

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

**Substantive Hearing  
Tuesday, 6 May 2025 – Friday, 9 May 2025  
Monday, 12 May 2025  
Monday, 19 May 2025 – Thursday, 22 May 2025**

Virtual Hearing

<b>Name of Registrant:</b>	<b>Billy John Alcantara</b>
<b>NMC PIN:</b>	01E1642O
<b>Part(s) of the register:</b>	Registered Nurse – Adult Nursing – Sub part 1 (17 May 2001)
<b>Relevant Location:</b>	London
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Margaret Wolff (Chair, Lay member) Dorothy Keates (Registrant member) Sabrina Sheikh (Lay member)
<b>Legal Assessor:</b>	Nigel Ingram
<b>Hearings Coordinator:</b>	Bethany Seed Eyram Anka (8 May 2025)
<b>Nursing and Midwifery Council:</b>	Represented by Mohsin Malik, Case Presenter
<b>Mr Alcantara:</b>	Not present and unrepresented at this hearing
<b>Facts proved:</b>	Charges 1a, 1b, 2 and 3
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	Striking-off order
<b>Interim order:</b>	Interim suspension order (18 months)

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Mr Alcantara was not in attendance and that the Notice of Hearing letter had been sent to Mr Alcantara's registered email address by secure email on 3 April 2025.

Mr Malik, 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.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Alcantara's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In light of all of the information available, the panel was satisfied that Mr Alcantara has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

## **Decision and reasons on proceeding in the absence of Mr Alcantara**

The panel next considered whether it should proceed in the absence of Mr Alcantara. It had regard to Rule 21 and heard the submissions of Mr Malik who invited the panel to continue in the absence of Mr Alcantara. He submitted that Mr Alcantara had voluntarily absented himself.

Mr Malik referred the panel to the documentation which included email correspondence between the Case Lawyer and the Case Officer from 9 January 2025, an email from Mr Alcantara on 8 January 2025 and a letter addressed to the panel from Mr Alcantara dated 16 April 2025. Mr Malik submitted that Mr Alcantara has made it clear that he will not be attending this hearing, and he is content for the panel to proceed in his absence.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel decided to proceed in the absence of Mr Alcantara. In reaching this decision, the panel considered the submissions of Mr Malik, the correspondence from Mr Alcantara, and the advice of the legal assessor. It had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Alcantara;
- Mr Alcantara has informed the NMC that he has received the Notice of Hearing and confirmed he is content for the hearing to proceed in his absence;

- There is no reason to suppose that adjourning would secure his attendance at some future date;
- Eight witnesses have been scheduled to give live evidence during this hearing and not proceeding may inconvenience the witnesses, their employers and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred between 2017 – 2020 and further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Alcantara in proceeding in his absence. Although the evidence upon which the NMC relies will have been sent to him at his registered address, he will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on his own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. It further noted that Mr Alcantara has provided the NMC with several documents that form his response to the allegations which the panel and Mr Malik will be able to put to the witnesses. Furthermore, the limited disadvantage is the consequence of Mr Alcantara's decisions to absent himself from the hearing, waive his right to attend, and/or be represented, and to not provide evidence or make submissions on his own behalf.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Alcantara. The panel will draw no adverse inference from Mr Alcantara's absence in its findings of fact.

## **Details of charge**

That you, a registered nurse:

- 1) In respect of bank shifts you purported to have worked on one or more of the dates listed in Schedule 1:
  - a) Claimed for bank shifts you had not worked;
  - b) Claimed payment for bank shifts for non-clinical work at home without authorisation.
- 2) Your conduct at charge 1a was dishonest in that you knew you were being paid for hours you had not worked
- 3) Your conduct at charge 1b was dishonest in that you knew you required authorisation for non-clinical work at home.

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

## **Schedule 1**

22 Dec 2017  
21 Jan 2018  
28 Jan 2018  
25 March 2018  
26 August 2018  
30 Sept 2018  
21 Oct 2018  
28 Oct 2018  
27 Jan 2019  
17 March 2019  
23 March 2019  
20 May 2019  
26 May 2019  
22 June 2019  
23 June 2019  
7 July 2019  
14 July 2019  
11 August 2019

## **Background**

The charges arose whilst Mr Alcantara was employed as a registered nurse by Guy's & St Thomas' NHS Trust ('the Trust'). Mr Alcantara was referred on 29 June 2020, 14 July 2020 and 30 July 2020 by three former colleagues at the Trust.

It is alleged that Mr Alcantara was paid for numerous unauthorised bank shifts between 22 December 2017 and 11 August 2019. These bank shifts were not listed on the manual shift sheets as working on the unit. This followed a discrepancy being identified in terms of timesheets.

