Conduct and Competence Committee
Substantive Hearing
2 – 3 December 2015
Nursing and Midwifery Council, 61 Aldwych, London WC2B 4AE

Name of Registrant Nurse: Claire Angela Blanche Spanner

NMC PIN: 11C0682E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult – 30 November 2011

Area of Registered Address: England

Type of Case: Misconduct

Panel Members: Maurice Cohen (Chair - Lay member)
Stephen Pett (Lay member)
Julia Whiting (Registrant member)

Legal Assessor: Gelaga King

Panel Secretary: Zara Raza

Representation: Present and represented by Alex Jamieson, instructed by the Royal College of Nursing

Nursing and Midwifery Council: Represented by Clare Paget, instructed by the NMC Regulatory Legal Team

Facts proved: ALL (by admission)

Facts not proved: N/A

Fitness to practise: Impaired

Sanction: Conditions of Practice Order – 12 months

Interim Order: Interim conditions of practice order - 18 months
Charges

That you, whilst employed by the Gloucestershire Hospitals NHS Foundation Trust as a staff nurse and working on the Ryeworth Ward at Cheltenham General Hospital:

1. On or around 3 June 2012, administered codeine phosphate to Patient A when the patient had a Patient Controlled Analgesia pump in place containing morphine sulphate.

2. On 1 August 2012, administered an overdose of oramorph to Patient C.

3. On 7 September 2012, administered furosemide to an unknown patient orally when it was prescribed to be administered intravenously.

4. On 6 April 2013 did not prioritise the care of an unknown patient with chest pain in that you did not promptly complete an echocardiogram (ECG) or ensure a doctor attended.

5. On 13 August 2013, administered galantamine to a Patient B at approximately 18:00 when it had already been administered at approximately 08:00 and was only prescribed for administration once daily.

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

You were employed by Gloucestshire Hospitals NHS Foundation Trust (the Trust) as a Staff Nurse from 3 January 2012. You passed your medication competency assessment on 15 April 2012, a short period after being employed by the Trust. At the time the incidents occurred you were employed as a Band 5 Staff Nurse on the Ryeworth Ward (the Ward).

It is alleged that on 3 June 2012 you inappropriately gave codeine phosphate to a patient who already had a Patient Controlled Analgesia (PCA) pump in place containing morphine sulphate. Administering additional codeine phosphate to a patient with a PCA in place can cause respiratory depression. The PCA prescription chart stated “Before giving other opioids discuss with the Acute Pain Service”.

It is alleged that on 1 August 2012 you administered double the prescribed dose of oramorph to a patient. The prescription stated 2.5mgs, you administered 2.5mls which equated to 5mgs.

It is alleged that on 7 September 2012 you administered furosemide orally when it should have been administered intravenously. Furosemide is a diuretic and is not as effective when administered orally as opposed to intravenously. It was clearly stated in the prescription chart that the dose should be given intravenously.

In January 2013 the Trust issued you with a formal written warning and you underwent a capability period of six months.

A mentoring meeting was held between you and your assigned mentor, Ms 2, in February 2013 and an action plan was agreed. Supervised drug rounds were implemented as a protective measure with a view to preventing future drug errors.

It is alleged that on 6 April 2013 you delayed the management of a patient with chest pain. It is alleged that you did not promptly complete an echocardiogram.
(ECG) or ensure a doctor attended to the patient. Whilst it is acknowledged that you identified the need for an ECG to be undertaken, you then left the patient unattended behind closed curtains without undertaking the ECG. You left the patient unobserved and prioritised serving breakfast to other patients on the Ward.

In May 2013, you successfully completed a competency assessment and were allowed to administer medication unsupervised. Following this, a further drug error took place on 13 August 2013 where it is alleged that you administered a second dose of galantamine to a patient who had already received their once daily dosage.

You were invited by the Trust to attend a meeting under the Trust Capability Procedure. You resigned in writing on 27 November 2013 and then later attempted to rescind your resignation.

The Trust held a capability hearing on 29 November 2013. Despite having resigned prior to this, you engaged with the hearing.

The Trust refused to rescind your resignation and you appealed on the grounds that the penalty applied was too harsh and that the Trust did not follow proper process. This appeal was not upheld.

**Determination on the findings on facts and reasons**

At the commencement of this hearing, you admitted all of the facts alleged in the charges against you.

Accordingly, the panel found all of the charges proved by way of your admission.

The panel noted that you admitted misconduct and current impairment, although this is a matter for the panel's own independent judgment.

