 24 August 2018 Mrs Zondi failed to inform the Agency that she was subject to an interim conditions of practice order.

Therefore, this charge is found proved.

Charge 7 b):

That you, a registered nurse:

7) Between 6 November 2017 to 24 August 2018 as per condition 5 of your Interim Conditions of Practice Order you failed to inform one or more of the following that you were subject to an Interim Conditions of Practice Order
   b) Queen Elizabeth Hospital

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 3 and Mrs Zondi's regulatory response form dated 5 November 2018.

The panel noted the evidence of Ms 3 that since 6 November 2017, which she later became aware was the date the interim conditions of practice order was imposed, and 24 August 2018, when the Agency found out about the interim order, Mrs Zondi worked three shifts at Queen Elizabeth Hospital on 23, 24 and 25 March 2018. Ms 3 also outlined a considerable number of shifts Mrs Zondi worked through the Agency between 6 November 2017 and 24 August 2018 (13 shifts in total).

The panel also had regard to Mrs Zondi's regulatory response form, in which she ticked yes, that she accepted the regulatory concern in relation to dishonestly breaching her interim conditions of practice order. Mrs Zondi went on to state:

> "Yes, I did work and failed to tell them about interim order…"

The panel had already determined that on the balance of probabilities it was more likely than not that Mrs Zondi failed to inform the Agency that she was subject to an interim

conditions of practice order. The panel inferred that having not told the Agency about the interim order, as she accepted she had not done so in her regulatory response form, it was more likely than not that Mrs Zondi did not inform Queen Elizabeth Hospital that she was subject to an interim conditions of practice order.

Therefore, this charge is found proved.

Charge 7 c):

That you, a registered nurse:

7) Between 6 November 2017 to 24 August 2018 as per condition 5 of your Interim Conditions of Practice Order you failed to inform one or more of the following that you were subject to an Interim Conditions of Practice Order
   c) Gloucestershire Royal Hospital

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 3, the evidence of Ms 4, the evidence of Ms 5 and Mrs Zondi's regulatory response form dated 5 November 2018.

The panel noted the evidence of Ms 3 that since 6 November 2017, which she later became aware was the date the interim conditions of practice order was imposed, and 24 August 2018, when the Agency found out about the interim order, Mrs Zondi worked ten shifts at Gloucestershire Royal Hospital on 10, 11, 12, 16, 17, 18 (morning and afternoon), 19, 23 and 24 August 2018. Ms 3 also outlined all the shifts Mrs Zondi worked through the Agency between 6 November 2017 and 24 August 2018 (13 shifts in total).

The panel also had regard to Mrs Zondi's regulatory response form, in which she ticked yes, that she accepted the regulatory concern in relation to dishonestly breaching her interim conditions of practice order. Mrs Zondi went on to state:

"Yes, I did work and failed to tell them about interim order…"

The panel also had regard to the evidence of Ms 4 and Ms 5, who both worked with Mrs Zondi in August 2018, and both confirmed they were unaware she had any restrictions on her practice during that time.

The panel had already determined that on the balance of probabilities it was more likely than not that Mrs Zondi failed to inform the Agency that she was subject to an interim conditions of practice order. Having regard to Mrs Zondi's acceptance that she had not informed the Agency of the interim conditions of practice order, and the fact that Ms 4 and Ms 5 were unaware of the existence of this interim order when working with Mrs Zondi, the panel concluded that, on the balance of probabilities, it was more likely than not that Mrs Zondi did not inform Gloucestershire Royal Hospital that she was subject to an interim conditions of practice order.

Therefore, this charge is found proved.

Charge 8:

That you, a registered nurse:

8) Your actions in Charge 7 were dishonest in that you sought to mislead Your World Recruitment Group and/or Queen Elizabeth Hospital and/or Gloucestershire Royal Hospital in that you did not have any interim restrictions on your practice in order to gain and/or maintain employment.

This charge is found proved in its entirety.

In reaching this decision, the panel took into account the evidence of Ms 3, the evidence of Ms 4, the evidence of Ms 5 and Mrs Zondi's regulatory response form dated 5 November 2018.

The panel, again, had regard to the legal test for dishonesty.

