

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

**Substantive Order Review Hearing
Thursday, 9 April 2026**

Virtual Hearing

Name of Registrant:	Trey Vergara
NMC PIN:	01K2086O
Part(s) of the register:	Registered Nurse – Adult (23 November 2001)
Relevant Location:	Birmingham
Type of case:	Misconduct
Panel members:	Phil Lowe (Chair, Lay member) Hellen Horton (Registrant member) Roseann Kane (Lay member)
Legal Assessor:	Elisa Hopley
Hearings Coordinator:	Petra Bernard
Nursing and Midwifery Council:	Represented by Lindsey McFarlane
Mr Vergara:	Not present and not represented
Order being reviewed:	Suspension order (9 months) with review
Fitness to practise:	Impaired
Outcome:	Striking-Off order to come into effect on 23 April 2026 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 Mr Vergara was not in attendance and that the Notice of Hearing had been sent to Mr Vergara's registered email address by secure email on 11 March 2026.

Ms McFarlane, 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 substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Vergara's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Vergara 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 Mr Vergara

The panel next considered whether it should proceed in the absence of Mr Vergara. The panel had regard to Rule 21 and heard the submissions of Ms McFarlane who invited the panel to continue in the absence of Mr Vergara. She submitted that Mr Vergara had voluntarily absented himself.

Ms McFarlane submitted that there had been minimal engagement by Mr Vergara with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

Ms McFarlane referred the panel to the email dated 11 March 2026 from Mr Vergara to the NMC, which included:

'I want to make it clear that I have no interest in enduring your periodic bullying or dealing with any irrelevant processes you continue to impose.'

Ms McFarlane submitted that Mr Vergara has received the Notice of Hearing and is aware that the hearing is taking place today but does not want to attend. She submitted that Mr Vergara has voluntarily absented himself.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mr Vergara. In reaching this decision, the panel has considered the submissions of Ms McFarlane and the advice of the legal assessor. 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:

- The panel has found effective service of the Notice of Hearing;
- No application for an adjournment has been made by Mr Vergara;
- Mr Vergara has engaged minimally with the NMC; his email dated 11 March 2026 makes it clear that he does not wish to attend the hearing;
- There is no reason to suppose that adjourning would secure his 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 to proceed in the absence of Mr Vergara.

Decision and reasons on review of the substantive order

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect at the end of 23 April 2026 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

The current order is due to expire at the end of 23 April 2026.

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

This is the first review of a substantive suspension order originally imposed on 23 June 2025 at a substantive hearing for a period of 9 months.

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

'That you, a registered nurse:

1. On 12 August 2021 you:

- (a) Shouted at Colleague A*
- (b) Shouted to Colleague A "I don't like you" or words to that effect*
- (c) Banged your fist on the table*
- (d) Pursued Colleague A when they left your office*
- (e) Shouted "Watch what will happen today" or words to that effect, to Colleague A*
- (f) Stared at Colleague A*
- (g) Called Colleague A "stupid"*
- (h) Shouted that you "will not deal with uneducated idiots" or words to that effect*
- (i) ...*

2. Your actions at one or more of Charges 1(a) to (i) created an intimidating and / or hostile and / or degrading and / or humiliating environment for one or more of your colleagues.

3. ...

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 found that Mr Vergara demonstrated very limited insight into his behaviour on the day in question. In his reflective piece, he did not meaningfully acknowledge the impact of his behaviour on his colleagues, particularly Colleague A. Instead, the panel found the tone of the statement to be defensive, with emphasis placed on the impact the incident had on him personally. There was no evidence of reflection on how his actions affected his colleagues, nor any genuine understanding of why his behaviour was unacceptable or how this impacted negatively on the reputation of the nursing profession. The panel was concerned that Mr Vergara approached the interaction with Colleague A as one involving a subordinate, rather than as a colleague deserving of respect.

The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not Mr Vergara has taken steps to strengthen his practice. It was noted that, in the light of some leadership issues before the incident on 12 August 2021, he had been instructed to undertake a 'Compassionate Leadership in Healthcare Course'. The incident occurred after this training, raising questions about his engagement with the course.

The panel also noted that leadership and communication concerns had been raised during his probation, with regular supervision meetings put in place, as described by Witness 4.