**Determination on misconduct and impairment**
All of the facts being admitted, the panel then moved on to consider whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. The NMC has defined fitness to practise as a registrant’s suitability to remain on the register unrestricted.

In considering those matters the panel took account of all of the oral and documentary evidence in this case.

The panel heard live evidence from Ms 3, who at the time of these events was employed as a Band 8A Matron, Stroke, Neurology and General Old Age Medicine for Gloucestershire Hospitals NHS Foundation Trust.

The panel also heard evidence from you.

The panel also took account of the witness statements of:
- Ms 1, Ward Sister, Gloucestershire Hospitals NHS Foundation Trust;
- Ms 2, who at the time of these events was employed as a Ward Sister, Band 6, Gloucestershire Hospitals NHS Foundation Trust;
- Ms 4, Band 5 Staff Nurse, Ryeworth Ward, Gloucestershire Hospitals NHS Foundation Trust.

**Submissions on misconduct & impairment**

The panel took account of the submissions made by Ms Paget, on behalf of the NMC and those made by Mr Jamieson, on your behalf.

In her submissions, Ms Paget invited the panel to conclude that your actions amount to misconduct and in that regard breached the Code: Standards of Conduct, Performance and Ethics for Nurses and Midwives 2008 (‘the Code’). She referred specifically to the preamble, and paragraphs 35, 38, 39, 40 and 61 of the Code. She also referred the panel to the NMC’s Standards for Medicines Management, namely, standard 8, paragraphs 2.7 and 2.8.
Ms Paget 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”. She submitted that in light of the serious and repeated nature of the facts found proved, the Code has been breached and that your conduct falls far short of what would be expected of a registered nurse.

Ms Paget then moved on to the issue of impairment. She referred the panel to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)*. In considering the issue of impairment, she submitted that the first three limbs of the *Grant* test are engaged in this case. Ms Paget submitted that your actions breached fundamental tenets of the nursing profession, put patients at risk of serious harm and brought the profession into disrepute.

Ms Paget submitted that you demonstrated limited insight into your failings at the time of the incidents. She said that this is evidenced by the repeated nature of your failings, despite you having undertaken a period of supervision and competency assessments in medicine administration. Ms Paget said that since this time you have been working as a healthcare assistant and have therefore been unable to develop your nursing skills in relation to medicine administration. She also pointed out that you have not undertaken any subsequent training in medication administration.

Ms Paget also 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.

In conclusion, Ms Paget invited the panel to find that your fitness to practise is currently impaired.
Mr Jamieson conceded that your failings collectively amount to misconduct. He said that since the last incident in August 2013, you have been unable to find employment as a nurse with current interim conditions of practice restricting your practice. He said that you have therefore been unable to demonstrate that you are safe to practise unrestricted and it is for this reason that you accept that your fitness to practise is currently impaired.

Mr Jamieson invited the panel to consider that in your evidence to this panel you took responsibility for your actions and gave thoughtful answers to the questions asked. He said that you are a thoughtful and caring practitioner who accepts the deficiencies in your practice, but that you are motivated to rectify them. He invited the panel to find that, in respect of charge 4, you are not currently impaired as you have successfully completed several ECGs since the incident.

The panel has accepted the advice of the legal assessor which included reference to the case of Grant.

**Determination on misconduct**

When determining whether the facts found proved amount to misconduct the panel had regard to the terms of the Code in force at that time, namely the May 2008 edition. The panel also took into account the NMC’s Standards for Medicines Management.

The panel deemed your behaviour in relation to these charges to be a serious departure from the conduct and standards expected of a registered nurse. The panel considered the following parts of the preamble and paragraphs of the Code to be relevant:

**Preamble:**

*The people in your care must be able to trust you with their health and wellbeing*

To justify that trust, you must:

- ...
• ...  
• **provide a high standard of practice and care at all times**  
• ...  

*As a professional, you are personally accountable for actions and omissions in your practice, and must always be able to justify your decisions.*

**Paragraphs:**
35 *You must deliver care based on the best available evidence or best practice.*  
36 *You must ensure any advice you give is evidence-based if you are suggesting healthcare products or services.*  
39 *You must recognise and work within the limits of your competence.*  
61 *You must uphold the reputation of your profession at all times.*

The panel also considered your actions to amount to a breach of Standard 8, paragraphs 2.7 and 2.8 of the NMC’s Standards of Medicines Management.

The panel recognised that breaches of the Code do not automatically result in a finding of misconduct. The panel considered all the circumstances and whether the facts found proved were sufficiently serious to constitute misconduct in a regulatory context.

