Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Friday, 10 November 2023

Virtual Hearing

Name of Registrant:	**Christina Marie Sullivan**
NMC PIN	20A0086C
Part(s) of the register:	Registered Nurse – Sub Part 1 Mental Health – Level 1 30 January 2020
Relevant Location:	Neath Port Talbot County and Swansea
Type of case:	Misconduct
Panel members:	Patricia Richardson (Chair, lay member) Catherine Devonport (Registrant member) Wayne Miller (Lay member)
Legal Assessor:	Hala Helmi
Hearings Coordinator:	Nandita Khan Nitol
Nursing and Midwifery Council:	Represented by James Edenborough, Case Presenter
Ms Sullivan:	Not present. Represented via written submissions by Royal College of Nursing (RCN)
Consensual Panel Determination:	Accepted
Facts proved:	All charges
Fitness to practise:	Impaired
Sanction:	**Suspension order (6 months)**

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

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Ms Sullivan was not in attendance and that the Notice of Hearing letter had been sent to Ms Sullivan's registered email address by secure email on 26 October 2023.

Further, the panel noted that the Notice of Hearing was also sent to Ms Sullivan's representative at the Royal College of Nursing (RCN) on 26 October 2023.

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

Mr Edenborough submitted that the notice period had been waived by Ms Sullivan and referred the panel to an email between the case manager from the NMC and Ms Sullivan's representative, which includes:

> *'As discussed, I've spoken to one of our Listings Managers and asked that a hearing be scheduled as soon as possible. I've assured them of your agreement to waive notice and you should shortly be receiving a schedule for 10 November 2023.'*

The panel accepted the advice of the legal assessor.

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

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

Decision and reasons on proceeding in the absence of Ms Sullivan

The panel next considered whether it should proceed in the absence of Ms Sullivan. It had regard to Rule 21 and heard the submissions of Mr Edenborough who invited the panel to continue in the absence of Ms Sullivan. He submitted that Ms Sullivan had voluntarily waived her right to appear and absented herself and referred the panel to the provisional Consensual Panel Determination ('CPD') agreement that had been reached and signed by Ms Sullivan on 25 October 2023 which states:

> *'Ms Sullivan is aware of the CPD hearing. Ms Sullivan does not intend on attending the hearing and is content for it to proceed in her and her representative's absence. Ms Sullivan will endeavour to be available by telephone should clarification on any point be required, or should the panel wish to make other amendments to the provisional agreement that are not agreed by Ms Sullivan.'*

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised "with the utmost care and caution" as referred to in the case of *R.* v *Jones (Anthony William)* (No.2) [2002] UKHL 5.

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

- Ms Sullivan has engaged with the NMC and has signed a provisional CPD agreement stating that she is content for the panel to proceed in her absence;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- There is a strong public interest in the expeditious disposal of the case; and
- It is in Ms Sullivan's own interest that the case against her be expedited without delay.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Ms Sullivan.

Details of charge

That you, a registered nurse:

1. On 7 November 2020 administered 14mg of Espranor to Patient A when Patient A was prescribed 6mg of Espranor.

2. On 9 January 2021 administered 30mg of Morphine Sulphate to Patient B when Patient B was prescribed 10mg of Morphine Sulphate.

3. On 29 October 2021 attempted to administer Hyoscine to Resident C without having checked Resident C's medication chart.

4. On 30 October 2021 administered 400 micrograms of Hyoscine to Resident C notwithstanding that Resident C had already had their maximum dose of Hyoscine for that 24 hour period.

5. On an unknown date in 2020, when applying for the position of Mental Health Nurse at HMP Swansea, failed to disclose:

a) Your previous employment at Ashgrove Care Home;

b) That your employment at Ashgrove Care Home had ended by your failure to complete your probationary period.

6. Your actions in charge 5 above were dishonest in that you were attempting to deceive a potential employer by concealing relevant information about your previous practise.

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

Consensual Panel Determination (CPD)

Mr Edenborough outlined the CPD and informed the panel that a provisional agreement of a CPD had been reached with regard to this case between the NMC and Ms Sullivan.