It is alleged that the bank shifts had been requested on to the health roster system and each shift had been authorised mainly by one of two Band 7 staff members, with the remaining shifts being authorised by other members of staff. It is alleged that shifts were frequently put on the system retrospectively.

As a result of being paid for the bank shifts outlined above, there was a potential loss to the Trust of £7634.34.

Mr Alcantara was dismissed for gross misconduct but was reinstated on appeal to a downgraded role.

Mr Alcantara engaged with the Trust's local investigation and has denied the allegations. Mr Alcantara disputed that he acted dishonestly throughout the Trust investigation and asserts that he worked authorised bank shifts at home. He has since left the nursing profession and is currently working in an unrelated role.

## **Decision and reasons on adjourning the hearing to secure the attendance of Witness 7**

On 12 May 2025, Mr Malik informed the panel that Witness 7 would not be available to give live evidence until the 19 May 2025. He submitted that waiting until then to hear Witness 7's evidence would put the hearing at risk of not concluding within the scheduled time on this occasion. He submitted that he was prepared to make an application to admit Witness 7's hearsay evidence if the panel determined it was appropriate to proceed with the hearing.

The panel heard the advice of the legal assessor, which included reference to the NMC Guidance CMT-11 *When we postpone or adjourn hearings* (last updated: 13 January 2023).

The panel took into account the submissions of Mr Malik, and the advice of the legal assessor. The panel considered if there would be any injustice to any parties if it determined to adjourn the hearing. It noted that Witness 7 had informed the NMC that they would be on holiday until 19 May 2025 in good time, and had agreed that they would attend to give evidence on 19 May 2025. The panel considered that Witness 7 has engaged fully and has prepared a statement for these proceedings and therefore it was confident that Witness 7 would attend on 19 May 2025. It further noted that Witness 7 is a critical witness for the alleged fraud that took place. It therefore concluded that there is no injustice to Witness 7 by adjourning today.

The panel next considered any injustice to Mr Alcantara. It noted that Mr Alcantara has mostly disengaged with these proceedings and has expressed his wishes for the matter to be dealt with as quickly as possible. However, the panel bore in mind that Mr Alcantara has denied the allegations and has provided some information in support of his case. The panel considered that if it were to hear the evidence of Witness 7 on 19 May 2025, the case may still conclude on time. The panel considered that it was important for Witness 7 to be questioned, and for Mr Alcantara's defence to be put to them to ensure fairness to

Mr Alcantara. The panel therefore concluded that it is in the interests of justice for Witness 7 to attend to give live evidence.

Whilst the panel considered the risk of the hearing not concluding on time would be inconvenient and that there is a public interest in the expeditious resolution of this case, it determined that this should not be the deciding factor for whether the hearing should continue without hearing from Witness 7. The panel determined that it is in the interest of justice, and in the interest of Mr Alcantara to adjourn until Witness 7 is available to give evidence.

The panel therefore determined that the hearing should adjourn until Witness 7 can attend to give live evidence on 19 May 2025 or earlier if this can be arranged.

The panel informed Mr Malik that the NMC should continue in liaison with the Trust to make robust efforts to secure Witness 7's attendance earlier than 19 May 2025. The panel will reconvene at 09:30 on 13 May 2025 to receive an update from Mr Malik on the steps that have been or are being taken to secure Witness 7's attendance earlier than 19 May 2025.



## **Decision and reasons on facts**

The hearing resumed on 19 May 2025.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Malik on behalf of the NMC.

The panel has drawn no adverse inference from the non-attendance of Mr Alcantara.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel heard live evidence from the following witnesses called on behalf of the NMC:

- Witness 1: Band 7 Charge Nurse at the Trust at the time of the alleged incidents.
- Witness 2: Band 7 Nurse at the Trust at the time of the alleged incidents.
- Witness 3: Matron at the Trust at the time of the alleged incidents.
- Witness 4: Mr Alcantara's line manager at the time of the alleged incidents.
- Witness 5: Band 7 Sister at the Trust at the time of the alleged incidents.

- Witness 6: Employed at the Trust and worked with Mr Alcantara at the time of the alleged incidents.
- Witness 7: Local Counter Fraud Specialist at the Trust.
- Witness 8: Investigation Officer for the allegations against Mr Alcantara.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC. The panel took account of the investigation work of the Hospital systems within the Counter Fraud Report (CFR) and the report itself, alongside the registrant's bundle and the exhibit bundle before it.

The panel then considered each of the disputed charges and made the following findings.