It found that your failings were serious and individually and collectively they constituted misconduct. They were repeated and similar in nature and they involved a failure to follow instructions and carelessness. The panel considered that your failings related to basic and fundamental areas of nursing practice. Although your failings did not result in patient harm, the panel considered that they had the potential to cause serious patient harm.

The panel was in no doubt that the charges that you have admitted represent significant professional failings of a registered nurse and are properly characterised as misconduct.
Determination on impairment

The panel then went on to consider whether by reason of your misconduct your fitness to practise is currently impaired. The NMC defines fitness to practise as a registrant’s suitability to remain on the register without restriction. The panel reminded itself that it should consider not only the risk that a registrant poses to members of the public, but also the public interest in upholding proper professional standards and public confidence in the NMC as a regulator, and whether those aims would be undermined if a finding of impairment were not made in the circumstances.

The panel had regard to the case of CHRE v NMC & Grant [2011] EWHC 927 (Admin) in particular paragraph 76, which cites with approval Dame Janet Smith’s formulation in the fifth Shipman report:

76. “Do our findings of fact in respect of the nurses misconduct…show that his/her fitness to practise is impaired in the sense that she:

   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 profession; and/or”

   d. …

The panel considered that paragraphs a, b and c above were engaged in this case. The panel considered that your actions put patients at unwarranted risk of harm, brought the nursing profession into disrepute and that you breached a
fundamental tenet of the profession by not checking instructions or following correct procedure.

The panel next considered whether it is likely that you would repeat this conduct in the future. The panel accepted that you have been open and honest with your current employer about these proceedings and that you are trying to gain nursing employment with them. The panel had sight of the written reflective statements you wrote at the time of the incidents. The panel considered that these reflective statements, considered together with your evidence before the panel, demonstrated limited insight into your misconduct and the effects that your actions had on your patients, colleagues, the public and the NMC as your regulator.

The panel noted that you admitted these charges from the outset and have fully engaged with this process.

The panel bore in mind the level of insight that you have shown, which in the panel’s view was limited. In your statement dated 3 June 2012, written shortly after the incident, you said that “I am disappointed at myself for not remembering that codeine should not be used with a PCA as I have read this and been told this during my training.” However, in your oral evidence to the panel you said that you had not been provided with relevant training in relation to PCA pumps and later said that you could not recall whether you had been provided with the relevant training. The panel was of the view that your failure to recall whether or not you had received the relevant training was concerning.

Further, in a statement written shortly after the last incident of 13 August 2013, you said that “At the time there were no unusual pressures on the Ward, I simply did not read the prescription chart properly”. The panel was of the view that this was illustrative of the fact that although you acknowledged your failings in your reflective pieces you lacked sufficient insight to prevent them from reoccurring. The panel was also of the view that the fact that there were no unusual pressures on the Ward means that there were no extenuating circumstances that would mitigate the seriousness of the error.
The panel noted that you have been working as a healthcare assistant. The panel accepted that you have been unable to improve upon your clinical skills in a nursing role. However, the panel also noted that you have not proactively undertaken any further training in relevant areas such as medication administration.

In the absence of sufficient insight into your misconduct or remediation of your failings, the panel is unable to dismiss concerns that you might repeat such or similar misconduct in the practice of your profession in the future, or that you fully understand the potential impact of your failings.

Your behaviour undermines the trust and confidence the public has in the profession. The panel determined that 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 circumstances.

For all these reasons outlined above, the panel determined that your fitness to practise is currently impaired by reason of your misconduct.


**Determination on sanction**

Having found that your fitness to practise is currently impaired by reason of your misconduct, the panel has now considered what sanction, if any, should be imposed in respect of your registration.

The panel had regard to all of the information available to it relevant to this stage of the hearing. It took account of Mr Jamieson’s submissions. Ms Paget did not make any submissions.

Ms Paget invited the panel to have regard to the NMC’s Indicative Sanctions Guidance (ISG). She made no submission as to what particular sanction was appropriate.

Mr Jamieson invited the panel to conclude the case by imposing a conditions of practice order. He said that you recognise your fitness to practise is currently impaired and that you should not practise unrestricted at this time. He invited the panel to allow you an opportunity to demonstrate, under supervision, that you could practise safely. He proposed conditions of practice which would require you to undertake a medicines administration course and to be directly supervised when preparing and administering medication.

The panel accepted the advice of the legal assessor.