The provisional agreement, which was put before the panel, sets out Ms Sullivan's full admissions to the facts alleged in the charges, and that her fitness to practise is currently impaired by reason of her misconduct. It is further stated in the agreement that an appropriate sanction in this case would be a period of 6 months suspension order with a review.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

'***The facts***

4. Ms Sullivan appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Nurse – Mental Health and has been on the NMC register since 2020 although she previously qualified in Ireland before relocating to the UK.

5. Ms Sullivan was employed as a Mental Health Nurse at HMP Swansea ('the Prison') between December 2020 and January 2022. During that time, concerns were raised about her practice and in particular her ability to carry out medication rounds unsupervised.

6. On 7 November 2020, Ms Sullivan incorrectly gave Patient A 14mg of Espranor, rather than the 6mg they were prescribed. This was identified the following day when a colleague was informed by Patient A and a stock count was performed. A DATIX was submitted, and Ms Sullivan duly provided a reflection on the incident.

7. On 9 January 2021, Ms Sullivan incorrectly administered Patient B with a 30mg Morphine Sulphate tablet ('MST'), instead of the 10mg tablet they were prescribed. This was identified by a colleague following a stock count the following day. After this incident it was agreed that Ms Sullivan should be placed on 'Medication Competencies', the idea being that she would have time to step back from medication administration and be given the opportunity to learn and improve her practice.

8. As part of the medication competencies Ms Sullivan was assigned a Medicine Supervisor as well as a Band 6 colleague to assist her in achieving the competencies and she re-commenced supervised medication rounds in March 2021. However, following an additional incident in April 2021 where Ms Sullivan and her supervising nurse administered the same medication to a patient, she was removed from medication administration duties again. It was noted that Ms Sullivan struggled to improve her practice consistently, with it being observed that she could improve for a week or two but was unable to sustain that improvement. Ms Sullivan will say that the prison was short-staffed, and she struggled to find an available Band 6 colleague with

capacity to routinely undertake her supervisions. She will say that there was a general reluctance to supervise her practice within this setting due to the length of time she took administering medication.

9. In February 2021, it was identified that Ms Sullivan was carrying out bank shifts at another location, due to an alleged incident at that location. Witness MP was invited to a Professional Concerns Meeting where it was identified that prior to being employed at the Prison, Ms Sullivan had been employed by Ashgrove Care Home ('Ashgrove').

10. It was discovered that Ms Sullivan worked at Ashgrove approximately between May and July 2020 and her employment there had been terminated following non-completion of her probationary period. It was identified that one of the reasons for not successfully passing probation was that Ms Sullivan 'didn't follow [Ashgrove's] policy and procedures while administering medication'. Ms Sullivan will say that this period was particularly chaotic due to the Covid-19 lockdown. Ms Sullivan had to manage frequently changing IPC guidance, PPE requirements including donning and doffing, caring for a significant number of patients within the Home who went on to obtain Covid-19 whilst operating with skeleton staff. It is accepted that Ms Sullivan had failed to declare either the employment or her reason for leaving on the application form to work at the Prison, instead stating that at that time she had been employed by Cork University Hospitals.

11. A referral to the NMC was made and the concerns with Ms Sullivan's medications administration practice and failure to declare employment were included in the referral and she was suspended from the Prison.

12. Whilst suspended from the Prison Ms Sullivan began undertaking shifts at Plas Cwm Carw ('PCC') Care Home. Her suspension from the Prison prevented her from undertaking employment within the Health Board, however PCC was a private care home and therefore she did not strictly violate the terms of the suspension. However,

PCC raised concerns regarding Ms Sullivan's medication administration and this information was fed back to the Prison by way of a Professional Concerns Meeting.

13. It was identified that on 30 October 2021, Ms Sullivan incorrectly administered Resident C an additional dose of Hyoscine, despite having been informed that the maximum permitted dosage was already in the syringe driver that was attached to Resident C. It was also reported that the previous day, Ms Sullivan was stopped from doing the same thing by a community nurse. When stopped from doing this the previous day, the community nurse had the medication chart therefore Ms Sullivan had attempted to administer the medication without checking the relevant medication chart.

