Nursing & Midwifery Council, 61 Aldwych, 1st floor, London, WC2B 4AE.

Name of Registrant Nurse: Maureen Goldwater

NMC PIN: 79Y2136E

Part(s) of the register: Registered Nurse – Sub part 2
Adult Nurse – December 1981
Registered Nurse - Sub part 1
Adult Nurse – December 1993
Specialist Practitioner - District Nursing
June 2000

Area of Registered Address: England

Type of Case: Misconduct

Panel Members: Monica French (Chair, lay member)
Susan Twose (Registrant panel member)
Dr Nagarajah Thevamanoharan (Lay panel member)

Legal Assessor: Trevor Jones

Panel Secretary: Corinne Elle Atangane

Maureen Goldwater: Not present and not represented

Nursing and Midwifery Council: Represented by Leann Mohammed, counsel, instructed by NMC Regulatory Legal Team.

Facts proved: All

Consensual Panel Determination: Accepted

Fitness to practise: Impaired

Sanction: 12 months Caution order by way of CPD
**Decision on service of notice of hearing**

The panel was informed that neither Mrs Goldwater nor her representative was in attendance at the hearing.

Notice of this hearing dated 14 August 2014 was sent to Mrs Goldwater as well as to her representative by recorded delivery and first class post to her address on the register. The Royal Mail Track and Trace document shows that the item was delivered on 15 August 2014 and appears to be signed by Goldwater.

As advised by the legal assessor, in compliance and accordance with Rules 11 and 34 of The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended February 2012) (“The Rules”):

11. (2) The notice of hearing shall be sent to the registrant— (b) in every case, no later than 28 days before the date fixed for the hearing.

34.—(1) Any notice of hearing required to be served upon the registrant shall be delivered by sending it by a postal service or other delivery service in which delivery or receipt is recorded to, (a) her address in the register.

In the light of the information available, the panel was satisfied that notice had been properly served.

**Proceeding in absence**

The panel then considered whether to proceed in the absence of Mrs Goldwater. The panel heard the submissions made by Ms Mohammed who represents the Nursing and Midwifery Council (NMC) today, and accepted the advice of the legal assessor.

Ms Mohammed submitted that it would be fair to proceed in the absence of Mrs Goldwater. She informed the panel that Mrs Goldwater’s representative had been in correspondence with the NMC and that Mrs Goldwater is aware of today’s proceedings. Ms Mohammed informed the panel she has signed the provisional Consensual Panel Determination agreement and returned this to the NMC on 23 October 2014 (Exhibit 1).
The panel was mindful that the discretion to proceed in the absence of Mrs Goldwater should be considered with the utmost care and caution.

In deciding whether to proceed in the absence of Mrs Goldwater, the panel weighed its responsibilities for public protection and the interest of Mrs Goldwater's right to a fair hearing.

The panel had no reason to believe that an adjournment would result in Mrs Goldwater’s attendance. The panel is satisfied that it is in the public interest for there to be an expeditious disposal of this hearing and it is also in Mrs Goldwater’s own interest to have the matter heard without delay. Accordingly there is no injustice in proceeding in her absence.

In all the circumstances, the panel has determined to proceed in Mrs Goldwater’s absence.

**Consensual Panel Determination (CPD):**

The panel heard from Ms Mohammed, on behalf of the NMC, that a provisional agreement for a CPD had been reached between the NMC and Mrs Goldwater. The agreement, which was put before the panel, sets out Mrs Goldwater’s admissions of the facts of the charges and her admission that her fitness to practise is currently impaired by reason of her misconduct.

It is further proposed in the agreement that the appropriate sanction in this case would be a 12 month caution order.

The agreement was signed by Mrs Goldwater and by an NMC representative on 23 October 2014.

The panel has considered with care the provisional agreement reached by the parties.

That provisional agreement reads as follows:
The Nursing and Midwifery Council and Maureen Goldwater, PIN 79Y2136E ("the parties") agree as follows:

**Charge**

1. Mrs Goldwater faces the following charges:

   That you, whilst employed by Cumbria Partnership NHS Foundation Trust as Integrated Matron for Workington Hospital:

   1. On one or more of the dates set out in schedule 1 used your position of authority to obtain prescriptions for yourself from Workington Access Centre ('WAC');

   2. On one or more of the dates set out in schedule 2 inappropriately obtained prescriptions for members of your family from ('WAC') in that you:

      2.1 Used your position of authority to obtain the prescriptions
      2.2 Obtained prescriptions for members of your family who were not present;
      2.3 Obtained a prescription for your grandson from a member of staff who you knew, or ought to have known, was not qualified to do so;

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

**Schedule 1**

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Application to Offer No Evidence

2. The NMC invite the Conduct and Competence Committee to find there is no case for the Registrant to answer in respect of charge 2.3 under Rule 24(7) of the Nursing and Midwifery Council Fitness to Practise Rules 2004.