### **Charge 1a)**

"That you, a registered nurse:

- 1) In respect of bank shifts you purported to have worked on one or more of the dates listed in Schedule 1:
  - a) Claimed for bank shifts you had not worked;"

**This charge is found proved.**

The panel first considered the evidence in respect of charge 1a and Schedule 1. It noted the evidence of Witnesses 1, 2, 3 and 4 that bank shifts were used only as a means to ensure a safe level of clinical staffing for patient care on the Unit, and that they had no

other purpose. It considered the dates chronologically and decided to determine whether first, Mr Alcantara had worked clinical bank shifts on the dates alleged, before proceeding to determine the issue of authorisation.

In respect of 22 December 2017, the panel noted that the manual staff rota sheet, used to document who worked on a given shift, was missing for this date, and swipe card record indicating who had entered and left the unit were similarly unavailable. Witness 3, who had checked the records for all the bank shifts that Mr Alcantara had claimed for said in their oral evidence that it was difficult to be certain whether he had worked that shift or not. In the absence of sufficient evidence, the panel could not be satisfied on the balance of probabilities that this was not a legitimate bank shift. Therefore, the panel determined that charge 1a is not found proved in respect of this date.

In respect of Sunday 21 January 2018, the panel took into account the manual staff rota sheet, which did not include Mr Alcantara's name and the summary of bookings in the CFR. The panel noted that this was listed as a clinical shift with the duty reason being "*high patient acuity*" (HPA). It noted that Badgernet, the computer system used in the Unit for recording and updating patients' clinical notes showed that Mr Alcantara had not logged in on this date. It further noted that this shift was inputted and signed off 25 days after the shift, whereas normal practise was to book and authorise shifts in advance and to enter them onto the system within a week for processing. The panel therefore concluded that there is no evidence that Mr Alcantara was scheduled to work clinically on this date, and there is no other evidence to support that Mr Alcantara attended the Trust to work on this date. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Sunday 28 January 2018, the panel took into account the manual staff rota sheet, the summary of bookings in the CFR and the evidence of Witness 2 and Witness 7. The panel noted that Mr Alcantara sent four emails on this day, but that he did not access Badgernet. However, the panel noted that this was a clinical shift with the duty reason of HPA, and that there is no evidence before it that Mr Alcantara was working clinically on

this date. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Sunday 25 March 2018, the panel took into account the manual staff rota sheet, the summary of bookings in the CFR and the evidence of Witness 6. The panel noted that Mr Alcantara sent 22 emails on this date, but that there is no evidence before it that Mr Alcantara was working clinically. The panel considered the evidence of Witness 6, who confirmed that they had signed off on the shift 17 days later because Mr Alcantara had informed them that he was working from home for a period of time. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Sunday 26 August 2018, the panel took into account the manual staff rota, the summary of bookings in the CFR, the Badgernet access log and the evidence of Witness 5. The panel concluded that there is no evidence before it that Mr Alcantara worked a clinical bank shift on this date. It noted that Witness 5 said that Mr Alcantara had informed them that he was working from home at this time and that he had sent 10 emails on this date. It noted that Mr Alcantara has put the reason for this bank shift as HPA. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Sunday 30 September 2018, the panel took into account the manual staff rota, the summary of bookings in the CFR, the Badgernet access log and the swipe card records. Although the panel noted that Mr Alcantara sent 11 emails on this date, it concluded that there is no evidence that Mr Alcantara worked a clinical bank shift on this date. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Sunday 21 October 2018, the panel took into account the manual staff rota, the summary of bookings in the CFR, the evidence of Witness 3 and the swipe card records. The panel noted that Mr Alcantara had accessed Badgernet once on this date and had sent four emails and that he had given the reason for the shift as HPA. However, the panel noted that there were no swipe card records for Mr Alcantara on this date. It

identified that on the manual staff rota, Mr Alcantara's name had been crossed out and a note made that there were "*too many shifts.*" The duty reason for the shift was HPA. The panel had no evidence to establish that Mr Alcantara had worked a clinical bank shift on this date. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Sunday 28 October 2018, the panel considered the evidence of Witness 1, the summary of bookings in the CFR, the swipe card records and the access to Badgernet records and the manual staff rota. The panel bore in mind that Mr Alcantara sent 10 emails on this date, and he had listed the reason for the shift as HPA. However, the panel concluded that there is no evidence before it that Mr Alcantara worked a clinical bank shift on this date. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Sunday 27 January 2019, the panel considered the manual staff rota, the summary of bookings in the CFR, the swipe card records and the access to Badgernet records. It noted that Mr Alcantara sent six emails and had listed the reason for the shift as HPA. However, the panel considered that there is evidence before it that Mr Alcantara did not work this clinical bank shift. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Sunday 17 March 2019, the panel took into account the manual staff rota, the summary of bookings in the CFR, the swipe card records and the access to the Badgernet records. It noted that Mr Alcantara sent 17 emails on this date. However, the panel bore in mind that on the manual staff rota, Mr Alcantara's name had been crossed out and a note written that there were "*too many shifts.*" Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Saturday 23 March 2019, the panel took into account the manual staff rota, the summary of bookings in the CFR, the swipe card records and the access to Badgernet