14. In January 2022 Ms Sullivan's employment at the Prison was terminated.

15. Ms Sullivan made admissions to the regulatory concern underlying charges 5 a) and b) in her submissions to the Case Examiners on 31 January 2023. Subsequently she made full admissions to all charges and to current impairment on 1 August 2023 when she returned the completed Case Management Form.

Misconduct

16. The parties are in agreement that the facts amount to misconduct.

17. The comments of Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 may provide assistance when seeking to define misconduct:

18. 'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances'.

19. The panel may further be assisted by the comments of Elias LJ in R (on the application of Remedy UK Ltd) v General Medical Council [2010] EWHC 1245 (Admin) who stated that misconduct must be 'sufficiently serious that it can properly be described as misconduct going to fitness to practise'.

20. When considering if the acts or omissions are 'sufficiently serious', the panel can take precedent from the case of Nandi v General Medical Council [2004] EWHC 2317 (Admin) in which Mr Justice Collins stated – 'What amounts to professional misconduct has been considered by the Privy Council in a number of cases. I suppose perhaps the most recent observation is that of Lord Clyde in Rylands v General Medical Council [1999] Lloyd's Rep Med 139 at 149, where he described it as "a falling short by omission or commission of the standards of conduct expected among medical practitioners, and such falling short must be serious". The adjective "serious" must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners.'

21. Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per Roylance) is to be answered by reference to the Nursing and Midwifery Council's Code of Conduct.

22. The parties agree the following parts of the 2015 Code may be relevant:

- *make sure you deliver the fundamentals of care effectively (1.2)*
- *Make sure that people's physical, social and psychological needs are assessed and responded to (3)*
- *take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place (19.1)*
- *keep to and uphold the standards and values set out in the Code (20.1)*
- *act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment (20.2)*

Impairment

23. Ms Sullivan's fitness to practise is currently impaired by reason of her misconduct.

24. The NMC's guidance1 explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. This involves a consideration of both the nature of the concern and the public interest.

25. Impairment is not specifically defined in the legislation however the NMC poses the following question to assist in determining whether a registrant's fitness to practise is impaired:

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

26. The parties agree that the incorrect administration of medication is a safety critical part of nursing practise.

27. Similarly the honest disclosure of previous employment details is fundamental to professional practise.

28. The parties agree that consideration of the nature of the concern involves looking at the factors set out by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) by Cox J;

- *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*
- *Has in the past brought and/or is liable in the future to bring the professions into disrepute; and/or*
- *Has in the past breached and/or is liable in the future to breach one of the*

fundamental tenets of the professions; and/or

- *Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*

29. The parties agree that of the above factors are engaged for the following reasons:

30. Ms Sullivan has administered and attempted to administer incorrect doses of various medications. Whilst no patient harm was caused, Ms Sullivan accepts that this had the potential to put patients at risk of harm and was unwarranted by virtue of being entirely avoidable.

31. Accurate medication administration is expected as a minimum standard by the public and to do otherwise has the potential of bringing the profession into disrepute. Additionally, the public place a high degree of trust in nurses and any form of dishonesty has the potential to further bring the profession into disrepute, by eroding that trust.

32. Medication administration and honesty and integrity are fundamental to nursing practice and both amount to fundamental tenets of the profession.

33. The act of concealing the facts as alleged in charge 5 was an act of dishonesty.

34. In the case of Cohen v General Medical Council [2008] EWHC 581 (Admin), the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment;

- *Whether the conduct that led to the charge(s) is easily remediable.*
- *Whether it has been remedied.*
- *Whether it is highly unlikely to be repeated.*

35. Before considering the next section, the parties suggest the panel consider the context in which these concerns arose, in particular the medication errors within the prison. NMC Guidance on context can be found at FTP-12.

36. In her medication error reflection of August 2023, Ms Sullivan explains the following in relation to the administration of medication in the prison:

'There were lots of risks of correct administration of medications to inmates. When an inmate comes to the hatch to receive their medication, their identity is verified using some form of identification, such as their inmate number and picture ID card. This ensures the medication is given to the correct individual. I observed inmates coming to the hatch without this ID and the prison officer would attempt to verify their ID to me, but I would always insist that the inmate go back to his cell to retrieve their ID. This was frowned upon by both the inmate and PO (Prison Officer) as this would lengthen the time of the medication round, which in turn heightened tensions at the hatch, inmates getting irate and inpatient, sometimes very aggressive and abusive, which I found intimidating and particularly difficult to deal with. I did not get any support from the PO as they just wanted medication round over as fast as possible.'

