

**Nursing and Midwifery Council
Fitness to Practise Committee**

**Substantive Order Review Hearing
13 October 2020**

Virtual Hearing

Name of registrant:	Miss Devinderpal Sanghera
NMC PIN:	12I0714E
Part(s) of the register:	Registered Nurse – sub part 1 Adult Nursing (26 January 2013)
Area of Registered Address:	England
Type of Case:	Misconduct
Panel members:	Andrew Harvey (Chair, Lay member) Lucie Moore (Registrant member) Alice Rickard (Lay member)
Legal Assessor:	Megan Ashworth
Panel Secretary:	Amira Ahmed
Nursing and Midwifery Council:	Represented by Assad Badruddin, Case Presenter
Miss Sanghera:	Not present and unrepresented
Order being reviewed:	Suspension order (6 months)
Fitness to practise:	Impaired
Outcome:	Striking-off order to come into effect on the end of 22 November 2020 in accordance with Article 30 (1)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Miss Sanghera was not in attendance and that the Notice of Hearing had been sent to her registered email address on 08 September 2020.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and venue (remote) of the hearing and, amongst other things, information about Miss Sanghera's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

Mr Badruddin, 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).

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Sanghera has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Miss Sanghera

The panel next considered whether it should proceed in the absence of Miss Sanghera. The panel had regard to Rule 21 and heard the submissions of Mr Badruddin who invited the panel to continue in the absence of Miss Sanghera. He submitted that Miss Sanghera had voluntarily absented herself.

Mr Badruddin referred the panel to the telephone note between the NMC case officer and Miss Sanghera on 13 October 2020 in which she explained:

"she had an accident at work and for that reason she will not be able to attend today's review. She confirmed she was ok for the review to go ahead in her absence."

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Miss Sanghera. In reaching this decision, the panel has considered the submissions of Mr Badruddin. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that no application for an adjournment has been made by Miss Sanghera; she has informed the NMC that she has received the Notice of Hearing and confirmed she is content for the hearing to proceed in her absence; there is no reason to suppose that adjourning would secure her attendance at some future date; and there is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Miss Sanghera.

Decision and reasons on review of the substantive order

The panel decided to impose a striking off order.

This order will come into effect at the end of 22 November 2020 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive suspension order originally imposed by a panel of the Fitness to Practise Committee on 24 October 2019 for a period of six months. This order was reviewed on 14 April 2020 and the panel imposed a further suspension order for a period of six months. The current order is due to expire at the end of 22 November 2020.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved which resulted in the imposition of the substantive order were as follows:

“That you, a registered nurse:

1. *Whist working at Jubilee Court Care Home, in respect of Resident A*
 - 1.1 *On or around 19 July 2018, upon noting that Resident A's medication did not arrive, you failed to escalate and/or call the GP about the missing medication. **(Proved in relation to failure to escalate)***
 - 1.2 *On or around the 19 July 2018, did not record in the communication book that Resident A's medication had not been delivered*
 - 1.3...
 - 1.4 *Between 18 July - 24 July 2018, did not chase the GP for Resident A's missing medication and/or you failed to record any chases to the GP in the communication book **(Proved in relation to failure to record only)***
 - 1.5 *Did not administer any medication (except insulin) on 23 July 2018*
 - 1.6...
 - 1.7 *Did not record on the MAR chart and/or medication sheet the reasons why medication was not administered on:*
 - 1.7.1. ...
 - 1.7.2. 24 July 2018
 - 1.8 *Did not record that Resident A's medication was missing and/or any chases made to the GP for the medication in the daily notes on:*
 - 1.8.1. ...
 - 1.8.2. 19 July 2018
 - 1.9...
 - 1.10 *Did not inform the Home Manager that Resident A's had not received any Lamotrigine medication on 23 and 24 July 2018*
2. *Between 1 October 2018 and 31 December 2018, you sent personal text messages to Resident B."*

The first reviewing panel determined the following with regard to impairment:

"The panel considered whether Miss Sanghera's fitness to practise remains impaired.

The panel noted that since the original substantive hearing no new information had been provided by Miss Sanghera. The panel noted that the original substantive hearing panel had made a number of recommendations to Miss Sanghera as to what this panel would be assisted by, in order to demonstrate evidence of insight and steps taken to remediate her practice. Miss Sanghera had not provided any of the information suggested. The panel noted that in recent correspondence with the NMC Miss Sanghera had indicated that she was currently working as a support worker. However, in the time period between the original substantive hearing in October 2019 and today's hearing, no information had been provided regarding this employment nor had any testimonials been put forward.

The panel therefore considered that there was no evidence to suggest that Miss Sanghera had developed insight into her past misconduct and that she had taken any steps to address the deficiencies identified with her practice by the previous panel. The panel considered that a risk of repetition remains and that patients would be placed at risk of harm if Miss Sanghera were able to practise unrestricted. The panel therefore determined that a finding of impairment remains necessary on the grounds of public protection.

The panel bore in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel also determined that a finding of impairment remains necessary on public interest grounds.

For these reasons, the panel finds that Miss Sanghera's fitness to practise remains impaired."

The first reviewing panel determined the following with regard to sanction:

"The panel first considered whether to take no action but concluded that this would be inappropriate in view of the risk of repetition identified, as taking no action would

not restrict Miss Sanghera's practice. The panel determined that taking no action would not protect the public and it would not satisfy the public interest.