records. The panel bore in mind that Mr Alcantara had sent no emails on this date. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Monday 20 May 2019, the panel took into account the evidence of Witness 5 and Mr Alcantara's statement to the internal investigation. It bore in mind that Mr Alcantara sent no emails on this date, but he explained in his response that he had inputted this bank shift on this date because he was unable to claim a bank shift for one that he allegedly worked on the 4 May 2019. The panel concluded that Mr Alcantara did not work on 20 May 2019. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Sunday 26 May 2019, the panel took into account the evidence of the manual staff rota, the swipe card access records and the access to Badgernet. It noted that the reason Mr Alcantara had given for the bank shift was "*Service Requirement*". The panel also bore in mind the evidence of Witness 5 who confirmed that Mr Alcantara had informed them that he was working from home. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of the weekend of 22 and 23 June 2019, the panel took into account the evidence of Witness 1, Witness 2 and the manual staff rota. It further noted that Mr Alcantara had not logged into Badgernet or used his swipe card at the Trust on these dates. The panel also considered the evidence of Witness 6 who confirmed that they had felt pressured to sign off these shifts. Therefore, the panel concluded that Mr Alcantara had not worked a clinical bank shift on these dates. Therefore, the panel determined that charge 1a is found proved in respect of these dates.

In respect of Sunday 7 July 2019, the panel took into account the manual staff rota, the summary of bookings in the CFR, the swipe card records and the Badgernet access records. The panel concluded that there is no evidence before it that Mr Alcantara worked on this date. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Sunday 14 July 2019, the panel took into account the manual staff rota, the summary of bookings in the CFR, the swipe card records and the Badgernet access records. It noted that Mr Alcantara sent three emails on this date and had listed the reason for the bank shift as HPA. However, the panel concluded that there is no evidence before it that Mr Alcantara worked a clinical bank shift on this date. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In respect of Sunday 11 August 2019, the panel took into account the manual staff rota, the summary of bookings in the CFR, the swipe card records and the Badgernet access records. The panel noted that Mr Alcantara sent 21 emails on this date. However, the panel concluded that there is no evidence before it that Mr Alcantara worked a clinical bank shift on this date. Therefore, the panel determined that charge 1a is found proved in respect of this date.

In summary, the panel determined that Mr Alcantara did not work the dates in Schedule 1 as clinical bank shifts with the exception of 22 December 2017. The panel had regard to the documentary evidence before it, including the admissions that Mr Alcantara made to Witness 7 during the investigation that he had claimed for bank shifts when he was working from home. The panel therefore determined that charge 1a is found proved.

### **Charge 1b)**

“That you, a registered nurse:

- 1) In respect of bank shifts you purported to have worked on one or more of the dates listed in Schedule 1:
- b) Claimed payment for bank shifts for non-clinical work at home without authorisation.”

**This charge is found proved.**

In reaching this decision, the panel took into account its findings in respect of charge 1a and Schedule 1, the CFR and the evidence of Witness 3 and Witness 4. The panel considered that all of the witnesses that gave live evidence had been consistent in confirming that Band 8a nurses would not have had authorisation to claim bank shifts for non-clinical work as home. The panel took into account the Trust's internal investigation and had particular regard to the relevant provisions within the Trust's Temporary Staffing Policy 2019 (notwithstanding the date of these charges, as the panel had not been provided with any earlier policy), which states:

*"Clear guidance around the management of temporary staffing is available within the organisation. This is through the Trust's Temporary Staffing Policy 2019. Roster Managers / Ward Sisters / Department Managers / Line Managers have responsibility for arranging rosters and ensuring that there is adequate staffing cover. Key principles of the guidance include:*

*...*

*v. "Timesheets must be only be finalised by an appropriate timesheet authorised signatory at a grade higher than the person who has undertaken the bank work."*

The panel noted that Witness 3 confirmed in their oral evidence that they had not provided Mr Alcantara authorisation to claim for non-clinical work nor did they have the authority to do so. In addition, the CFR states the following:

*"[Witness 4] confirmed that if Billy Alcantara had been working remotely he would need to access his email, the Healthroster system and Badgernet, the Neonatal & Maternity specific application which is used to update patient records. However, to be paid for a Bank shift he would need to be working clinically on the unit unless he had received prior authorisation to undertake his normal Matron duties."*



Witness 4 confirmed this in their oral evidence and also confirmed that they had not given Mr Alcantara authorisation to claim for bank shifts whilst working non-clinically at home. Therefore, the panel was satisfied that Mr Alcantara claimed payment for the bank shifts for non-clinical work at home without authorisation to do so and found charge 1b proved.

