Name of Registrant Nurse: Mr Anthony Moorhouse
NMC PIN: 73B1083E
Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – July 1982
Mental Health Nursing – July 1976
Registered Nurse – Sub Part 2
Area of Registered Address: England
Type of Case: Misconduct
Panel Members: Najrul Khasru (Chair, Lay member)
Andrew Galliford-Yates (Registrant member)
Ian Jennings (Lay member)
Legal Assessor: Paul Hester
Panel Secretary: Rajinder Jagdev
Registrant: Present and represented by Mr Alun Jones, instructed by Royal College of Nursing
Nursing and Midwifery Council: Represented by Ms Katherine Higgins, instructed by NMC Regulatory Legal Team.
Facts proved: All, by way of admission
Facts not proved: None
Fitness to Practise: Impaired
Sanction: Conditions of Practice Order – 18 months
Interim order: Interim Conditions of Practice Order – 18 months
Charge:

That you, a registered nurse, whilst working at Newsome Nursing Home,

1. On one or more of the following occasions retrospectively signed one or more medication administration records:

1.1. 22 June 2014

1.2. On one or more occasions between 1 January 2014 and 22 June 2014

AND, in light of the above, your fitness to practise is impaired by reason of your misconduct.
At the start of the hearing the charges were put to you and you made full admissions to all matters.

The panel found the charges proved by way of your admissions.

Background

The charges arose during your employment as a registered nurse at Newsome Nursing Home (“the Home”).

The Home is a 43 bedded nursing home for elderly patients which also includes a small residential unit for dementia patients.

The matters alleged came to light following a referral by your former employer as a result of allegations that you were observed by members of staff at the Home to have retrospectively signed Medicine Administration Record (“MAR”) charts.

On 22 June 2014 you undertook a medication round at the Home. At the end of your shift you had a meeting on an unrelated matter with the Home manager after which you stated to her that you had not signed the MAR charts for approximately 20 residents. The procedure for the administration of medicines at the Home required nurses to sign the MAR charts immediately after the medication was given to a resident. Having spoken with the Home manager you then retrospectively signed the 20 or so MAR charts in the presence of the Home Manager and a Staff Nurse.

Following the allegations made by the Home, the NMC spoke with three of your work colleagues who regularly worked on the night shift at the Home and received handover from you. All three of your colleagues have detailed occasions where they were unable to start the night medication round at 21:15, due to the fact that you had stayed back until 22:00 or later to sign and complete MAR charts from your medication round which commenced between 17:00 and 18:00. These retrospective signings relate to the period in charge 1.2.
**Determination on misconduct and impairment**

Ms Higgins addressed the panel in relation to misconduct and impairment.

You gave sworn evidence and told the panel that you were in the regular habit of signing the MAR charts at the end of the medication round. You stated that this practice was not acceptable and apologised for your conduct. You also stated that you have undertaken online courses in medicines administration and that you now fully understand the importance of following the correct procedures when in charge of a medication round.

Ms Higgins referred the panel to the case of *Roylance v GMC (No. 2) [2000] 1 AC 311* which defines misconduct as ‘a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances’.

Ms Higgins also referred the panel to the case of *Nandi v GMC ([2004] EWHC (Admin)* as to seriousness of misconduct describing it as “conduct which would be regarded as deplorable by fellow practitioners.”

Ms Higgins invited the panel to take the view that your actions amount to a breach of the Code: Standards of Conduct, Performance and Ethics for Nurses and Midwives 2008 (“the Code”). She referred specifically to paragraphs 42 – 45.

Ms Higgins also directed the panel to the NMC Standards for Medicines Management, section 4 which states:

*Para 2.10 You must make a clear, accurate and immediate record of all medicine administered, intentionally withheld or refused by the patient, ensuring the signature is clear and legible; it is also your responsibility to ensure that a record is made when delegating the task of administering medicine.*

She then moved on to the issue of impairment, and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in
the profession and in the NMC as a regulatory body. Ms Higgins also referred the panel to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)*. She invited the panel to find that your fitness to practise is currently impaired.

Mr Jones submitted that it is for the panel to draw their own conclusions on misconduct taking into account that this is a case which is of a serious nature that could amount to misconduct. Mr Jones submitted that you have successfully completed online courses in safe administration of medicines and medication management and thereby have remediated your deficiencies.

The panel accepted the advice of the legal assessor.

Having reached its decision on the facts, the panel went on to consider whether this amounts 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.

The panel has considered, on the basis of the matters admitted and proved, whether your fitness to practise is currently impaired by reason of misconduct.

At the outset, the panel in its deliberations paid no regard whatsoever to a previous matter against you.

In reaching its decision, the panel has had regard to all of the evidence before it. The panel has received advice from the legal assessor which it has accepted.

The panel has borne in mind that, in relation to impairment by reason of misconduct, there is a two stage process; it must first consider whether, on the facts found proved, your behaviour constitutes misconduct, and secondly, if applicable, whether your fitness to practise is currently impaired by reason of that misconduct.