Remorse, reflection, insight, training and strengthening practice

37. Ms Sullivan submitted the following to the NMC on 6 September 2023:

Reflective statement on dishonesty allegations
Reflective statement on medication errors.

A number Medication training certificates including:

- *Safer handling of medication dated 11 August 2023*
- *The Edward Jenner Programme leadership company enrolment*

- *Medication Administration 31 January 2023*

38. In reflecting on the medication errors, Ms Sullivan says the following:

'I have reflected on the significance of adhering to the NMC guidelines. As Nurses we can evaluate our practice against these guidelines, reflect on any deviations, and take corrective actions to ensure future adherence.

I have identified patterns or specific circumstances that contributed to my medication errors. This has allowed me to develop strategies and implement measures to prevent similar errors from occurring in the future. For example, checklists or utilise technology for medication administration verification.

In conclusion, personal reflection on medication errors has enabled me to identify areas for improvement in my practice, including both individual and systemic factors. By adhering to NMC guidelines and implementing corrective measures, I can enhance patient safety and improve the overall quality of care I provide.'

39. In reflecting upon the dishonesty allegation, Ms Sullivan says the following:

'The dishonesty I portrayed on my CV undermines the core values of professional integrity and trustworthiness. By presenting the false or misleading information, I deviated away from the NMC Code of Conduct, which emphasizes the importance of honesty, accuracy, and accountability. This breach of professional integrity can significantly impact the quality of care I provide to my patients and damage my professional reputation…'

'Nurses are held to high ethical standards. Being dishonest violates ethical principles such as honesty, integrity, and veracity.'

‘Being dishonest with information on my CV as a nurse has had far-reaching implications for my practice, patient care, and professional standing within the nursing community.’

‘By reflecting on the potential effects of dishonesty, both on an individual level and within the broader healthcare system, I am reminded of the necessity to uphold honesty and integrity in all aspects of my professional life. I have done a lot of reflection on these implications, and I will strive to maintain honesty and truthfulness in all aspects of my practice, if I am allowed to continue as a registered nurse.’

40. Ms Sullivan has reflected upon all of the concerns and fully accepts her misconduct. By the admissions and reflections she has started the process of remediation and strengthening her practice. The parties agree that owing to the seriousness of these concerns, this is an ongoing part of her remediation.

41. When assessing the seriousness of these concerns and the level of insight required, the panel are directed to NMC guidance on Considering Sanctions for Serious Cases – Cases involving dishonesty (SAN-2). In particular the guidance states

Honesty is of central importance to a nurse, midwife or nursing associate’s practice. Therefore allegations of dishonesty will always be serious and a nurse, midwife or nursing associate who has acted dishonestly will always be at some risk of being removed from the register. However, in every case, the Fitness to Practise Committee must carefully consider the kind of dishonest conduct that has taken place.

42. The parties agree this was a one-off incident and Ms Sullivan reflects as follows:

‘I did not disclose I had worked there on my CV when applying for nurse position at HMP Swansea as I did not want to be affiliated with the Home and its sub standards. Furthermore, by omitting reference to Asgrove Nursing Home on my CV, I ensured no questions were asked in regards to me not completing my probationary period. Again, I

was portraying dishonesty, but in my defence, I was not thinking clearly due to the immense pressures I was under which I have explained. In hindsight, this is something which I wholeheartedly regret.'

Public protection impairment

43. A finding of impairment is necessary on public protection grounds.

44. Although the parties agree that the concerns in this case are remediable and some work and insight has been shown by Ms Sullivan, this is an ongoing exercise and there remains a risk to the public.

Public interest impairment

45. A finding of impairment is necessary on public interest grounds.

46. In Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at paragraph 74 Cox J commented that:

"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."