## **Charge 2)**

“That you, a registered nurse:

- 2) Your conduct at charge 1a was dishonest in that you knew you were being paid for hours you had not worked”

**This charge is found proved.**

In reaching this decision, the panel took into account its findings in respect of charge 1a, the evidence of Witness 3 and Witness 4 and the CFR.

The panel split the dates into two categories; firstly, the dates on which Mr Alcantara had not worked a clinical bank shift but had completed some other work and secondly, the dates on which Mr Alcantara had appeared to have not completed any work at all.

In respect of 23 March 2019, 26 May 2019 and 7 July 2019, the panel took into account its previous findings in charge 1a and 1b. It noted that Mr Alcantara had claimed payment for bank shifts worked on this date without prior authorisation to do so. It further noted that in the CFR, Witness 7 had not been able to identify any other work completed by Mr Alcantara, namely sending emails or accessing Badgernet. The panel is satisfied that Mr Alcantara did not complete any work on these dates that would justify him claiming payment for an 11.5-hour shift. The panel is also satisfied that Mr Alcantara would have known that it was dishonest, as the ordinary reasonable person would know that it was dishonest to claim payment for shifts that had not been worked. Therefore, the panel determined that charge 2 is found proved in respect of these dates.

In respect of the remaining dates, the panel took into account the evidence of Witness 3, Witness 4 and the CFR. In particular, the panel considered the evidence of Witness 3 that Mr Alcantara demonstrated a pattern of claiming bank shifts retrospectively rather than requesting time off in lieu as per the policy for Band 8a nurses where they have worked significantly over their contracted hours. The panel also considered that the CFR noted that on these dates, Mr Alcantara sent some emails ranging from one to 22 being sent per day. The panel noted that on a number of occasions, Mr Alcantara entered the reason “*high patient acuity*” when claiming clinical bank shifts. This would normally suggest the shift involved clinical work in response to high patient needs. However, on the dates in question, there was no evidence that Mr Alcantara physically attended the Hospital or provided any clinical care. The panel considered that, as a Senior Matron, he would have known that using this reason gave the impression that he was working clinically. The panel found this to be dishonest and misleading.

The panel also noted that Mr Alcantara had previously sought authorisation to undertake legitimate clinical bank shifts from Witness 3 in January 2018 and January 2019. This suggested that he was aware of the requirement for prior approval when claiming additional clinical bank work. The panel took this into account when considering whether his failure to seek approval for the disputed shifts was dishonest.

In all the circumstances, the panel concluded that Mr Alcantara knew he was being dishonest by claiming the bank shifts without authorisation. The panel considered that it was possible that Mr Alcantara believed that he was entitled to claim payment for the work he did on these dates. However, the panel had no evidence as Mr Alcantara has not attended and has not been cross-examined in these proceedings. The panel is satisfied on the evidence that it has heard from the witnesses that Mr Alcantara most likely knew, or should have known, as confirmed by Witnesses 3 and 4 that a Band 8a Matron was expected to work outside their contracted hours, when necessary, without additional remuneration. It bore in mind that Mr Alcantara was an experienced nurse who had worked at the Trust for over 11 years in both clinical and managerial roles. The panel

determined that this charge is found proved in respect of all of the dates, with the exception of 22 December 2017.

### **Charge 3)**

“That you, a registered nurse:

- 3) Your conduct at charge 1b was dishonest in that you knew you required authorisation for non-clinical work at home.”

### **This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Witness 3, Witness 4 and the CFR. The panel considered its reasoning above, specifically that Mr Alcantara was aware of the policies regarding getting authorisation for non-clinical work at home and that bank shifts were not to be used for this purpose. It noted that although he worked in the same office as Witnesses 1, 2 and 3, each of them reported that he had never mentioned to them that he was claiming clinical bank shifts for non-clinical work. The panel took into account Mr Alcantara’s personal statement provided for these proceedings, specifically that:

*“I have done a lot of reflection about what has happened and how it impacted my nursing career and my colleagues at Guys’ & St. Thomas’ NHS Foundation Trust. I have acknowledged the fact that my actions have put my work colleagues in a difficult position too and for that I am truly sorry. I understand the nature and the seriousness of the concerns made against me. I have reflected that I could have been more aware of my actions and that I would not have put myself and my work colleagues through this again.”*

The panel considered that the above statement, while not conceding any dishonesty, did demonstrate some limited awareness of the impact of his actions on colleagues. The panel considered this in the context of all the information before it and determined that Mr

Alcantara did know that he would have required authorisation for non-clinical work at home. Therefore, the panel determined that charge 3 is found proved.