In considering your fitness to practise, the panel reminded itself of its duty to protect patients and its wider duty to protect the public interest which includes the declaring
and upholding of proper standards of conduct and behaviour, and the maintenance of public confidence in the profession and the regulatory process.

The panel has considered that on the facts admitted and proved you breached the following standards from the NMC’s publication, ‘The code; Standards of conduct, performance and ethics for nurses and midwives’ (May 2008) (“the Code”).

**From the 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
- be open and honest, act with integrity and uphold the reputation of your profession.

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

**From the Code**

42. **You must keep clear and accurate records of the discussions you have, the assessments you make, the treatment and medicines you give, and how effective these have been.**

43. **You must complete records as soon as possible after an event has occurred**

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

Additionally, the panel considered that you are in breach of the NMC Standards for Medicines Management (first published in 2007), section 4, para 2.10.

The panel is mindful that not every departure from the Code would be sufficiently serious that it can properly be described as misconduct. Accordingly, the panel has
had careful regard to the context and circumstances of the matters admitted and proved.

By your admissions, you retrospectively signed approximately 20 MAR charts on 22 June 2014 and further admitted that this was a practice which you habitually used during the period of January to June 2014. As a registered nurse, in exercising your professional accountability in the best interest of patients, you must make a clear, accurate and immediate record of all medicines administered to patients. By failing to follow the proper standard for the administration of medicines you potentially placed patients at risk of harm. Furthermore, your conduct was liable to place others working at the Home in professional jeopardy.

The panel noted that in the course of your sworn evidence you conceded to “one or two members of staff” complaining about delayed rounds owing to your retrospective signings of the MAR charts. Despite these complaints from fellow nurses, you continued your practice of retrospectively signing the MAR charts. The panel considered that you continued your practice contrary to these complaints.

The panel is in no doubt that your behaviour, on the facts admitted and proved, fell far below the standards expected of a registered nurse. Taking the matters found proved, the panel is satisfied that your actions amount to misconduct, and that they are sufficiently serious as to undermine your fitness to practise.

The panel having found misconduct then went on to consider the matter of impairment. “Impairment of fitness to practise” has no statutory definition. However, the NMC has defined fitness to practise as a registrant’s suitability to remain on the register without restrictions.

The panel was assisted by the observations of Mrs Justice Cox in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin). In paragraph 74 she said;

74. In determining whether a practitioner’s fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not
only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.

Mrs Justice Cox went on to approve the following questions when considering current impairment, in Paragraph 76:

“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 [nursing] 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 [nursing] profession; and/or
d. …

The panel is in no doubt that your misconduct falls into limbs a, b and c listed above. Whilst there is no evidence of actual patient harm as a direct result of your actions, it is clear to the panel that your actions did put patients at potential risk of significant harm. The panel noted that you have significant experience as a registered nurse having been first registered in 1976 and would have been fully aware that MAR charts require immediate signing. Despite being challenged in respect of your course of action, you persisted and signed numerous MAR charts retrospectively. In doing so you not only placed patients at unwarranted risk of harm but you potentially compromised the position of other clinicians.

The panel has concluded that your fitness to practise was impaired at the time.

In considering whether your fitness to practise continues to be impaired, the panel has had regard to the issues of future risk and public confidence.
With regard to future risk the panel has considered the questions posed in *Cohen v General Medical Council [2008] EWHC 581*, namely whether your conduct is easily remedied, whether it has been remedied and whether it is highly unlikely to be repeated. In considering these questions the panel has had close regard to your oral evidence, written reflective piece and the courses that you have subsequently completed successfully in medicines management.

The panel accept that you have expressed remorse and shown insight into your shortcomings. Furthermore, the panel noted that you have successfully completed relevant online courses to address your misconduct. The panel noted that you have been unable to put your theoretical learning in to practice as you are not presently working as a nurse or in a caring environment. Consequently, the panel is concerned that you have not demonstrated that you have fully remediated your misconduct. As such, the panel is concerned that you would be liable in the future to repeat your misconduct and consequently put patients at risk of unwarranted harm, bring the reputation into disrepute and breach fundamental tenets of the nursing profession.

The panel is aware that any approach to the issue of whether fitness to practise should be regarded as currently impaired must take into account, not only the paramount need to protect the public, but also the collective need to maintain confidence in the profession as well as declaring and upholding proper standards of conduct and behaviour.

The panel is of the view that the protection of the public and the wider public interest could not be satisfied if the finding of current impairment were not made.

Accordingly, the panel has determined that your fitness to practise is impaired by reason of your misconduct.

**Decision on sanction and reasons:**

The panel has considered this case carefully and has decided to make a conditions of practice order. The effect of this order is that your name on the NMC register will
show that you are subject to a conditions of practice order and anyone who enquires about your registration will be informed of this order.

In reaching its decision on sanction, the panel has carefully considered all of the evidence before it and the submissions made by Ms Higgins, on behalf of the NMC and Mr Jones on your behalf.