47. Consideration of the public interest therefore requires the Fitness to Practise Committee to decide whether a finding of impairment is needed to uphold proper professional standards and conduct and/ or to maintain public confidence in the profession.

48. In upholding proper professional standards and conduct and maintaining public confidence in the profession, the Fitness to Practise Committee will need to consider whether the concern is easy to put right. For example, it might be possible to address clinical errors with suitable training. A concern which hasn't been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.

49. However, there are types of concerns that are so serious that, even if the professional addresses the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession.

50. The public place a great deal of trust in the nursing profession and a finding of impairment is necessary in order to uphold standards and maintain public confidence owing to the admission of dishonesty.

51. Ms Sullivan's fitness to practise is therefore impaired on public protection and public interest grounds.

Sanction

52. The appropriate sanction in this case is a Suspension Order – 6 months

53. The following aggravating factors are present:

- *Repeated errors despite support and advice.*
- *Risk of patient harm*
- *Concealment of the Registrant's failure to pass her probationary period could have led to patient harm.*

54. The following mitigating factors are present:

- *Impact of the pandemic on the care home environment*
- *Context of the prison environment*
- *Relevant training undertaken*
- *Reflection and insight*

55. The panel are invited to re-visit the NMC guidance on Considering Sanctions for Serious Cases – Cases involving dishonesty (SAN-2) in particular the examples of the forms of dishonesty which are most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register and the types of dishonest conduct will generally be less serious.

56. There are clinical concerns and dishonesty involved in this case which make it both too serious and unsuitable for taking no action or a caution order. Taking no action is not suitable as there are factors taken from the NMC guidance which indicate the unsuitability of this course, such as:

- *was responsible for conduct or failings that undermined the public's trust in nurses, midwives or nursing associates, or*

- *breached one of the fundamental tenets of the professions.*

57. A caution order is not suitable as the NMC guidance states:

'A caution order is only appropriate if the Fitness to Practise Committee has decided there's no risk to the public or to patients requiring the nurse, midwife or nursing associate's practice to be restricted, meaning the case is at the lower end of the spectrum of impaired fitness to practise…'

58. This case is not suitable for a conditions of practice order for the following reasons:

59. Ms Sullivan made similar medication errors at a number of different places of employment and despite being placed on a medication competency programme. This may indicate the problem is more serious than that which could be adequately managed by conditions.

60. There are no conditions which could address the dishonesty concern. Ms Sullivan can only address this by her demonstration of a fully developed insight into the concern.

61. This case is serious enough for temporary removal and this would adequately protect the public. Although there were a number of medication errors, the NMC guidance on suspension orders (SAN-3d) provides that a suspension may be suitable for a one-off incident and there has been no repetition since the incident.

62. Although the parties accept the medication errors were not one off , the dishonesty was a one off incident and there has been no repetition of any concerns since the incident.

63. The period of suspension will allow Ms Sullivan the opportunity to decide if she wishes to return to unrestricted nursing practice. If she does, she could provide the reviewing panel with a full and detailed reflection on these concerns in order for her insight to be further assessed. If Ms Sullivan is able to demonstrate full insight, the reviewing panel could determine if and what conditions are required to enable a safe return to practice.

64. This case has the potential to be serious enough for a strike off, however a more proportionate sanction is a suspension which would allow Ms Sullivan to return to safe and unrestricted practice if she can demonstrate both her insight and clinical practice are of a sufficient level.

65. The NMC guidance on striking off orders (SAN-3e) asks the decision maker to determine whether 'striking-off is the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?' Ms Sullivan has already provided some reflection and insight into the concerns and has undertaken relevant further training therefore a lesser sanction is sufficient.

66. An order of medium length is required to mark the seriousness of the misconduct and this should be reviewed before expiry to afford Ms Sullivan the opportunity of providing further reflection and insight.

Interim order

67. An interim order is required in this case. The interim order is necessary for the protection of the public and is otherwise in the public interest for the reasons given above. The interim order should be for a period of 18 months in the event that Ms Sullivan seeks to appeal the panel's decision. The interim order should take the form of an interim suspension order.

The Parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The Parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.'