## **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mr Alcantara's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage, and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mr Alcantara's fitness to practise is currently impaired as a result of that misconduct.

## **Submissions on misconduct**

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (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.’*

Mr Malik submitted written submissions for the panel’s consideration. He invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of ‘The Code: Professional standards of practice and behaviour for nurses and midwives 2015’ (the Code) in making its decision.

Mr Malik identified the specific, relevant standards where Mr Alcantara’s actions amounted to misconduct. He submitted that the following areas of the Code have been breached:

### ***“20 Uphold the reputation of your profession at all times***

*To achieve this, you must:*

*20.1 keep to and uphold the standards and values set out in the Code*

*20.2 act with integrity at all times, treating people fairly and without discrimination, bullying[sic] or harassment*

*20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people.*

*20.4 keep to the laws of the country in which you are practising*

*20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress.*

### ***21 Uphold your position as a registered nurse, midwife or nursing associate***

*To achieve this, you must*

*21.3 act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care.”*

Mr Malik submitted that Mr Alcantara failed to uphold the nursing profession and to ensure that he acted in a manner that was appropriate as a nursing professional. He submitted that Mr Alcantara’s actions were dishonest and misleading which raises fundamental concerns about his trustworthiness. He submitted that Mr Alcantara’s actions demonstrated a pattern of sustained dishonest and unprofessional behaviour over two years. He submitted that dishonest behaviour is particularly hard to remediate. He further submitted that the misconduct is serious because fellow practitioners would consider such a departure from the Code deplorable.

## Submissions on impairment

Mr Malik 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. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Malik submitted that although Mr Alcantara's actions have not put patients at unwarranted risk of harm, his actions have resulted in a substantial financial loss to the Trust. He submitted that in the absence of full insight and remediation, the risk of repetition and the risk of harm remains.

Mr Malik submitted that Mr Alcantara's actions have brought the nursing profession into disrepute, and he has breached fundamental tenets of the nursing profession. He submitted that registered professionals occupy a position of trust, and the public expects nurses to provide safe and effective care and to conduct themselves in a way that promotes trust and confidence. He submitted that Mr Alcantara's actions could result in patients and members of the public being deterred from seeking nursing assistance.

Mr Malik submitted that Mr Alcantara's dishonesty presents a continuing risk to both public protection and the wider public interest. He submitted that Mr Alcantara took advantage of his colleagues and the trust they placed in him. He submitted that Mr Alcantara abused his position as a Senior Matron and that his behaviour raises fundamental concerns about his attitude. He submitted that Mr Alcantara has failed to address and put right the issues raised, and that fundamental dishonesty undermines or completely erodes public confidence in the profession.



Mr Malik submitted that a finding of impairment is necessary in this case to mark the unacceptability of Mr Alcantara's behaviour, to emphasise the importance of the fundamental tenet breached, and to reaffirm proper standards of conduct.

Mr Malik submitted that Mr Alcantara's misconduct is not clinical in nature but relates to attitudinal issues that are difficult to put right. He submitted that Mr Alcantara has not sufficiently reflected on his misconduct and has not addressed in his reflective statement what he would do differently in the future. He submitted that breaching the professional duty of candour is difficult to remediate, and therefore highly likely to be repeated. He submitted that there is no evidence before the panel that Mr Alcantara has addressed, or taken steps to address, the concerns or risks identified in this case. He submitted that Mr Alcantara only ceased the dishonesty when found out by his employer.

Mr Malik submitted that a finding of impairment is necessary on public protection grounds as the misconduct is serious, and there remains a risk of repetition due to Mr Alcantara's limited insight and lack of remediation. He further submitted that Mr Alcantara's misconduct occurred in the workplace, and therefore the risk of unwarranted harm to the public remains.

Mr Malik submitted that a finding of impairment is also in the wider public interest. He submitted that Mr Alcantara's actions have brought the nursing profession into disrepute and has undermined trust and confidence in the profession. He submitted that the dishonesty occurred in the workplace and therefore raises fundamental questions about Mr Alcantara's integrity and trustworthiness as a registered professional and seriously undermines public trust in nurses.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance*, *CHRE v NMC and Grant*, *Cheatle v GMC* [2009] EWHC 645, *Cohen v GMC* [2008] EWHC 581 (Admin) and *Calhaem v GMC* [2007] EWHC 2606 (Admin).