The decision as to what sanction, if any, to be imposed is a matter for the panel’s independent judgment. It applied the principle of proportionality, weighing the interests of the public with your own interests. The panel considered all of the sanctions available. The panel must impose the least restrictive sanction necessary to maintain public confidence in the profession and the NMC as its regulator, taking full account of the principle of proportionality. It is aware that the purpose of imposing a sanction is not to be punitive, although it may have a punitive effect.
The panel had regard to the aggravating and mitigating features of the case which it identified as relevant, as follows:

Aggravating Features:

- Your failings relate to basic fundamental nursing skills;
- Your failings were repetitive in nature;
- You underwent two competency assessments yet still made errors of a similar nature;
- Your failings shared a common feature in that you showed an inability to follow basic instructions;
- You failed to prioritise patient needs;
- You lacked the ability to be assertive to the detriment of your patients;
- You have not been proactive in undertaking relevant training since the time of the incidents and;
- You have been unable to demonstrate that you have learnt fully from and understand the impact of your failings.

Mitigating Features:

- You showed a willingness to engage with your competency assessment in medicines administration whilst at the Trust and in an email dated 18 March 2013 offered to come into work on your days off in order to complete these assessments;
- You highlighted some of your errors to your employers when you became aware of them, at the time of the incidents, which is to your credit;
- You engaged with the NMC proceedings, attended the hearing and gave evidence on oath;
- You made full and early admissions at the outset of this hearing;
- You have apologised for your failings;
- You have demonstrated some insight and indicated how you would act differently in the future were you presented with similar situations;
• You have demonstrated a commitment to the nursing profession and a willingness to remediate your practice and;
• You provided this panel with a positive reference from a colleague at your current place of employment. However, the panel was only able to attribute limited weight to this as it is an unsigned reference from a colleague that is an agency worker, as opposed to a reference from your current employer.

The panel first considered and rejected taking no action. The panel has concluded that there are no exceptional circumstances in this case which would justify taking no action on your registration. The panel considered that to take no action would be wholly inappropriate given the seriousness of the misconduct found and the potential for serious patient harm arising from your failures. Furthermore, the panel has considered that taking no action would be insufficient for the purpose of upholding public confidence in the nursing profession and in the NMC as its regulator.

The panel then considered whether to make a caution order. The panel has borne in mind that such an order would not restrict your ability to practise. As above, the panel has concluded that a caution order would be inappropriate. Such an order would not properly mark the seriousness of the misconduct found, nor would it be sufficient to protect the public or satisfy the wider public interest. The panel also took account of your own evidence that you did not consider yourself safe to practise at present, without appropriate support and safeguards in place.

The panel next considered the imposition of a conditions of practice order. The panel noted that this sanction primarily focuses on remedying identifiable areas of concern within a registrant’s clinical practice or skills that may require retraining, assessment and supervision. In addition, it requires the willingness of a registrant to respond positively to conditions of practice.

The panel took into account that there was no evidence of general incompetence or of wider attitudinal problems. The primary issues in this case relate to the safe administration of medication and following instructions and procedure. The panel
considered that these are identifiable areas which could be addressed by conditions of practice. It was further satisfied that suitable conditions can be formulated which address these particular aspects of your practice and give you the opportunity to demonstrate that you have remedied your practice in these areas. You have demonstrated a willingness to respond positively to retraining or conditions of practice and have identified a medicines administration course that you could attend in the future. You have also indicated that you are passionate about caring for patients.

The panel is mindful that it is also in the public interest to allow for the safe return to practice of a competent nurse, albeit subject to conditional registration, where the public can be adequately protected from the risk of harm.

The panel considered that you still need to take action to remedy the misconduct in this case. If you do, you may be capable of returning to safe practice. The panel considered that conditions of practice would enable you to take the remedial action required of you in an appropriate and supportive environment, and demonstrate safe practice whilst that practice is subject to regular monitoring.

In all of the circumstances, the panel considered that conditions of practice could be formulated which would sufficiently protect patients from the risk of harm during the period they were in force.

The panel determined that the following conditions would be sufficient to protect the public and satisfy the wider public interest:

1. Before you return to practice you must successfully undertake and pass face to face courses in the following and send a copy of your results to the NMC within 14 days of you receiving them:
   - Medicines Management for Nurses (this must include both theoretical content and an assessment) and;
   - Assertiveness Skills
2. At any time that you are employed or otherwise providing nursing services, you must place yourself under the indirect supervision of another registered nurse.

“Indirect supervision” is defined as “working at all times on the same shift as, but not necessarily under the direct observation of, a registered nurse who is physically present in or on the same ward, unit, or floor that you are working in or on”.