The panel noted in Mrs Zondi's regulatory response form, she accepted the regulatory concern of dishonestly breaching her interim conditions of practice order. Mrs Zondi accepted she had not disclosed the fact that she was subject to an interim conditions of practice order. Mrs Zondi stated:

> "Yes, I did work and failed to tell them about interim order, because when I told some work employers and agencies about it they responded by saying they are sorry that they can't employ me. But because I live in London, I pay rent, bills and I had to buy food and pay for transport as well, it was difficult for me to shut down like that…"

The panel considered that this was an acknowledgement by Mrs Zondi that she did not disclose the interim conditions of practice order, so that the Agency, Queen Elizabeth Hospital and Gloucestershire Royal Hospital would have been unaware she had restrictions on her practice. In doing so, the panel considered that Mrs Zondi sought to mislead these employers, so that she could continue working as a nurse. As Mrs Zondi stated, this was so that she could pay her bills, and the panel therefore considered that her actions were motivated by financial remuneration.

The panel had regard to the evidence of Ms 4 and Ms 5, who were unaware of Mrs Zondi's interim restrictions when they worked with her in August 2018. The panel also noted the evidence of Ms 3, that the Agency were unaware of the interim conditions of practice order until it was revealed in a monthly PIN check on 24 August 2018.

The panel therefore considered that Mrs Zondi not disclosing the fact that she was subject to an interim conditions of practice order was a conscious act on her part, in order to mislead her employers into believing she had no interim restrictions, so that she could continue working as a registered nurse. The panel considered that such actions

would be regarded as dishonest according to the standards of ordinary decent people, as well as ordinary decent practitioners, having regard to the fact that Mrs Zondi's actions led to her receiving financial remuneration, and whilst her employers were unaware of the concerns that led to such interim restrictions being in place.

The panel concluded that, on the balance of probabilities, Mrs Zondi's actions were dishonest, in that she sought to mislead the Agency, Queen Elizabeth Hospital and Gloucestershire Royal Hospital that she did not have any interim restrictions on her practice, in order to seek and maintain employment.

Therefore, this charge is found proved in its entirety.

Charge 9:

That you, a registered nurse:

9) Between 23 March 2018 and 24 August 2018 worked 13 shifts at Queen Elizabeth Hospital and/or Gloucestershire Royal Hospital in breach of condition 1 and/or 3 of your Interim Conditions of Practice Order

This charge is found proved in its entirety.

In reaching this decision, the panel took into account the evidence of Ms 3, the interim order hearing decision letter to Mrs Zondi dated 8 November 2017, the interim order hearing decision letter to Mrs Zondi dated 8 May 2018, a letter from the RCN to the NMC dated 30 April 2018 and Mrs Zondi's regulatory response form dated 5 November 2018.

The panel had regard to the decision letter from the interim order hearing on 6 November 2017 when an interim conditions of practice order was first imposed. Within the interim conditions of practice order, the panel imposed the following interim conditions (1 and 3), amongst others:

> “1. When administering medications you must be directly supervised by another registered nurse until you have been assessed and signed off as competent to do so unsupervised by a registered nurse. This assessment should be based on the NMC Standards for Medicines Management. This assessment must include evidence of your competence in administering medication. This assessment should be competency based and undertaken by your line manager, mentor or supervisor.
>
> …
>
> 3. You must tell the NMC within 7 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.”

The panel also noted that at the interim order review hearing on 1 May 2018, condition 1 was varied to read as follows:

> “1. When administering medication you must be directly supervised by another registered nurse until you have been assessed and signed off as competent to do so unsupervised by a registered nurse. This assessment should be based on the NMC Standards for Medicines Management.”

The panel had regard to the evidence of Ms 3, who confirmed that Mrs Zondi worked 13 shifts through the Agency, at Queen Elizabeth Hospital and Gloucestershire Royal Hospital, between 6 November 2017 (the date the interim conditions of practice order was imposed) and 24 August 2018 (when the Agency became aware of the existence of the interim conditions of practice order). Ms 3 said there would have been no arrangements for Mrs Zondi to have been supervised during these shifts as the Agency were unaware of the restrictions on her practice. Furthermore, Ms 3 confirmed there was no record of Mrs Zondi being assessed and signed off as competent in the area of medicines management, by another registered nurse, using the NMC Standards for

Medicines Management, prior to undertaking these shifts. This was because the Agency were unaware of this requirement until they found out about the interim conditions of practice order on 24 August 2018. The panel considered that Ms 3's evidence demonstrated that Mrs Zondi had breached condition 3 of the interim conditions of practice order when working the 13 shifts through the Agency.