## **Decision and reasons on misconduct**

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Mr Alcantara's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Alcantara's actions amounted to a breach of the Code. Specifically:

### ***“20 Uphold the reputation of your profession at all times***

*To achieve this, you must:*

*20.1 keep to and uphold the standards and values set out in the Code*

*20.2 act with integrity at all times, treating people fairly and without discrimination, bullying or harassment*

*20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people.*

*20.4 keep to the laws of the country in which you are practising*

*20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress.*

### ***21 Uphold your position as a registered nurse, midwife or nursing associate***

*To achieve this, you must*

*21.3 act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care.”*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Mr Alcantara's actions were serious and deplorable. It considered that Mr Alcantara used his position as a Matron to take

advantage of and exploit his junior colleagues. The panel determined that Mr Alcantara's behaviour placed his colleagues in ethically compromised positions causing emotional distress. It found that this abuse of trust, especially towards junior colleagues aggravated the seriousness of the misconduct. It noted that all of the witnesses, who were unwittingly involved in the deception, felt betrayed and expressed distress when talking about the events. The panel took the view that Mr Alcantara deliberately tried to deceive the Trust by listing the reasons for the clinical bank shifts as high patient acuity, and that this dishonesty was for purely financial gain. The panel noted that this conduct was sustained over an 18-month period, and that it was planned as Mr Alcantara had devised a method of claiming that allowed his actions to go unnoticed for a long time.

The panel found that Mr Alcantara's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct. The panel determined that Mr Alcantara undermined the trust of his colleagues, and the trust of the public in the profession. Therefore, the panel determined that Mr Alcantara's actions amounted to very serious misconduct.

## Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mr Alcantara's fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the NMC Fitness to Practise Guidance, updated on 27 March 2023, which states:

*'The question that will help decide whether a professional's fitness to practise is impaired is:*

*"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"*

*If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'*

The panel first considered whether the misconduct it had found was remediable, whether it had been remedied and whether it was likely to be repeated. In the view of the panel, dishonesty is difficult to remediate as it indicates a serious attitudinal failure of integrity. In this case, the dishonesty was particularly serious, involving sustained, premeditated deception, financial gain and the exploitation of colleagues. In Mr Alcantara's reflective statement, he expresses some regret for the distress caused to his colleagues, but there is no acknowledgement of the fact of his dishonesty and no evidence of insight, regret or apology to the Trust or the profession. The panel finds therefore that the misconduct has not been remedied and that consequently, a risk of repetition remains.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain public trust and confidence. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

*'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.'*

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

*'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 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 medical profession; and/or*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel determined that patients were not put at risk and were not caused physical and emotional harm as a result of Mr Alcantara's misconduct. However, the panel noted that Mr Alcantara's actions had a significant impact on his colleagues and on the Trust. The panel considered that Mr Alcantara's dishonest misconduct had breached the fundamental tenets, such as honesty and integrity, of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious. The panel considered that honesty and integrity are the bedrock of the nursing profession, and especially of nurses in a senior role. The panel determined that because Mr Alcantara has not addressed the dishonesty concerns, he has in the past acted dishonestly and is liable to act dishonestly in the future. The panel was of the view that as limbs two, three and four of Dame Janet Smith's "test" are engaged.

The panel considered that the concerns raised in this case are very serious. It considered that the concerns are difficult to remediate, but that they could have been remedied with the right insight and reflection. It noted that Mr Alcantara could have put these concerns right by being open and honest with his colleagues, his employer and by engaging with the NMC in these proceedings. The panel noted that there is little evidence of insight into his actions, and that Mr Alcantara's reflective statement did not address the impact of his actions and what he would do differently in the future. It noted that Mr Alcantara informed the NMC that he wishes to leave the profession and does not wish to return to nursing.

The panel considered that there are no clinical concerns in respect of Mr Alcantara's practice, and that there is a minimal risk of unwarranted harm to the public. It therefore concluded that a finding of impairment is not required on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required because of the seriousness of the dishonest misconduct and because of the fundamental breaches of the Code. The panel bore in mind that Mr Alcantara repeated a pattern of misconduct over a sustained period, where he placed his junior colleagues in a compromising position. It considered that the loss to the Trust was significant, but that the impact on his colleagues was of more significance in this case. It noted that Mr Alcantara has demonstrated limited remorse and insight into his misconduct, and he has not taken any steps to remedy the conduct of the kind found proved. The panel was of the view that a reasonable member of the public would find Mr Alcantara's actions deplorable, and that therefore a finding of impairment on the ground of public interest is necessary. In addition, the panel concluded that public confidence in the profession and the NMC as its regulator, would be undermined if a finding of impairment were not made in this case and therefore also finds Mr Alcantara's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Alcantara's fitness to practise is currently impaired.

## **Sanction**

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mr Alcantara off the register. The effect of this order is that the NMC register will show that Mr Alcantara has been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.