Here ends the provisional CPD agreement between the NMC and Ms Sullivan. The provisional CPD agreement was signed by Ms Sullivan on 25 October 2023 and the NMC on 25 October 2023.

Decision and reasons on the CPD

The panel is satisfied that the CPD provided them with a clear understanding of the facts of the case.

The panel heard and accepted the legal assessor's advice. Mr Edenborough referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. He reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Ms Sullivan. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

Decision and reasons on impairment

The panel then went on to consider whether Ms Sullivan's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Ms Sullivan, the panel has exercised its own independent judgement in reaching its decision on impairment.

The panel first considered whether Ms Sullivan's actions amounted to misconduct. When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Ms Sullivan's actions fell short of the standards expected of a registered nurse, and it considered them to amount to several breaches of the Code. In respect of misconduct, the panel considered whether Ms Sullivan's conduct, as set out in the charges admitted, are serious enough to amount to misconduct. It noted that she had made repeated similar errors in relation to the incorrect administration of medication

over a period of time and with different employers. It took into account that Ms Sullivan had not been candid about her employment history whilst applying to other organisations.

The panel agreed with the NMC that Ms Sullivan's misconduct was a serious departure from the standards expected of a registered nurse. In this respect, the panel endorsed paragraphs 16 to 22 of the provisional CPD agreement in respect of misconduct.

The panel determined that Ms Sullivan's conduct breached some of the fundamental tenets of the Nursing profession and therefore brought its reputation into disrepute.

Based on all of the above, the panel therefore determined that Ms Sullivan's conduct fell short of the standards expected of a registered nurse and is sufficiently serious to amount to misconduct.

The panel then considered whether Ms Sullivan's fitness to practise is currently impaired by reason of her misconduct.

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

> *'The question that will help decide whether a professional's fitness to practise is impaired is:*
> *"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"*
> *If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'*

In its consideration of impairment, the panel had regard to the *case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)* by Cox J stated that the test for impairment was as follows:

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

a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d) has in the past acted dishonestly and/or is liable to act dishonestly in the future'

The panel in its assessment, determined that the four limbs of the Grant test are engaged to this case, both in terms of past actions and potential future ramifications.

The panel determined that Ms Sullivan's repeated errors in medication administrations put patients at an unwarranted risk of harm. The panel was of the view that the role of a registered nurse inherently carries a certain degree of pressure and responsibility. Therefore, the panel was not satisfied with the explanation that Ms Sullivan's provided regarding the medication errors that these errors solely occurred due to her being under pressure in the working environment.

The panel was satisfied that confidence in the nursing profession would be undermined if it did not find charges relating to dishonesty extremely serious. The panel has determined that Ms Sullivan's failure to disclose about her employment history when applying for a new position constitutes a dishonest action contravening the NMC's professional

standards and guidelines on honesty, openness, and integrity. The panel noted this dishonesty could have led to harm being caused to patients as her failure to complete her probationary period with her previous employer suggested that there may have been concerns about her general nursing competency including in relation to medication administration.

The panel determined that Ms Sullivan's misconduct had breached some of the fundamental tenets of the nursing profession and that Ms Sullivan's actions brought the reputation of the profession into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel then considered the factors set out in the case of *Cohen v GMC* [2007] EWHC 581 (Admin). It determined that whilst some aspects of clinical competence in this case are remediable Ms Sullivan must show that she recognises the gravity of the misconduct findings made against her and develop and demonstrate sufficient level of appropriate insight.

The panel went on to consider whether Ms Sullivan remained liable to act in a way that would put residents at risk of harm, would bring the profession into disrepute, breach the fundamental tenets of the profession and act dishonestly in the future. In doing so, the panel considered whether there was sufficient evidence of insight and remediation.

Regarding insight, the panel determined that Ms Sullivan has limited insight into her failures. The panel considered your reflection statements in the signed CPD document. The panel acknowledged that you have demonstrated some insight into your wrongdoing. However, it is undermined by the fact that there is no detailed account about what you have learnt from your past actions and behaviour, why they occurred, what insight you have gained as to the impact on the wider members of the profession and the public, and why these actions were unacceptable.