The panel had regard to the decision letter from when the interim conditions of practice order was reviewed, as well as the letter from the RCN to the NMC, which was placed before the panel at the interim order review hearing on 1 May 2018. In that letter, the NMC and the reviewing panel were informed that since the imposition of the interim conditions of practice order in November 2017, Mrs Zondi had been registered with Delta Nursing Agency Ltd, but had not carried out any shifts. It went on to state that Mrs Zondi complied with the conditions by informing this agency of the interim conditions, as well as of the NMC's proceedings and of the nature of the concerns. The RCN went on to state which nursing positions Mrs Zondi had been applying for, and said apart from Mrs Zondi completing a medication administration course in March 2018, she had not yet had the opportunity to engage the interim conditions of practice order.

The panel considered it significant that within the RCN's letter, and within the decision of the interim order review hearing on 1 May 2018, there was no mention of Mrs Zondi's work through the Agency, and of the three shifts she undertook at Queen Elizabeth Hospital in March 2018, prior to the review hearing. There was no other evidence before the panel to suggest that Mrs Zondi had informed the NMC of any nursing employment she had undertaken between 23 March 2018 and 24 August 2018, including the ten shifts she undertook at Gloucestershire Royal Hospital in August 2018. The panel therefore considered that there was evidence which demonstrated that Mrs Zondi failed to inform the NMC of nursing employment she had taken up.

The panel also had regard to Mrs Zondi's regulatory response form, in which she ticked yes, that she accepted the regulatory concern in relation to dishonestly breaching her interim conditions of practice order.

The panel concluded that, on the balance of probabilities, it was more likely than not that between 23 March 2018 and 24 August 2018 Mrs Zondi worked 13 shifts at Queen Elizabeth Hospital and Gloucestershire Royal Hospital in breach of conditions 1 and 3 of her interim conditions of practice order.

Therefore, this charge is found proved in its entirety.

Charge 10:

That you, a registered nurse:

10) On or around 17 August 2018 did not immediately disconnect an NG tube for an unknown patient who was on a rest period

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 4.

The panel had regard to the evidence of Ms 4, who spoke of the importance of disconnecting a nasogastric ("NG") tube when a patient is on their rest period, so other professionals can clearly see the patient is resting, so the patient can be freed up to leave the ward and to ensure that the tube does not become "clogged up" or dislodged from the correct place in the patient's stomach, prior to recommencing the feed. Ms 4 said you would never re-start a feed with the tube remaining connected, you would always disconnect and flush the tube, reconnect it and check it was in the right position before recommencing the feed.

Ms 4 said that she asked Mrs Zondi to disconnect the patient's NG tube and flush it, however Mrs Zondi kept saying the patient was on a rest period. Ms 4 said she asked again, but each time she did, Mrs Zondi repeated that the patient was on a rest period.

Ms 4 said Mrs Zondi then walked away without disconnecting the flushing the NG tube as requested.

Ms 4 told the panel that at Gloucestershire Royal Hospital it was assumed that agency nurses could perform all competencies, and that if they could not do a certain task, they would tell someone. Ms 4 said that at no point did Mrs Zondi tell her she could not work with NG tubes.

On the basis of this evidence, the panel concluded that, on the balance of probabilities, it was more likely than not that Mrs Zondi did not immediately disconnect an NG tube for a patient who was on a rest period.

Therefore, this charge is found proved.

Charge 11:

That you, a registered nurse:

11) On 19 August 2018 administered 5000 Fragmin subcutaneously to Patient J which was not prescribed.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 5, Patient J's records for 19 and 20 August 2018, Mrs Zondi's local statement regarding an incident on 19 August 2018 and Mrs Zondi's regulatory response form dated 5 November 2018.

The panel had regard to the evidence of Ms 5, who said that during a shift on 19 August 2018, Mrs Zondi made a medication error, as around 18:00 she gave the patient a sub-cutaneous injection of 5000 Fragmin, which was not prescribed. Ms 5 said this injection was prescribed to a patient who previously occupied Patient J's bed. Ms 5 said Mrs Zondi had picked up the previous patient's chart by mistake, and had not properly

checked Patient J's identity. Mrs Zondi then documented the error in Patient J's records at 18:10, and notified the on call doctor.