## **Submissions on sanction**

Mr Malik informed the panel that in the Notice of Hearing, dated 3 April 2025, the NMC had advised Mr Alcantara that it would seek the imposition of a striking-off order if it found Mr Alcantara's fitness to practise currently impaired.

Mr Malik submitted that a striking-off order is a proportionate sanction because this case concerns repeated dishonesty related to Mr Alcantara's clinical practice. He submitted that this was sustained dishonest misconduct, that was premeditated, a misuse of his senior position and it was for financial gain. He further submitted that there was financial loss to the Trust, and that Mr Alcantara has demonstrated limited remediation, insight and remorse.

Mr Malik submitted that taking no further action, or a caution order is not sufficient to address the seriousness of the misconduct. He submitted that a conditions of practice order would not be appropriate because this misconduct concerns attitudinal issues that are difficult to address or to put right. He submitted that there are no concerns about Mr Alcantara's clinical practice, and therefore there are no workable conditions that would address the concerns identified.

Mr Malik submitted that a suspension order would not be the appropriate sanction in this case because Mr Alcantara's misconduct is incompatible with remaining on the NMC register. He submitted that this was not a single instance of misconduct, and that there is evidence of deep-seated attitudinal issues. He submitted that the concerns are extremely serious, and the risk of repetition remains. He further submitted that Mr Alcantara abused his position of seniority. He submitted that a period of suspension would be insufficient to maintain public confidence in the profession and to uphold professional standards.

Mr Malik submitted that the seriousness of Mr Alcantara's misconduct calls into question his integrity and his professionalism. He submitted that trust and confidence in the profession can only be maintained by the imposition of a striking-off order. He submitted

that a striking-off order is the only proportionate sanction to mark the seriousness of the misconduct, to uphold the proper standards of professional conduct and to maintain public confidence in the nursing profession and in the NMC as its regulator.

## **Decision and reasons on sanction**

Having found Mr Alcantara's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Repeated dishonesty, directly relevant to his professional practice;
- Sustained dishonesty over a period of over 18-months which came to an end only when it was discovered;
- Serious deep-seated attitudinal issues;
- Personal, financial gain;
- Financial loss to the Trust;
- Abuse of a senior position within the Trust;
- Breach of trust of his employers and colleagues; and
- No evidence of remediation and very little evidence of insight or remorse.

The panel also took into account the following mitigating feature:

- Expressed limited regret for the impact of his misconduct on his colleagues.

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, an order that does not restrict Mr Alcantara's practice would not

be appropriate in the circumstances. The SG states that a caution order may be appropriate where *‘the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.’* The panel considered that Mr Alcantara’s misconduct was not at the lower end of the spectrum and that a caution order 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 impose a caution order.

The panel next considered whether placing conditions of practice on Mr Alcantara’s registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case relates to serious dishonesty and deep-seated attitudinal issues that cannot be addressed appropriately through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Alcantara’s registration would not adequately address the seriousness of this case and would not mark the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mr Alcantara’s actions is fundamentally incompatible with Mr Alcantara remaining on the register.

The panel took into account that this is a particularly serious case of dishonesty, involving long-standing, premeditated deception that had a significant impact on his vulnerable colleagues. In particular, it considered that Mr Alcantara had knowingly and intentionally devised a method of claiming a significant number of clinical bank shifts that caused financial loss to the Trust and placed his colleagues in a difficult position. The panel considered this to be clear evidence of deep-seated attitudinal issues that would be very difficult to remediate. It noted that there is no evidence before it of sufficient insight, remorse and remediation that would mitigate the risk of repetition identified by the panel. The panel took the view that a period of suspension would not mark the public interest in this case.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Mr Alcantara's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Alcantara's actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body. The panel determined that a striking-off order is the only available sanction that would uphold standards of professional conduct.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Mr Alcantara's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct himself, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the nursing profession, to uphold proper standards of conduct and behaviour, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to Mr Alcantara in writing.

## **Interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mr Alcantara's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

## **Submissions on interim order**

Mr Malik submitted that an interim suspension order for a period of 18 months is otherwise in the public interest to restrict Mr Alcantara's practice during any potential period of appeal.

## **Decision and reasons on interim order**

The panel was satisfied that an interim order is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order. It noted that although it found no public protection concerns, an interim order is required because Mr Alcantara's misconduct was so serious that his practice would need to be restricted during any period of appeal.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, owing to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to restrict Mr Alcantara's practise during any potential appeal period. Not to impose an interim order would be inconsistent with the panel's earlier findings.

If no appeal is made, then the interim suspension order will be replaced by the substantive striking off order 28 days after Mr Alcantara is sent the decision of this hearing in writing.

That concludes this determination.