

Conduct and Competence Committee

Substantive Hearing

24-27 January 2017

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

Name of Registrant Nurse:	Gladys Manduna
NMC PIN:	04K0959E
Part(s) of the register:	RNMH, Registered Nurse (Sub Part 1) Mental Health Nurse (17 March 2005)
Area of Registered Address:	England
Type of Case:	Misconduct
Panel Members:	Nicholas Cook (Chair, Lay member) Iwan Dowie (Registrant member) Colin Kennedy (Lay member)
Legal Assessor:	Lachlan Wilson
Panel Secretary:	Rajinder Jagdev
Registrant:	Present and represented by Ms Tew, instructed by the Royal College of Nursing
Nursing and Midwifery Council:	Represented by Ms Monwara Shah, instructed by NMC Regulatory Legal Team
Facts proved:	Charges 1, 3 and 5 by way of admission
Facts not proved:	Charges 2 and 4
Fitness to Practise:	Impaired
Sanction:	Conditions of Practice Order (12 months)
Interim Order:	Interim Conditions of Practice Order (18 months)

Charges, as read:

That you, a registered nurse whilst employed at Birmingham and Solihull Mental Health NHS Foundation Trust:

- 1. Between 17 September 2014 and 2 October 2014 did not inform your employer that you were diagnosed with the condition set out in Schedule 1;*
- 2. Your actions in charge 1 above were dishonest in that you sought to conceal your diagnosis from your employer;*
- 3. On 17 September 2014 did not correctly identify your line manager to the Birmingham Chest Clinic;*
- 4. Your actions in charge 3 above were dishonest in that you knew the information provided was false;*
- 5. Following your diagnosis on 17 September 2014 you attended work on one or more occasions without medical approval;*

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

Schedule 1

[PRIVATE]

Decision and Reasons on application under Rule 19

Ms Tew on your behalf made an application under Rule 19 (3) to have the entirety of the hearing heard in private on the basis that proper exploration of your case involves matters relating to your health. She submitted that these health issues are so intertwined in this case that it would be difficult to separate this from other issues during the proceedings.

Ms Shah on behalf of the NMC did not oppose this application. She submitted that while it is in the public interest that this hearing is held in public, the panel have the discretion, should the need arise, to go into private session, as and when appropriate throughout the proceedings. However she acknowledged that your health issues are intrinsically linked with the charges such that it would be difficult to separate these matters. Ms Shah submitted that the charges could be read in public and for the remainder of the hearing to be held wholly in private but submitted that it is for the panel to make its decision.

The panel accepted the advice of the legal assessor. Rule 19 (1) of the Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended 2012) (The Rules) provides, as a starting point, that hearings shall be conducted in public.

Rule 19 (3) states:

19.– (3) Hearings other than those referred to in paragraph (2) above may be held, wholly or partly, in private if the Committee is satisfied–

(a) having given the parties, and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and

(b) having obtained the advice of the legal assessor,

that this is justified (and outweighs any prejudice) by the interests of any party or of any third party (including a complainant, witness or patient) or by the public interest.

The panel noted the general presumption that hearings are conducted in public, however, the Rules make clear that the panel has discretion to hear certain matters in private session. The panel noted that there would be references made to your health in these proceedings and they relate directly to the charges. The panel was satisfied that your interests in having these matters discussed in private outweigh the public interest in having the hearing conducted fully in public session. This is also in the interests of justice to ensure a fair hearing.

The panel determined that the charges should be read in public and for the remainder of the hearing to be held wholly in private on the basis that matters pertaining to your health should remain confidential and the panel has been informed that such matters are intrinsically linked with the charges.

[PRIVATE]

That concludes this determination.