The panel had regard to Patient J's records, where at 18:10, Mrs Zondi had documented that when she was doing her medication rounds, she gave Fragmin 5000 subcutaneously to Patient J by mistake, only to find this was not the right patient. Mrs Zondi said she apologised to the patient's mother who was there, and then reported this to the on call doctor. The panel also noted an entry below at 18:20 which stated "nurse informed me she gave prophylactic 5000 IV Fragmin to the wrong patient".

The panel also had regard to Mrs Zondi's local statement at the time of the incident in which she stated:

> "In my mind I thought it was the same patient because I took the drug chart and call out the name which was in that drug chart and the patient who was in bed at that time responded, so I thought it was the right patient. After realising I made a mistake, I called the doctor to come and check the patient…" (sic)

The panel considered that the evidence was clear, and noted Mrs Zondi's acceptance and documentation of the fact that she had administered 5000 Fragmin subcutaneously to the wrong patient, Patient J.

The panel concluded that, on the balance of probabilities, it was more likely than not that on 19 August 2018 Mrs Zondi administered 5000 Fragmin subcutaneously to Patient J when this was not prescribed.

Therefore, this charge is found proved.

Submission on misconduct and impairment:

Having announced its finding on all the facts, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mrs Zondi'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 suitability to remain on the register unrestricted.

Ms Mohamed, on behalf of the NMC, provided the panel with written submissions. She referred the panel to the case of *Roylance v GMC (No. 2)* [2000] 1 AC 311 which defines misconduct as a *"word of general effect, involving some act or omission which falls short of what would be proper in the circumstances".*

Ms Mohamed invited the panel to take the view that Mrs Zondi's actions amount to a breach of *The Code: Professional standards of practice and behaviour for nurses and midwives* (2015) ("the Code"). She directed the panel to specific paragraphs and standards and identified where, in the NMC's view, Mrs Zondi's actions amounted to a breach of those standards.

Ms Mohamed submitted that the facts found proved are serious enough for a finding of misconduct. She submitted that the concerns are widespread, covering medication and recording errors as well as dishonesty, and that this was not a case of an isolated incident. Ms Mohamed submitted that Mrs Zondi working in breach of her interim conditions of practice order showed a flagrant disregard for the NMC as her regulator, as well as demonstrating that she did not recognise the purpose behind the interim restrictions, which were there to ensure she was able to work safely. Ms Mohamed submitted that Mrs Zondi put her needs above patient safety. She concluded that Mrs Zondi's conduct would be considered deplorable by fellow practitioners.

Ms Mohamed then 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. Ms Mohamed referred the panel to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

Ms Mohamed submitted that all four limbs of Dame Janet Smith's test as set out in the Fifth Report from Shipman were engaged in this case. Ms Mohamed submitted that whilst Mrs Zondi had accepted some of the concerns, there is limited evidence to demonstrate insight, remorse and remediation, and therefore there is a risk of repetition. She submitted that Mrs Zondi acted dishonestly on more than one occasion, and that the dishonesty was attitudinal, and that there is also a risk of repetition of this dishonesty. Ms Mohamed concluded that a finding of current impairment is warranted on the basis of both public protection and the public interest.

The panel accepted the advice of the legal assessor.

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 Zondi's fitness to practise is currently impaired as a result of that misconduct.

Decision on misconduct

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

The panel, in reaching its decision, had regard to the protection of the public and the wider public interest and accepted that there was no burden or standard of proof at this stage and exercised its own professional judgement.

The panel was of the view that Mrs Zondi's actions fell significantly short of the standards expected of a registered nurse, and that her actions amounted to a breach of the Code. The panel was of the view that in Mrs Zondi's case there had been numerous breaches of the Code, the most significant being:

> *1.2 make sure you deliver the fundamentals of care effectively*
>
> *10.3 complete all records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements*
>
> *18.3 make sure that the care or treatment you advise on, prescribe, supply, dispense or administer for each person is compatible with any other care or treatment they are receiving, including (where possible) over-the-counter medicines*
>
> *19.1 take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place*
>
> *19.4 take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public*

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

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

The panel considered that medication errors and non-administration of prescribed medication gave rise to a potential risk to patients.