3. There are three circumstances in which the NMC may seek to offer no evidence on charges against a nurse or midwife:
   - Because the particular allegations add nothing to the overall seriousness of the case.
   - Because there is no longer a realistic prospect of some or all of the factual allegations being proved.
   - Because there is no longer a realistic prospect of a panel finding current impairment.

4. A decision to offer no evidence should never be made when to do so would put members of the public at risk, fail to uphold proper standards of conduct, or undermine confidence in the professions and/or the NMC. It is agreed that there would be no risk to the public, nor would proper standards of conduct or public confidence be undermined by a finding of no case to answer on charge 2.3 in this case.

5. Rule 24(7) provides:

   24(7) Except where all the facts have been admitted and found proved under paragraph (5), at the close of the Council’s case, and—
   (i) either upon the application of the registrant, or
   (ii) of its own volition,
   the Committee may hear submissions from the parties as to whether sufficient evidence has been presented to find the facts proved and shall make a determination as to whether the registrant has a case to answer.

6. The allegation at charge 2.3 adds nothing to the overall seriousness of the charges against the Registrant. The Registrant has admitted that on occasions, she obtained prescriptions for her mother and husband. The Registrant has consistently asserted that she did not do so in respect of her grandson. The current charges reflect the
overall seriousness of the misconduct. It is agreed that charge 2.3 would not add to the severity of the likely sanction in this case.

7. Accordingly, there is no public interest in pursuing charge 2.3. The NMC invite the panel to direct that there is no case to answer in respect of charge 2.3

Application to amend the charge

8. The NMC invite the panel to allow the charge to be amended as follows:

That you, whilst employed by Cumbria Partnership NHS Foundation Trust as Integrated Matron for Workington Hospital:

1. On one or more of the dates set out in schedule 1, used your position of authority to whilst in a position of authority, inappropriately obtained prescriptions for yourself from the Workington Access Centre (‘WAC’);

2. On one or more of the dates set out in schedule 2, whilst in a position of authority, inappropriately obtained prescriptions for members of your family from (‘WAC’) in that you:

   2.1 Used your position of authority to obtain the prescriptions
   2.2 Obtained prescriptions for members of your family who were not present;
   2.3 Obtained a prescription for your grandson from a member of staff who you knew, or ought to have known, was not qualified to do so;

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

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9. The amendment is sought to better reflect the evidence in the case. The NMC puts its case on the basis that the Registrant was a senior member of staff holding a position of authority. The members of staff who were interviewed by the Trust confirmed that they did not feel bullied by the Registrant. It is accepted that by alleging that the Registrant ‘used her position of authority’, there is an inference that staff may have been bullied or harassed into providing the prescriptions. That inference is not made out on the evidence.

**Admissions**

10. Ms Goldwater admits the charge as set out at paragraph 8.

**Facts**

11. At the material times, the Registrant was employed by Cumbria Partnership NHS Foundation Trust as a band 8a Integrated Matron. The Registrant was based at the Workington Hospital (“the Hospital”). Within the Hospital was the Workington Access Centre, (“the WAC”). The WAC is a minor injury and minor illnesses unit run by nurses. Amongst the staff at the WAC were three nurse prescribers.

**Charge 1**

12. On 4 October 2012 concerns were raised by the pharmacists working within Tuschem, the independent pharmacy which operates from within the Hospital. The concerns related to a regular prescription coming out of the WAC for the Registrant. The dates of the prescriptions ranged from January to September 2012.

13. The concerns were escalated to the Trust’s Locality Management Team who obtained copies of the relevant prescriptions. Ten prescriptions were obtained. Eight of the prescriptions were for the Registrant. The prescriptions were mainly for Citalopram but there were also prescriptions for Lansoprazole and Betnosol. The dates of the prescriptions are set out in Schedule 1 of the charge.
14. The Registrant was interviewed during the investigation. It became apparent that the Registrant had been prescribed 20mg Citalopram by her General Practitioner. The Registrant stated during her interview that she wished to try and reduce the dose to 10mg. Although the tablets can be split into two, the Registrant was concerned about the accuracy of the dosage and therefore went to the WAC and requested Citalopram in 10mg tablets. The Registrant stated that the reason she went to the WAC and not to her General Practitioner was because it was extremely difficult for her to get an appointment at her GP practice, and that it was much more convenient to get her prescriptions from the WAC.