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

The panel has had regard to the NMC’s Indicative Sanctions Guidance (“ISG”) 2016, published by the NMC. It has had regard to the principle of proportionality, weighing your interest against the public interest. It has taken into account the mitigating and aggravating factors in this case.

The panel has borne in mind that the purpose of a sanction in not to be punitive, although it may have that effect, but is intended to protect patients and the wider public interest. The wider public interest includes maintaining public confidence in the profession and the NMC and declaring and upholding proper standards of conduct and behaviour.

The panel first considered the mitigating and aggravating factors in your case.

As regards mitigating factors, the panel has considered the following points relevant:

- You have fully engaged with the NMC and made early and full admissions to the charges
- You have shown insight
- You have expressed remorse
- You have demonstrated some remediation

The panel found the following aggravating factors:
• As an experienced nurse, you should have known and fully implemented the correct procedure concerning the administration of medicines
• As an experienced nurse, you failed to remediate your actions immediately despite your work colleagues raising concerns on several occasions about your misconduct
• You repeated your misconduct for a period of almost 6 months on numerous occasions
• Your misconduct led to delaying your work colleagues and therefore having an inevitable consequence upon patient care

The panel went on to consider the appropriate sanction.

Under Article 29 of the Nursing and Midwifery Council Order 2001, the panel, when considering sanction, can consider the following courses of action in ascending order, beginning with the least restrictive; take no action, make a caution order for one to five years, make a conditions of practice order for no more than three years, make a suspension order for a maximum of one year or make a striking off order.

The panel has concluded that there are no exceptional circumstances in this case which would justify taking no action on your registration, given the seriousness of the misconduct found. Furthermore, the panel has considered that taking no action would be insufficient for the purpose of protecting the public and 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 considered that your case is towards the higher end of the spectrum of impaired fitness to practise. The panel was mindful of its finding that you are currently liable to repeat your misconduct and that you are liable in the future to bring the profession into disrepute, breach fundamental tenets of the professions and place patients at unwarranted risk of harm. Further, the panel is aware that a caution order would not restrict your right to practise. In all the circumstances, the panel has concluded that a caution order would not be sufficient to protect the public or satisfy the wider public interest.
The panel next considered the imposition of a conditions of practice order. The panel noted that this sanction primarily focuses on identifying areas of a registrant’s practise that may require retraining, assessment and supervision. The panel considered that given the nature of your misconduct, your deficiencies can be properly addressed by a conditions of practice order. Furthermore, a conditions of practice order will in the circumstances of your case sufficiently protect patients and the wider public interest. In considering a conditions of practice order the panel noted that there is no evidence of you having a harmful, deep seated personality or attitudinal problem. The panel also noted that you are willing to respond positively to retraining and that you have taken some steps to address your shortcomings by undertaking online training. In making a conditions of practice order, the panel considered that such an order will not put patients in danger either directly or indirectly as a result of conditional registration.

The panel then went on to consider the imposition of a suspension order. A suspension order is intended to convey a message to the registrant, the profession and the wider public as to the gravity of any unacceptable and inappropriate behaviour, but which, in the particular circumstances of a case, fall short of being fundamentally incompatible with continued registration. The panel considered that your misconduct did not reach this threshold and that it would not, in all the circumstances, be proportionate to impose a suspension order.

Having regard to the matters it has identified, the panel determined that the following conditions are appropriate and proportionate in this case:

1. 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:
   
   (a) administration of medicines;
   (b) record keeping;
2. At any time that you are administering medicines, you must place yourself and remain under the indirect supervision of a registered nurse nominated by your employer, until such time that you are deemed competent by a registered nurse, and this must include at least six observed full medicines rounds.

3. 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.

4. 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.

5. You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC at least 14 days prior to any NMC review hearing or meeting.

6. You must tell the NMC within 14 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.

7. You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.

8. (a) You must within 14 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.

(b) You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact
details of the individual/organisation with whom you have entered into the arrangement.

9. 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 8 above, to them:

(a) Any organisation or person employing, contracting with, or using you to undertake nursing work.

(b) Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services.

(c) Any prospective employer (at the time of application) where you are applying for any nursing appointment.

(d) 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 period of this order is for 18 months.

Given that your misconduct involved numerous residents, was repeated over almost 6 months and that you did not heed your work colleagues’ concerns, the panel concluded that the period of this order is 18 months.

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order with another order.
Determination on Interim Order

In considering the imposition of an interim order, the panel has had regard to all of the evidence in this case.

The panel accepted the advice of the legal assessor.

The panel was satisfied that an interim order was necessary for the protection of the public and otherwise in the public interest. The panel had regard to the reasons set out in its decision for the substantive order. The panel decided to impose an interim conditions of practice order in the same terms and for the same reasons given for the substantive order. To do otherwise would be incompatible with its earlier findings.

The period of this interim conditions of practice order is for 18 months to allow for the possibility of an appeal to be made and determined. If no appeal is made then the interim order will be replaced by the substantive conditions of practice order 28 days after you have been sent the decision of this hearing in writing.

That concludes this determination.