The panel considered Mrs Zondi's administration of Oramorph to Patient H who was on PCA to be very serious. The panel noted that an overdose of opiates can be very serious and can cause respiratory arrest. Further, the panel also noted that Mrs Zondi's failure to administer Humalog Mix 25 to Patient A caused the patient's blood sugar levels to reach a significantly high level.

The panel considered that in these two instances Mrs Zondi had exposed patients to the potential for serious harm.

Also of concern to the panel were the number and frequency of Mrs Zondi's errors and omissions in respect of medicines administration and recording.

The panel also bore in mind Mrs Zondi's dishonesty. The panel considered that Mrs Zondi sought to cover up the fact that she had not administered medication to Patient E. It noted that she actively sought to cover it up and was questioned three times before admitting to it, which the panel considered to be a pattern of repeated dishonesty over the course of the day (5 October 2017). The panel considered that signing for medication as having been administered when Mrs Zondi knew that it had not been administered, was very serious as it could mislead colleagues, interrupt treatment for patients and interfere with the quality of care provided to patients.

The panel also noted that Mrs Zondi breaches of her interim conditions of practice order, was actively deceptive and in doing so, demonstrated a complete disregard for patient safety, the NMC as her regulator and the reputation of the nursing profession. The panel considered that the evidence before it demonstrated a pattern of repeated dishonesty and it was of the view that the facts found proven in this case, cumulatively, fell far below the standards of acceptable behaviour for a registered nurse. The panel therefore determined that Mrs Zondi's actions amounted to misconduct.

Decision on impairment

The panel next went on to decide if as a result of this misconduct Mrs Zondi's fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. 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 judgement of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence* v *(1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) 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."

Mrs Justice Cox went on to say in Paragraph 76:

> "I would also add the following observations in this case having heard submissions, principally from Ms McDonald, as to the helpful and comprehensive approach to determining this issue formulated by Dame Janet Smith in her Fifth Report from Shipman, referred to above. At paragraph 25.67 she identified the following as an appropriate test for panels considering impairment of a doctor's fitness to practise, but in my

view the test would be equally applicable to other practitioners governed by different regulatory schemes.

> 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."

In the light of the findings set out in relation to misconduct, the panel considered all four limbs of the test set out by Dame Janet Smith in the Fifth Report from Shipman are engaged in this case.

The panel noted that clinical misconduct is often remediable. However, with the repeated and widespread clinical failings and medication errors in mind, alongside Mrs Zondi's repeated dishonesty, the panel formed the view that the misconduct in this case would be difficult to remediate.

Whilst the panel acknowledged that Mrs Zondi has made some concessions, the panel considered that Mrs Zondi's responses were often self-focused and it formed the view

that Mrs Zondi had failed to demonstrate any insight into her misconduct and failed to recognise the impact of her misconduct upon her patients, colleagues and the nursing profession.

The panel had no information before it to suggest that Mrs Zondi had remediated her misconduct. It noted that she had not engaged with the interim conditions of practice order imposed by an Investigating Committee, and in fact she had worked in breach of the interim conditions, as well as not declaring this order to the Agency and other employers.

The panel determined that in this case the risk of repetition was very high given Mrs Zondi's lack of insight, lack of remediation and unwillingness to engage positively in these proceedings. The panel considered that Mrs Zondi remained liable to put patients at unwarranted risk of harm, to bring the profession into disrepute, to breach fundamental tenets of the profession and to act dishonestly in the future. The panel therefore determined 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 are to protect, promote and maintain the health safety and wellbeing of the public and patients, and to uphold and protect the wider public interest, which includes promoting and maintaining public confidence in the nursing profession and upholding the proper professional standards for members of the profession. The panel considered that given the seriousness of Mrs Zondi's misconduct, members of the public would be deeply concerned if a finding of impairment were not made in this case. The panel therefore determined that, in this case, a finding of impairment on public interest grounds was also required to maintain confidence in the nursing profession and in the NMC as a regulator.

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

Determination on sanction:

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mrs Zondi off the register. The effect of this order is that the NMC register will show that Mrs Zondi has been struck-off the register.

In reaching this decision, the panel has had regard to all the oral and documentary evidence in this case. The panel was provided with written submissions from Ms Mohamed, on behalf of the NMC. The panel accepted the advice of the legal assessor. The panel bore 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 Sanctions Guidance ("SG") published by the NMC. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement.

