Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Order Review Meeting
Thursday, 11 September 2025

Virtual Meeting

Name of Registrant:	**Kahyana Emari Davis**
NMC PIN:	21A1556E
Part(s) of the register:	Midwives part of the register RM: Midwife (29 April 2022)
Relevant Location:	Bristol
Type of case:	Misconduct
Panel members:	Adrian Blomefield (Chair, Lay Member) Katrina Maclaine (Registrant Member) Mohammad Anwar (Lay Member)
Legal Assessor:	Mark Sullivan
Hearings Coordinator:	Karina Levy
Order being reviewed:	Suspension order (12 months)
Fitness to practise:	Impaired
Outcome:	**Suspension order extended by 6 months with effect from 23 October 2025 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Ms Davis' registered email address by secure email on 7 August 2025.

The panel took into account that the Notice of Meeting provided details of the review that the review meeting would be held no sooner than 8 September 2025 and inviting Ms Davis to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Davis has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (as amended) (the Rules).

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

Details of charge

That you, a Registered Midwife:

1. *On 1 December 2022 in relation to Baby A:*

    a) *Failed to administer the following medications:*
        i) Diazoxide at 16:00 hours. ***[PROVED BY ADMISSION]***
        ii) Chlorothiazide at 18:00 hours. ***[PROVED BY ADMISSION]***

    b) *Failed to take two blood glucose readings.* ***[PROVED BY ADMISSION]***
    c) *Signed your initials on the drug chart to indicate you had administered medication in respect of Baby A at 16:00 and 18:00 hours when you had not.* ***[PROVED BY ADMISSION]***

d) *Signed Colleague A's initials on the drug chart to indicate they had witnessed you administer medication in respect of Baby A at 16:00 and 18:00 hours when they had not.* ***[PROVED BY ADMISSION]***
e) *Recorded two blood glucose readings on the observation chart when the readings had not been taken.* ***[PROVED BY ADMISSION]***

2. *Your actions in charge 1 c) and/or d) were dishonest in that you sought to represent you had administered drugs to Baby A in accordance with the Trust's policy when you had not.* ***[PROVED BY ADMISSION]***

3. *Your actions in charge 1 e) were dishonest in that you sought to represent you had taken Baby A's blood glucose readings when you had not.* ***[PROVED BY ADMISSION]***

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

The original panel determined the following with regard to impairment:

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

In reaching this decision, the panel had regard to the Fitness to Practise Library, 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.'*

Midwives occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their

families must be able to trust midwives with their lives and the lives of their loved ones. To justify that trust, midwives 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 found all four limbs of the Grant test engaged.

The panel finds that a vulnerable patient was put at risk and could have been caused physical harm as a result of your misconduct. Your misconduct breached the fundamental tenets of the midwifery profession and therefore brought it into disrepute. It was satisfied that confidence in the profession would be undermined if its Regulator did not find charges relating to dishonesty extremely serious.

Regarding insight, the panel considered that you eventually made full admissions and have engaged with the NMC throughout the proceedings. However, the panel determined that your insight into your misconduct is limited in that you did not demonstrate an understanding of how your failures and dishonesty would have impacted not only on Baby A, but also on their family and former colleagues.

As to the dishonesty aspects in this case, the panel was concerned by the conjunction of your admissions to dishonesty and falsifications of the records with your submissions that "at no point did I consciously aim to deceive. At no point did I intend to deliberately mislead". This made it clear to the panel that your insight is limited in that you have attempted to distance yourself from your dishonest actions and minimise your responsibility.

The panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. [PRIVATE] The panel did not have any further evidence before it to determine whether you have addressed the areas of concern to avoid a repetition of the misconduct. As such, the panel determined that there is a real risk of repetition.

For all of the reasons above, the panel decided that a finding of impairment is necessary 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 public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest. The panel considered that the public interest in upholding the confidence in the midwifery profession would be seriously undermined if this dishonest midwife was not considered impaired.

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

The original panel determined the following with regard to sanction:

'The panel took into account the following aggravating features:

- *Your failure to acknowledge in your submissions that your dishonest conduct was deliberate and misleading.*
- *Your actions put a vulnerable patient at risk of physical harm.*
- *Risk of repetition.*
- *Lack of remediation.*
- *Limited and partial insight.*

The panel also took into account the following mitigating features:

- *[PRIVATE].*
    - *[PRIVATE].*
    - *[PRIVATE].*
- *Your admissions to all the charges at the outset of the hearing.*

- *You qualified as a midwife in July 2021 and had had a period away from midwifery practice until July 2022. You had only been working for six months as a qualified midwife in the neonatal unit at the time of the incident.*
- *This is the first and only referral to the NMC.*

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 your 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 your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. 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 your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel considered that there are no practical or workable conditions to address the issues that could be formulated, given the nature of the charges in this case. The misconduct identified in this case includes dishonesty, which is not something that could be readily addressed through a conditions of practice order.

Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public nor meet the requirement for public confidence in the profession.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that 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;*
- *No evidence of repetition of behaviour since the incident;*
- *…*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *….*

When considering the above factors, the panel was of the view that there were concerns in regards to your clinical practice and dishonesty. The panel noted that allegations of dishonesty are always serious, and your misconduct included you falsifying records in order to cover up your failures to administer medication and monitor Baby A's blood glucose levels as well as falsifying a colleague's initials. The panel also considered its findings on your current impairment, and it determined that your dishonesty occurred as a one-off behaviour [PRIVATE]. Further, the panel considered that, at this stage, you continued to demonstrate a material lack of insight, and consequently, there is a significant risk of repeating behaviour.