15. The Registrant described the WAC during the investigation as being “like an in-house occupational health unit.” She further stated that members of staff routinely used the WAC.

16. All of the prescriptions were signed by Ms 1, an independent nurse prescriber. Ms 1 was interviewed about the prescriptions on the 8th November 2012. During her interview she stated that Trust staff members did in fact access the WAC because it kept them at work. She further described the correct procedure for staff accessing the service. She stated that they would have to arrange an appointment and would book in as a member of the public. However, when asked about the Registrant, Ms 1 stated that she would run in and say “I need this Ms 1, I need this, I am going here there and everywhere.” She confirmed that the Registrant would come in informally and would walk past reception and knock on the door. Ms 1 confirmed in her interview that she had not felt bullied or harassed by the Registrant.

17. During 2012, new guidelines came into effect which confirmed that the WAC should not issue repeat prescriptions and that patients should contact their GPs. The Registrant was involved in the development of the guidelines, however, she asserted that she was not aware that they had been fully implemented.

18. The investigation found that each of the nurses involved had a different understanding of the WAC guidelines and patients had continued to obtain repeat prescriptions. It is
accepted that a culture had developed at the Hospital whereby staff members would go to the WAC if they had an episode of acute illness. However, the Registrant accepts that she held a senior position of responsibility and that she did not follow best practice by obtaining repeat prescriptions from the WAC. The Registrant further accepts that she should have “booked in” like every other patient.

Charge 2

19. During the course of the investigation, it was discovered that the Registrant had obtained prescriptions for her family members without them being present. Ms 1, Lead Nurse Practitioner, was interviewed on 6 November 2012. Ms 1 confirmed that on two occasions she had issued a prescription for the Registrant’s husband when he was not present. The relevant dates are 19 January 2012 and 17 May 2012. The Registrant accepts that she obtained these prescriptions without her husband being present.

20. On 8 November 2012, Ms 2, Nurse Prescriber, was interviewed. Ms 2 confirmed that on one occasion, the Registrant asked her for a prescription for her mother. Ms 2 produced the repeat prescription by accessing the Registrant’s mother’s notes. Ms 2 stated that it does put you in a difficult position because it is going against the guidelines of the department.

21. During the disciplinary hearing the Registrant admitted that she had accepted prescribed medication for her mother and husband whilst they were not present.

Misconduct

22. The Registrant admits that the facts amount to misconduct in accordance with the authority of Roylance v GMC [2000] 1 AC 311 in that her conduct fell short of what would have been proper in the circumstances. The standard to be expected can be found in the 2008 edition of the Code: Standards of Conduct, performance and ethics for nurses and midwives. The Preamble to the Code requires practitioners to be open and honest, act with integrity and uphold the reputation of their profession.
23. The Registrant accepts that her conduct breached the following provision of the Code:

61 - You must uphold the reputation of the profession at all times.

24. The Registrant accepts that she was in a privileged position in that she had ease of access to the WAC. The Registrant accepts that by not following the appropriate procedure for obtaining prescriptions for herself and her family, the Registrant did not follow best practice. The Registrant, by virtue of being in a position of responsibility, was responsible for setting an example to more junior colleagues. The Registrant acknowledged that despite her busy workload, she should not have become reliant on colleagues issuing prescriptions for her. The Parties agree that the Registrant’s conduct fell seriously short of what would have been proper in the circumstances.

**Impairment**

25. The Registrant admits that her fitness to practice is currently impaired by reason of her misconduct according to the principles laid down in *CHRE v (1) NMC and (2) Grant [2011] EWHC 927 (Admin)*. In particular, the Registrant accepts that through her conduct, she has brought the profession into disrepute and has breached one of the fundamental tenets of the profession;

26. The Registrant accepts that her misconduct occurred whilst she was in a position of responsibility. The Registrant should have known better and therefore accepts that her conduct has brought the profession into disrepute. The Registrant acknowledged that allowing her workload to become such that she became dependent on the WAC was inappropriate and that she has breached one of the fundamental tenets of the nursing profession, namely the requirement to act with integrity.