Ms Mohamed, on behalf of the NMC, outlined the sanction bid for a striking-off order. She outlined aggravating and mitigating factors for the panel to consider. Ms Mohamed submitted that given the risk of repetition in this case, taking no further action would not be appropriate. She also submitted that a caution order would not be appropriate, as this would not restrict Mrs Zondi's practice.

Ms Mohamed submitted that a conditions of practice order would not be appropriate, workable or practicable, given that Mrs Zondi had breached her interim conditions of practice order, the pattern of dishonesty and the fact that there are attitudinal issues in this case.

Ms Mohamed submitted that a suspension order would not be appropriate given that the dishonesty in this case was not at the lower end of spectrum of seriousness. She submitted that the dishonesty was not a one-off incident but occurred over a period of time, in a clinical setting and was done for financial gain. Ms Mohamed submitted that

the dishonesty was actively deceptive, pre-meditated and involved a risk to patient safety.

Ms Mohamed submitted that the dishonesty is not at the lower end of the spectrum. Ms Mohamed submitted that Mrs Zondi's dishonesty involved deliberately breaching the professional duty of candour by covering up when things went wrong, personal financial gain and a direct risk to patients. She submitted that Mrs Zondi's actions showed a complete disregard for patient safety and the misconduct was a serious departure from the relevant professional standards. Ms Mohamed concluded that given the seriousness of the case, a striking-off order is the most appropriate sanction.

The panel first considered what it deemed to be the aggravating and mitigating factors in this case and determined the following:

Aggravating factors:

- Mrs Zondi was repeatedly dishonest over a period of time towards colleagues, her employment agency, two hospitals and the NMC. Some of her dishonest behaviour occurred in a clinical setting and involved attempts to cover up her clinical failings;
- Mrs Zondi made extensive clinical errors and her failings were in basic nursing practice;
- Mrs Zondi put her own financial needs above patient safety.

Mitigating factors:

- Mrs Zondi made some admissions to the regulatory concerns.

The panel then went on to assess the seriousness of the dishonesty in this case, having regard to the SG. The panel considered that the following factors were apparent in relation to Mrs Zondi's dishonesty:

- deliberately breaching the professional duty of candour to cover up when things have gone wrong, especially if it could cause harm to patients
- personal financial gain from a breach of trust
- direct risk to patients
- premeditated, systematic or longstanding deception

The panel noted that the presents of all of these factors indicates the seriousness of this case. The panel had regard to Mrs Zondi's responses during these proceedings, as well as her local statements in response to specific allegations. The panel considered that Mrs Zondi displayed a complete lack of insight into the seriousness of her clinical failings, and indeed she sought to cover up these failings when questioned by her colleagues. The panel considered that in her responses Mrs Zondi sought to blame others as well as practices in the hospitals she worked in. It considered that Mrs Zondi did not take responsibility for her dishonest acts and omissions, when she had an accountability as a registered nurse providing care for patients. The panel also considered that Mrs Zondi did not appreciate or show an understanding of the impact of her dishonesty on patients, colleagues, employers, the NMC and the nursing profession. It considered that Mrs Zondi appeared to focus more on her own personal circumstances. The panel considered that this was all demonstrative of an attitudinal problem on Mrs Zondi's part. Given the lack of recognition of and insight into the seriousness of her dishonesty, which indicated an attitudinal problem, the panel considered that there was a high risk of her behaving dishonestly in the future. The panel determined that Mrs Zondi's dishonesty in this case fell at the higher end of the spectrum of seriousness.

The panel then went onto consider what action, if any, to take 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 and the risk of repetition identified. Taking no action would not restrict Mrs Zondi's practice. The panel determined that

taking no action would not protect the public and it would not satisfy the wider public interest.

The panel next considered whether a caution order would be appropriate in the circumstances. The panel took into account the SG, which states that a caution order may be appropriate where:

> "…the Fitness to Practise Committee has decided there's no risk to the public or to patients requiring the nurse or midwife's practice to be restricted, meaning the case is at the lower end of the spectrum of impaired fitness to practise, however the Fitness to Practise committee wants to mark that the behaviour was unacceptable and must not happen again."

The panel did not consider that this was a case where that was no outstanding risk to patients and members of the public. The panel also considered that Mrs Zondi's case was not at the lower end of the spectrum of impaired fitness to practise, which involved serious and repeated clinical failings and long-standing, pre-meditated dishonesty. The panel considered that a caution order would not mark the seriousness of this case. A caution order would also not restrict Mrs Zondi's practice. The panel therefore determined that imposing a caution order would not protect the public and would not satisfy the public interest.