The panel noted in Witness 4's NMC witness statement that:

'[Mr Vergara] wasn't very approachable and didn't always speak with staff or acknowledge them. Immediately, I realised that there were issues with his style of leadership. Right from his probation, I implemented supervision

to ensure that he was developing well in his leadership as I noticed that this was a problem area for him.'

Despite this support, Mr Vergara's behaviour reportedly deteriorated, with ongoing complaints from colleagues. Witness 4 described in her statement that Mr Vergara was 'dismissing people, walking past them, not speaking to people and belittling people.'

Moreover, there was no evidence before the panel that Mr Vergara had taken meaningful steps to reflect, learn, or improve his professional conduct in the years since the incident. Although he stated he experienced [PRIVATE] at the time, the panel gave limited weight to this mitigation, as no supporting evidence was provided.

In light of the lack of meaningful insight and the absence of remediation, the panel concluded that there remains a real risk of repetition. While the misconduct related to a single incident, it was serious and occurred in the context of wider leadership concerns identified during his employment.

The panel also noted that after Mr Vergara's left his employment at the Home, he stated in his response to the NMC regulatory concerns he had moved into a Band 5 role, and while this may suggest he recognised his leadership shortcomings, the panel saw no evidence to confirm this.

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 concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore finds Mr Vergara's fitness to practise impaired on the grounds of public interest.

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

The original 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 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 nature of the case, and the need to uphold the reputation of the profession, an order that does not restrict Mr Vergara'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 Vergara's misconduct risks to undermine public trust in nurses and the maintenance of professional standards 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 Mr Vergara's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable, in accordance with the SG. However, the panel noted the presence of deep-seated attitudinal concerns and a demonstrated lack of engagement with the NMC.

The panel considered whether the identified misconduct could be addressed through conditions of retraining, restricting Mr Vergara's practise so that he could not act as nurse in charge and requiring close supervision at all times by a more senior nurse. However, the panel was not satisfied that Mr Vergara would be

willing or prepared to comply with such conditions and to undertake any remediation at this time. Given the statement he provided to the panel in the context of these proceedings continuing in his absence.

In light of the absence of meaningful insight and Mr Vergara's unwillingness to engage, the panel concluded that there are no practical or workable conditions that could be formulated.

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;*
- The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

In making this decision, the panel carefully considered the submissions of Ms Maqboul in relation to the sanction that the NMC was seeking in this case. However, the panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

The panel considered that Mr Vergara does have attitudinal problems and does pose a risk of repeating his behaviour. However, it judged that this is not one of those serious cases as set out in the SG, since it does not relate to dishonesty, sexual misconduct or criminal convictions and discrimination had not been found proved. The panel noted that this was a single incident of misconduct and that there had been no evidence of repetition of the behaviour since the incident.

Accordingly, having balanced all of these factors, the panel concluded that a suspension order would be the appropriate and proportionate sanction.

The panel considered that a striking-off order would be disproportionate, taking account of all the information before it, and of the mitigation identified, the panel concluded that it would be unduly punitive to impose a striking-off order.

The panel noted the hardship a suspension order might cause Mr Vergara. However, this is outweighed by the public interest in this case.

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

The panel determined that a suspension order for a period of 9 months is appropriate in this case to mark the seriousness of the misconduct, and to allow Mr Vergara to engage with the NMC, develop his insight and undertake relevant training.

At 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 of engagement with the NMC*
- *A reflective statement demonstrating genuine insight into the impact of Mr Vergara's actions on colleagues, service users, and public confidence in the profession;*
- *Evidence of relevant training and/or courses, which may include but is not limited to:*
 - *Conflict resolution and de-escalation*
 - *Effective communication*
 - *Emotional regulation or anger management*

- *Leadership and professional relationships;*
- *Testimonials or references from any employment or voluntary work undertaken during the period of suspension.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Vergara's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as the ability of a professional on our register to practise as a nurse, midwife or nursing associate safely and effectively 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 and the written response from Mr Vergara. It has taken account of the submissions made by Ms McFarlane on behalf of the NMC.

Ms McFarlane outlined the background and procedural history of the case; she referred the panel to the hearing bundle.

Ms McFarlane submitted that since the substantive hearing, Mr Vergara submitted an application for Agreed Removal from the register, however his application was not put forward for consideration by the Assistant Registrar due to the substantive order being in place.

Ms McFarlane referred the panel to Mr Vergara's email to the NMC dated 11 March 2026, in which he states that he considers himself now retired from nursing and has no intention to return to the profession.