The panel then considered whether to impose a caution order but concluded that this would also be inappropriate in view of the risk of repetition identified, as imposing a caution order would not restrict Miss Sanghera's practice. The panel determined that imposing a caution order would not protect the public and it would not satisfy the public interest.

The panel next considered whether to impose a conditions of practice order. The panel noted that Miss Sanghera had not engaged with the recommendations made by the original substantive hearing panel. She had not demonstrated any evidence of insight or any remedial steps taken to address the concerns identified with her practice. This included any evidence of training undertaken. The panel considered that there was no evidence to suggest that Miss Sanghera was willing to undertake retraining or to remediate her practice, and therefore that she would be able or willing to comply with a conditions of practice order. In these circumstances, the panel was unable to formulate practicable or workable conditions of practice which would suitably protect the public and satisfy the public interest.

The panel next considered whether to impose a further period of suspension. The panel considered that a suspension order would protect the public and satisfy the public interest. It considered that this would give Miss Sanghera a further opportunity to engage meaningfully with these proceedings, and to demonstrate evidence of insight and remediation.

The panel considered whether to impose a striking-off order. The panel noted that the previous panel imposed a suspension order for a period of six months to give Miss Sanghera the opportunity to demonstrate evidence of insight and remediation. To this date, Miss Sanghera had failed to engage with the previous panel's recommendations and to demonstrate such evidence. The panel did consider that Miss Sanghera should be given a further, and perhaps final, opportunity to demonstrate such evidence to a future reviewing panel, in order to facilitate her return to safe and effective nursing practice, if that was Miss Sanghera's intention. In these circumstances, the panel concluded that a striking-off order would be

disproportionate at this stage, but noted that a future reviewing panel may not take such a view, and that this sanction would be available to such a future panel.

The panel therefore determined that a suspension order would be appropriate and proportionate in the circumstances of this case. The panel considered that a suspension order for a period of six months would allow Miss Sanghera sufficient opportunity to engage with these proceedings at an early stage, in order to provide the requested information to demonstrate the development of insight into her past misconduct and how she has taken steps to remediate her practice.

In accordance with Article 30(1) of the Order, this suspension order will come into effect upon the expiry of the current order, namely at the end of 22 May 2020.

This suspension order will be reviewed prior to its expiry by another panel. That panel may revoke the order, allow the order to lapse on expiry, extend the order or replace the order with another order, including that of a striking-off order. In some circumstances, it may be possible for an early review of the order to be requested.

A future reviewing panel may be assisted by evidence of the following:

- Miss Sanghera's early engagement with these proceedings upon receiving the decision of this panel, and her participation in the review hearing;*
- A reflective piece which evidences remorse and insight upon the misconduct found proved by the original substantive hearing panel and further, the implications of that misconduct upon patients, the profession and the wider public;*
- Evidence of any training completed by Miss Sanghera relating to record keeping, medicines management, escalating concerns and communication with colleagues;*
- Evidence of training in relation to maintaining professional boundaries;*
and
- Testimonials from current employers, whether care related or not."*

Decision and reasons on current impairment

This panel has considered carefully whether Miss Sanghera's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle. It has taken account of the submissions made by Mr Badruddin. He submitted that Miss Sanghera has failed to engage with the NMC. He submitted that Miss Sanghera remains impaired on both public protection and public interest grounds.

Mr Badruddin explained to the panel that it had the power to extend the current suspension order but Miss Sanghera has disconnected from the NMC and he submitted that the panel should consider imposing a striking-off order.

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

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Miss Sanghera's fitness to practise remains impaired.

The panel noted that Miss Sanghera has provided no new information since the last review hearing. The panel noted that the previous panels had made a number of recommendations to Miss Sanghera as to what a future panel may be assisted by, in order to demonstrate evidence of insight and steps taken to remediate her practice. Miss Sanghera had not provided any of the information suggested. The panel considered that a risk of repetition remains and that patients would be placed at risk of harm if Miss Sanghera were able to practise unrestricted. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection. The panel has

borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Miss Sanghera's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Sanghera fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

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 Miss Sanghera practice would not be appropriate in the circumstances.

The panel next considered whether a conditions of practice order on Miss Sanghera'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 did not consider that conditions would be workable in light of Miss Sanghera's lack of engagement. The panel noted that Miss Sanghera had not engaged with the recommendations made by previous panels. She has not demonstrated any evidence of insight or any remedial steps taken to address the concerns identified with her practice. The panel concluded that a conditions of practice order would therefore not adequately protect the public or satisfy the public interest.

The panel next considered imposing a further suspension order. The panel noted that Miss Sanghera has not demonstrated remediation of her misconduct. Further, she has not shown any insight into her previous failings. The panel was of the view that in the absence of evidence of remediation and insight there remains a risk to the public. The panel considered that Ms Sanghera's lack of engagement and failure to remediate the regulatory concerns were indicative of attitudinal issues which could no longer be adequately addressed with a suspension order.

The panel noted that the two previous panels had imposed suspension orders for a period of six months each to give Miss Sanghera the opportunity to demonstrate evidence of insight and remediation. The panel noted that Miss Sanghera had disengaged with the NMC and has provided no evidence of having acting upon the advice given by previous panels. The previous panel had also set out a clear warning about the risk of a strike-off at the next review in the continued absence of any engagement or evidence of remediation. In the panel's view such a disregard for her regulator was fundamentally incompatible with on-going registration. The panel therefore concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 22 November 2020 in accordance with Article 30(1).

This decision will be confirmed to Miss Sanghera in writing.

That concludes this determination.