3. You must not administer medication unless directly supervised by another qualified registered nurse, or until you have been assessed, within the workplace, as competent to administer medication by a workplace line manager, mentor or supervisor nominated by your employer, such person also to be a registered nurse.

4. You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan designed to address the concerns about the following areas of your practice:

   i. Medicines management and administration
   ii. Prioritisation of nursing duties
   iii. Delegation of workload
   iv. Assertiveness

5. You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least once a month to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.

6. You must forward to the NMC a copy of your personal development plan within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.
7. You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress towards achieving the aims set out in your personal development plan with your line manager, mentor or supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer, and at any educational establishment.

8. You must disclose a report not more than 28 days old from your line manager, mentor or supervisor (or their nominated deputy) to the NMC at least 14 days before any NMC review hearing or meeting setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to any current and prospective employers (at the time of application) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer, and at any educational establishment.

9. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.

10. You must within 7 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.

11. You must immediately inform the following parties that you are subject to a conditions of practice order under the NMC’s fitness to practise procedures, and disclose the conditions listed at (1) to (10) above, to them:

   1. Any organisation or person employing, contracting with, or using you to undertake nursing or midwifery work
2. Any agency you are registered with or apply to be registered with (at the time of application)

3. Any prospective employer (at the time of application)

4. Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application)

The panel did consider whether the imposition of a suspension order would be a more appropriate and proportionate course of action.

The panel reminded itself that any sanction imposed should be the least restrictive necessary to protect the public and to uphold the wider public interest. It was satisfied that both would be properly and fully addressed by a conditions of practice order. The panel did not consider that your misconduct was so serious as to require your temporary removal from the Register. It also took into account that a suspension order would effectively prevent you from addressing the identifiable areas of concern in your practice during the period it would be in force. The panel was mindful of the public interest in enabling registered nurses with valuable experience and skills which, albeit deficient, are in principle remediable to return to safe practice. Having regard to these considerations the panel concluded that to impose a suspension order would be disproportionate, inappropriate and unduly punitive.

The panel determined that this conditions of practice order should run for a period of 12 months. The panel considered that period to be appropriate and proportionate and in your own interests as it will afford the time required for you to address the particular issues identified in this case. Further, the period will sufficiently protect the public and satisfy the wider public interest.
During this time your record in the NMC register will show that you are the subject of a conditions of practice order and anyone who enquires about your registration will be told about the order.

This conditions of practice order will be reviewed by a panel of the Conduct and Competence Committee shortly before its expiry. You or the NMC may request an early review of the order if circumstances change. At the review hearing or meeting the panel may decide to allow the order to lapse without further action, it may extend the period of the order or may make another conditions of practice order with the same or different conditions, or it may replace the order with another order.

The panel considered that a future review panel may be assisted by up-to-date professional references relating to any employment you have held, paid or unpaid and an up-to-date reflective piece.
Determination on interim order

The panel has considered whether it is necessary to impose an interim order to cover the appeal period before the conditions of practice order can take effect, or to cover any time required for an appeal of the substantive decision in this case to be heard.

Article 31 of the Nursing and Midwifery Order 2001 outlines the criteria for the imposition of an interim order. The panel may make an interim order on one or more of three grounds:

- Where it is satisfied that it is necessary for the protection of members of the public;
- Where it is satisfied that such an order is otherwise in the public interest;
- Where it is satisfied that such an order is in the interests of the registrant.

The panel may make an interim conditions of practice order or an interim suspension order for a maximum of 18 months.

The panel has considered an application from Ms Paget for the imposition of an interim conditions of practice order, in the same terms as the substantive order, for a period of 18 months, on the grounds that it is necessary for the protection of the public, and that it is otherwise in the public interest. She submitted that an 18 month interim order is necessary in the light of the panel’s determination on impairment and sanction, and to allow for any appeal process.

Mr Jamieson did not oppose the application.

The panel accepted the advice of the legal assessor.

For all the reasons set out in the panel’s determination thus far, and in all the circumstances of this case, the panel has decided that an interim conditions of
practice order, in the same terms as set out above, is necessary for the protection of the public and is otherwise in the public interest.

The panel considered that the order should run for a period of 18 months in order to allow for any appeal process, and that such an order is both appropriate and proportionate following its decision on sanction to impose a conditions of practice order.

If at the end of the appeal period of 28 days you have not lodged an appeal, the interim order will lapse and will be replaced by the substantive order. On the other hand, if you do lodge an appeal, the interim order will continue to run until the conclusion of the appeal.

That concludes these proceedings