The panel next considered whether to impose a conditions of practice order.
The panel was mindful that any conditions imposed must be proportionate, measurable practicable and workable.

The panel considered that there was no evidence to suggest that Mrs Zondi would be able or willing to comply with a conditions of practice order. In this respect, the panel considered it significant that Mrs Zondi breached her interim conditions of practice order, by working as a registered nurse without disclosing the fact of the interim order to the Agency, Queen Elizabeth Hospital and Gloucestershire Royal Hospital. Mrs Zondi

did not disclose her employment to the NMC, nor were any arrangements in place for her to be supervised whilst administering medication, as required by the interim conditions of practice order. The panel noted that this interim conditions of practice order was imposed to protect patients, and it considered that by breaching it, Mrs Zondi demonstrated a complete failure to understand why it was necessary to ensure patient safety.

The panel also considered that it would not be possible to formulate suitable, practicable and workable conditions which would address the dishonesty and the attitudinal concerns in this case.

The panel therefore determined that it would not be possible to formulate conditions which would suitably protect the public and satisfy the public interest in this case.

The panel went on to consider whether to impose a suspension order. The panel had regard to the SG which states such an order may be appropriate in the following circumstances:

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

The panel did not consider that this case involved a single instance of misconduct. There were repeated clinical failings on Mrs Zondi's part as well as sustained dishonesty over a long period of time, in a clinical setting and in relation to breaching her interim conditions of practice order. The panel considered that there was evidence of an attitudinal problem on Mrs Zondi's part, given her long-standing dishonest and deceptive behaviour, her attempts to cover up clinical failings and the fact that in her responses she sought to blame others and focus on herself. Furthermore, the panel

was not satisfied that Mrs Zondi had demonstrated insight into her misconduct, and it considered that there was a significant risk of her repeating her behaviour.

The panel considered that Mrs Zondi's actions were so serious, and fell far short of the standards expected of a registered nurse. The panel did not consider that, in the circumstances of this case, a period of suspension would be sufficient to protect patients, public confidence in nurses and maintain professional standards.

Balancing all of these factors, the panel has determined that a suspension order would not be an appropriate or proportionate sanction.

The panel next considered whether to impose a striking-off order.

The panel considered that Mrs Zondi's actions and omissions raised fundamental questions about her professionalism. In particular, the panel noted that Mrs Zondi deliberately acted to deceive colleagues, employers and the NMC over a sustained period of time, in order to cover up clinical failings as well as to gain financially. Mrs Zondi's actions and omissions put patients at serious risk of harm, and indeed some patients experienced harm as a result of her medication errors.

The panel considered that Mrs Zondi's misconduct in this case was so serious, and that members of the public would be extremely concerned if Mrs Zondi was allowed to continue practising and remain on the register. It considered that public confidence in the nursing profession and in the NMC as a regulator could only be maintained if Mrs Zondi was removed from the register permanently.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the only appropriate and proportionate sanction in this case is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Mrs Zondi's actions and omissions in bringing the profession into disrepute by adversely affecting the public's view of how a registered

nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case. The panel considered the seriousness of Mrs Zondi's misconduct and dishonesty was fundamentally incompatible with being a registered nurse, and therefore a striking-off order was the only sanction that was sufficient to protect patients, members of the public and maintain professional standards.

The panel considered that this order was 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.

Determination on Interim Order

Under Article 31 of the Nursing and Midwifery Order 2001 ("the Order"), the panel considered whether an interim order should be imposed in this case. A panel may only make an interim order if it is satisfied that it is necessary for the protection of the public, and/or is otherwise in the public interest, and/or is in the registrant's own interests.

The panel considered the submissions made by Ms Mohamed, on behalf of the NMC, that an interim suspension order for a period of 18 months should be made on the grounds that it is necessary for the protection of the public and is otherwise in the public interest.

The panel accepted the advice of the legal assessor.

The panel was satisfied that an interim suspension 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. To do otherwise would be incompatible with its earlier findings.

The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined.

If no appeal is made, then the interim order will be replaced by the striking-off order 28 days after Mrs Zondi is sent the decision of this hearing in writing.

That concludes this determination.