Notwithstanding the Registrant’s acceptance of current impairment, the Parties agree that the risk of the Registrant repeating the misconduct is low. Since her referral to the NMC, the Registrant has had the opportunity to develop a high level of insight into her misconduct. In particular, the Registrant has been assisted in developing her insight by producing a reflective piece. The panel is directed to the Registrant’s reflective piece dated 8 August 2014. The Registrant states "I could have done things differently. I take full responsibility for my actions and I am very sorry and apologise..."
sincerely”. The Registrant further states “I have learnt a very valuable lesson and can see how my failings to robustly manage the service; to ensure that clear policies were in place regarding the use of the WAC by staff and obtaining prescriptions for family members would undermine the public’s confidence in the profession”. The Parties agree that the Registrant’s reflection demonstrates that she understands that her conduct was wrong and that it must not be repeated in the future.

27. Since the Registrant was referred to the NMC, she has gained employment as a custody nurse practitioner with Serco. The Registrant has worked without incident during this period. The panel is directed to the testimonial dated 21 August 2014 from Ms 3, the Registrant’s current line manager. In particular, Ms Copland notes that “Maureen has been open and transparent from the application/interview stage with regard to the pending NMC case and I have seen the allegations and been updated by Ms 2 at each stage.” Importantly, Ms 3 states “I have regularly observed Ms 2’s clinical practice and have no cause for concern, in fact, quite the opposite. Ms 2 is an extremely conscientious and professional individual who is an asset to my team and has demonstrated strength of character throughout her term of employment. She has completed all necessary induction and mandatory training which includes PGD and medicines management and has completed all e-learning programmes which are required of our staff as part of their CPD, in addition to this Maureen is up to date with the appraisal process.”

28. The panel is further invited to consider the testimonial of Ms 4. Former Forensic Nurse Team Leader, dated 18 August 2014. Ms 4 attests to the Registrant’s good practice having been the Registrant’s mentor.

29. The Parties agree that the Registrant’s high level of reflection and subsequent good practice support the suggestion that the risk of repetition is low. However, the Registrant fully accepts that the nature of her misconduct requires a finding of current impairment in order to maintain public confidence in the nursing profession and to declare and uphold proper standards of conduct and behaviour.
Sanction

30. The appropriate sanction in this case is a **caution order for a period of 12 months**

31. The panel is invited to consider the NMC Indicative Sanctions Guidance. The purpose of a sanction is not to punish the Registrant for her wrong doing. In deciding the appropriate sanction, the public interest is paramount. The panel must not lose sight of the need to maintain public confidence in the nursing profession and the NMC as the profession’s regulator.

32. In terms of aggravating factors, the panel will note the following:

   32.1. The Registrant was in a position of authority;
   32.2. The misconduct was not isolated.

33. The panel must balance the aggravating factors with the following mitigating factors:

   33.1. Nobody suffered direct harm;
   33.2. The Registrant had engaged with the NMC;
   33.3. The Registrant has expressed remorse and has demonstrated insight into the allegation.

34. It is considered that a caution order is appropriate because of the Registrant’s reflection and subsequent good practice. In the circumstances, the risk of repetition is considered low and the finding of current impairment is required solely to protect the public interest. The case is at the lower end of the spectrum of impaired fitness to practice but at the same time, the misconduct must be marked to show that the Registrant’s past behaviour was unacceptable. A caution order will act as a warning to the Registrant that it will not happen again.

35. It is considered that a caution order for 12 months is the appropriate length because it will act as a reminder to the Registrant that there were concerns over her practice, thus reminding the Registrant that the misconduct must not be repeated. In light of the age of the allegation, which dates back over 2 years ago, it would be disproportionate to impose a caution order in place for any longer than one year.
36. The Parties have considered the sanctions in ascending order starting with the least severe. It would not be appropriate to take 'no further action' because it is necessary to impose a sanction that will mark out the Registrant’s conduct as unacceptable in order to maintain public confidence in the nursing profession and declare and uphold proper professional standards. A conditions of practice order has been considered however, there is no longer any identifiable area of the Registrant’s clinical practice that is need of assessment and/or retraining. Accordingly, a conditions of practice order restricting the Registrant’s practice would be unnecessary and disproportionate. A period of temporary or permanent removal from the register would be disproportionate. This is because no patient harm was caused as a result of the Registrant’s actions. Furthermore, the exemplary references demonstrate that the Registrant has continued to care for vulnerable service users without any issue. Accordingly, the misconduct can be marked by a lesser sanction than temporary or permanent removal from the register.