The panel went on to consider whether a striking-off order would be proportionate. The panel had regard of the NMC Guidance on striking-off order (SAN-3e), which asked the panel to consider the following factors:

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

In considering the above factors, the panel was satisfied that your misconduct, whilst it is serious was a one-off event, and does not raise fundamental questions about your professionalism. It considered that public confidence in nurses and midwives could be maintained with a period of suspension, and the public confidence does not necessitate you being struck off from the register. Accordingly, the panel was satisfied that a suspension order could adequately protect patients, members of the public and maintain professional standards, and a striking-off order is not the only sanction which could address these concerns identified.

The panel was satisfied that the misconduct was not fundamentally incompatible with remaining on the register, and the case, in all its circumstances, did not meet the high threshold for a striking-off order for the following reasons:

- *The panel has identified some insight, albeit very limited;*
- *The failings are remediable; and*
- *A suspension order could adequately protect patients, members of the public and maintain professional standards.*

As a result, the panel determined that the imposition of a striking-off order would be disproportionate in this case.'

Decision and reasons on review of the current order

The panel decided to extend the current suspension order for a period of 6 months. This order will come into effect at the end of 23 October 2025 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

Decision and reasons on current impairment

The panel has considered carefully whether Ms Davis' 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 substantive hearing determination and the NMC correspondence sent to Ms Davis. There was no documentation provided by Ms Davis nor any responses from Ms Davis to the NMC correspondence.

The panel heard and accepted the advice of the legal assessor. The panel also noted NMC guidance REV-2a.

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 Ms Davis' fitness to practise remains impaired.

The panel noted that the original panel found that Ms Davis had a lack of insight. At this meeting it considered it has seen no information as to Ms Davis' current insight as she has not made any contact with NMC since the 12 month suspension order was put in place on 24 September 2024.

In its consideration of whether Ms Davis has taken any steps to strengthen her practice, the panel did not have any evidence of additional training or a reflective piece to show any steps have been taken by Ms Davis to remediate her impairment.

The original panel determined that Ms Davis' fitness to practice was impaired and that there was a real risk of repetition of the matters of the kind found proved. Today's panel has received no new information to suggest this is no longer the case. The panel acknowledged the seriousness of the charges which included making misleading records, failure to administer medications and dishonesty on 2 counts. The panel noted that these incidents took place 6 months into Ms Davis' career.

The panel noted that the previous panel's recommendations in how Ms Davis may assist a future panel for review were helpful. However, Ms Davis has not engaged with the NMC since her suspension neither does the panel have any documentation to reflect insight or to show that Ms Davis has taken effective steps to improve her skills and knowledge and strengthen her practice. The panel also does not have anything to inform it of any personal factors that were mentioned in the original hearing, that were taken into consideration when the panel made its original decision.

The panel determined that there is a real risk that Ms Davis will repeat conduct of the kind found proved. 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 Ms Davis' fitness to practise remains impaired.

Decision and reasons on sanction

Having found Ms Davis' 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 took into account the SG and was mindful to make sure it imposed the most proportionate sanction necessary to protect patients, members of the public and to uphold confidence in the profession and the regulator.

The panel first considered whether to take no action and allow the current order to lapse on expiry but concluded that this would be inappropriate in view of the seriousness of the case and risk of repetition. The panel decided that it would be neither proportionate nor in the public interest to allow the current order to lapse.

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 Ms Davis' 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 Ms Davis' misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Ms Davis' registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and the lack of engagement since, it concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Ms Davis' misconduct. Furthermore, the panel has not received any further information about whether the factors that contributed to the matters found proved had changed.

The panel considered extending the current period of suspension. It was of the view that extending the current suspension order would allow Ms Davis further time to fully reflect on her previous dishonesty and failings.

The panel concluded that a further 6 month period of suspension would be the appropriate and proportionate response. The panel considered the length of suspension carefully and noted that Ms Davis has had 12 months to engage with the NMC. The panel noted that Ms Davis had been on maternity leave and was unlikely to return to work until March 2025, however, they considered that she had the opportunity since that time to engage with the NMC, but no contact has been made or information received. The panel was of the view that a further 6 months and would afford Ms Davis adequate time to further develop her insight and take steps to strengthen their practice. It would also give Ms Davis an

opportunity to approach employers to attest to her honesty and integrity in her workplace assignments since the substantive hearing.

The panel considered whether Ms Davis should be struck off the register but concluded that at this time that would be disproportionate. The panel was mindful that this review has taken place 12 months after the order was imposed and wished to offer Ms Davis the opportunity to engage with the process whilst the order would still protect the public. However, if Ms Davis continues to disengage from the process any future reviewing panel may reconsider the position and take steps which may result in the removal of her name from the register.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to extend the current suspension order for a further period of 6 months, which would provide Ms Davis with an opportunity to engage with the NMC. It considered this to be the most appropriate and proportionate sanction available.

This extension of the suspension order will take effect upon the expiry of the current suspension order.

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Evidence that you have refreshed your professional knowledge and completed training surrounding the clinical practice concerns, including medicine administration and record keeping, raised against you;
- Two separate reflective pieces:
    - The first is to address matters relating to your personal misconduct in this case. It must examine the implications of your dishonesty and how that affected you, Baby A and its relatives, and your colleagues.

    - The second is to address matters relating to your personal circumstances. It must analyse your personal development, coping with stress in the workplace and how you would react in the future to similar circumstances; and
- Any further steps you have taken to strengthen your practice.
- Testimonials from any paid or unpaid employment.

This will be confirmed to Ms Davis in writing.

That concludes this determination.