Ms McFarlane submitted that Mr Vergara has provided no reflection nor any acknowledgement of his behaviour or actions. She submitted that he has not engaged with the NMC in any meaningful way since prior to the substantive hearing. In an email

to the NMC dated 7 July 2025, she submitted that it is clear that he has not reflected or developed any insight. On the contrary he includes statements such as *'I believe I have been unfairly suspended...'*, and in his later email of 11 March 2026 to the NMC:

'I want to make it clear that I have no interest in enduring your periodic bullying or dealing with any irrelevant processes you continue to impose.'

Ms McFarlane invited the panel to find that Mr Vergara's fitness to practise remains currently impaired.

Ms McFarlane drew the panel's attention to factors relevant to making its decision on sanction, which included NMC guidance REV-2A 'Standard reviews of substantive orders before they expire' and REV-2H 'Removal from the register when there is a substantive order in place'.

Ms McFarlane submitted that Mr Vergara does not intend to practise as a nurse, . he has completely disengaged with the fitness to practice process, and there is nothing to suggest that he is interested in reflecting or developing his insight in relation to his actions which resulted in the imposition of the substantive order. She submitted therefore, that it is extremely unlikely that any extension of the suspension order will result in remediation being demonstrated by Mr Vergara.

Ms McFarlane submitted that in line with REV-2H, Mr Vergara has shown limited engagement and/or insight, and has otherwise made no or negligible progress towards addressing the issues with his fitness to practise.

Ms McFarlane submitted that it is the NMC's position that a striking off order is now appropriate given the circumstances in this case.

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 Mr Vergara's fitness to practise remains impaired.

The panel noted that the original panel found that Mr Vergara had demonstrated '*very limited insight into his behaviour on the day in question. In his reflective piece, he did not meaningfully acknowledge the impact of his behaviour on his colleagues, particularly Colleague A*'.

At this hearing the panel determined that Mr Vergara has not demonstrated an understanding of why what he did was wrong and how this impacted negatively on the reputation of the nursing profession, nor how he would handle the situation differently in the future.

The original panel determined that Mr Vergara was liable to repeat matters of the kind found proved. Today's panel had sight of the email from Mr Vergara dated 11 March 2026. The panel determined this communication to his regulator to be unprofessional, dismissive and hostile in nature. The panel determined that although it was a single incident of misconduct there has been no evidence of remediation to mitigate the risk of repetition in the future. Further, he has shown no progress towards resolving the issues in question as his engagement has been negligible.

In light of this, this panel determined that Mr Vergara is liable to repeat matters 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 Mr Vergara's fitness to practise remains impaired.

Sanction

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 Mr Vergara'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, but the Committee wants to mark that what happened was unacceptable and must not happen again'*. The panel considered that Mr Vergara's 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 Mr Vergara'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 bore in mind the seriousness of the facts found proved at the original hearing and 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 Mr Vergara's misconduct.

The panel has received information in the email of 11 March 2026 that Mr Vergara has effectively retired and does not intend to return to practise as a nurse. In view of Mr Vergara's clear settled intention not to return to nursing, the panel considered that any conditions of practice order would not be workable and would serve no useful purpose.

The panel next considered imposing a further suspension order. The panel noted that Mr Vergara has not shown remorse for his misconduct. Further, Mr Vergara has not

demonstrated any insight into his previous failings. The panel was of the view that considerable evidence would be required to show that Mr Vergara no longer posed a risk to the public. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances.

The panel determined that it was necessary to take action to prevent Mr Vergara from practising and concluded that the two options for achieving this would be, to allow his registration to lapse with impairment or to impose a striking-off order. The panel considered that the former option would not offer sufficient public protection as it would allow Mr Vergara to rejoin the register at any point. In any event, the panel noted that Mr Vergara has made no progress to resolve his fitness to practise issues. The panel took into account the following from the NMC guidance REV-2H, that a striking-off order is likely to be appropriate when:

- ‘the professional has shown limited engagement and/or insight
- ...
- the professional has otherwise made no or negligible progress towards addressing issues with their fitness to practise’

Given the above circumstances, the panel concluded that the only sanction that would adequately protect the public and serve the public interest is a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 23 April 2026 in accordance with Article 30(1).

This decision will be confirmed to Mr Vergara in writing.

That concludes this determination.