The panel was of the view that Ms Sullivan's insight remained limited as there was insufficient understanding of the impact on patients and the wider public interest. In the panel's judgement, Ms Sullivan appeared to be more inclined to explain some of her actions by deflecting blame onto others rather than accepting responsibilities for her failings.

In relation to dishonesty the panel had specific regard to your reflection statement and your explanation for not disclosing your employment at Ashgrove:

'I did not want to be affiliated with the Home and its sub standards. Furthermore, by omitting reference to Asgrove Nursing Home on my CV, I ensured no questions were asked in regards to me not completing my probationary period.'

The panel considered that this explanation similarly demonstrated an attempt to deflect the reason for your dishonesty onto the Home.

In relation to the risk of future acts of dishonesty the panel noted your comments in your reflective statement:

> *'…I have done a lot of reflection on these implications, and I will strive to maintain honesty and truthfulness in all aspects of my practice, if I am allowed to continue as a registered nurse.'*

The panel considered your reference to 'striving' to maintain honesty demonstrated that further remediation was required to ensure that you were confident that you are able to act with honesty and integrity at all times.

In terms of strengthening of practice the panel acknowledged from the CPD document that you have undertaken some training. However, the panel noted that the reflective statement did not demonstrate how this training had been successfully implemented.

In relation to context the panel noted your comments that the difficult and/or chaotic working environments at HMP Swansea and Ashgrove Care home adversely affected Ms Sullivan's ability to practise safely and contributed to the errors which are detailed in the charges. The panel noted that Ms Sullivan had been supported by a Band 6 colleague whilst employed at HMP Swansea to improve her competency in medication administration and were unable to sustain consistent safe practise. The panel also noted in the CPD, reference to medication errors continuing whilst Ms Sullivan was employed at PCC and there is no suggestion or evidence provided that this was a difficult or chaotic working environment.

Given Ms Sullivan's limited insight into the charges and limited remediation, the panel decided that there is a risk of repetition and that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

In this regard, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case. It therefore also finds Ms Sullivan's fitness to practise impaired on public interest grounds.

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

Decision and reasons on sanction

Having found Ms Sullivan's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind

that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Repeated medication errors despite having been provided with support and advice during her employment.
- Real risk of patient harm
- Concealment of Ms Sullivan's failure to pass her probationary period could have led to patient harm.
- Limited insight into failings

The panel also took into account the following mitigating features mentioned in the CPD in paragraph 54.

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

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

The panel next considered whether placing conditions of practice on Ms Sullivan's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- *The nurse or midwife has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the totality of the charges in this case. Whilst the misconduct relating to the clinical errors identified could be addressed through retraining, the panel was of the view that there were no conditions that would sufficiently protect the public from the risk of harm caused by your dishonesty.

The panel determined that whilst it may be possible to formulate conditions of practice to address some of the concerns about Ms Sullivan's practice, it would not be possible to formulate workable and effective conditions that marked the public interest in this case. Therefore, the panel determined that a conditions of practice order would be insufficient to mark the public interest in this case and therefore neither appropriate nor proportionate.

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel bore in mind Ms Sullivan's admissions, developing insight and initial steps to strengthen her professional practice. The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

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

Balancing all of these factors the panel agreed with the CPD that a suspension order would be the appropriate and proportionate sanction.

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

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

The panel determined that a suspension order for a period of six months was appropriate in this case to mark the seriousness of the misconduct.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Evidence of testimonials/ references from any current paid or voluntary work.
- A reflective piece demonstrating Ms Sullivan's insight and remediation of the misconduct found by the panel at this hearing.
- Engagement with the NMC and attendance at any future NMC hearing.

Decision and reasons on interim order

The panel considered whether or not to impose an interim order. In light of the risks identified the panel decided that an interim order was necessary to protect the public and was otherwise in the public interests.

The panel agreed with the CPD that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel considered

proportionality and the impact of an interim suspension order on Ms Sullivan but decided that the need to protect the public and uphold the public interest outweighed Ms Sullivan's interests in this regard. The panel therefore imposed an interim suspension order for a period of 18 months to cover any appeal period which may be made by Ms Sullivan.

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

That concludes this determination.

This will be confirmed to Ms Sullivan in writing.