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 set out at section 1 above, and the agreed statement of facts set out at section 2 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.

That concludes the terms of the CPD.

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

Mrs Goldwater has admitted the charges and her fitness to practise is currently impaired by reason of her misconduct. The panel, therefore, finds the facts proved by admission.

In every case, however, fitness to practise is a matter of judgment for the panel. The panel determined that the facts admitted and found proved did amount to a breach of “The code: Standards of conduct, performance and ethics for nurses and midwives” (May 2008
("the Code") and that Mrs Goldwater’s actions fell substantially below the standard expected of a registered nurse.

The panel considered the advice of the legal assessor in regard to the issue of current impairment. It was clear to the panel that there was no risk to patient safety, at the time of the allegation or indeed now, and this could not form the basis of a finding of current impairment.

The panel went on to consider the public interest, which includes maintaining and declaring proper standards and behaviour in the profession. The panel found, in light of the nature of the charges and the registrant’s position of responsibility, that a reasonable and informed member of the public would be seriously concerned if the panel today were not to make a finding that the registrant’s fitness to practice is currently impaired. If the panel did not do so, this could seriously undermine public confidence in the profession and the regulator. Accordingly, the panel found that Mrs Goldwater’s fitness to practise is currently impaired by reason of her misconduct.

The panel for its own part considered the mitigating and aggravating features in Mrs Goldwater’s case. It agrees with the factors put forward in the CPD, but found some additional aggravating features as follow:

- Mrs Goldwater was involved in writing new guidelines;
- The case involved prescriptions only medication.

The panel also considered the following additional mitigating factors:

- Difficult family circumstances;
- A long and unblemished career and subsequent good practice;
- The custom and practice ethos in place at the time.

The panel then went on to consider sanction and had in mind the Indicative Sanctions Guidance, (ISG), in particular paragraphs 63, 64 and 65. In coming to its decision, the panel had regard to Mrs Goldwater’s full admissions, her reflective piece and a number of positive references from her current employer and colleagues. The panel also considered training documents provided by her. The panel considered that this evidence
demonstrated that Mrs Goldwater had taken full responsibility for her actions, that she has shown genuine insight and has apologised for her actions. The panel noted this is not a question of competence and patients were not put at risk.

The panel had been made aware that the referrer has made no objections to the proposed CPD sanction as exhibited in an email dated 23 October 2014 (Exhibit 2).

The panel considered each of the individual sanctions in ascending order. In respect of taking no action, the panel considered that this case involves the public interest, and to take no action would be wholly inappropriate.

The panel, having taken into account the ISG, did consider the next most severe sanction. This would ordinarily be a conditions of practice order. In considering the ISG, the panel noted that this sanction primarily focuses on identifying areas of a registrant’s practice that may require retraining, assessment and supervision. This is not a case calling into question Mrs Goldwater’s clinical competence. A conditions of practice order therefore would not be appropriate.

The panel therefore considered the imposition of a suspension order. The panel noted that subsequent to her retirement from the Trust, Mrs Goldwater has continued to practise as a registered nurse. Although the panel recognised that the misconduct was unacceptable, it has found that Mrs Goldwater has shown insight and genuine remorse. Further, Mrs Goldwater has engaged with the NMC, having made early admissions to the charges to the regulator and informed her current employer. There has been no repetition since the event and the panel is satisfied that Mrs Goldwater does not pose a risk of repeating the misconduct.

The panel considered that whilst this case meets many of the pre-considerations for the imposition of a suspension order, in the particular circumstances of this case and in applying a proportionate approach, it concluded that this case does not require the imposition of a suspension order to satisfy the wider public interest. Consequently, the imposition of such an order would be disproportionate.
However, in the light of the mitigating factors as identified in the agreement and by the panel, the panel agreed with the CPD proposal for a 12 month caution order to be imposed on Mrs Goldwater’s registration. The panel considers this sanction to be both appropriate and proportionate to mark the seriousness of Mrs Goldwater’s actions.

The panel determined that this sanction adequately balances the need to protect the wider public interest with the benefit of permitting a well-regarded and competent nurse to remain in practise while under a caution order.

The panel has determined that the public interest would not be compromised by the absence of a full hearing. The panel has therefore decided to approve the substantive order as set out in the provisional agreement.

That concludes this determination.