



AC-2024-LON-001469

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IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

BEFORE: Mr Justice Bright
DATED: 27 September 2024

BETWEEN:

**THE PROFESSIONAL STANDARDS AUTHORITY
FOR HEALTH AND SOCIAL CARE**

Appellant

- and -

(1) NURSING AND MIDWIFERY COUNCIL
(2) ZEENAT MAQSOOD

Respondents

ORDER BY CONSENT

UPON the parties having agreed to the terms of this Order, in particular that it is just and convenient for the Court to make the Order set out below.

AND UPON none of the parties being a child or protected party, and the appeal not being an appeal from a decision of the Court of Protection.

AND UPON the Second Respondent being a Band 5 School Nurse on the register established and maintained by the First Respondent ('the Register').

AND UPON the Committee having decided on 23 February 2024 that the fitness to practise of the Second Respondent remained impaired and that she should be subject to a suspension order for a period of 12 months with review (“the Suspension Decision”).

AND UPON the Appellant having made a referral to the relevant court on 29 April 2024 appealing the decision of the Panel pursuant to Section 29 of the National Health Service Reform and Health Care Professions Act 2002 (as amended).

AND UPON the First and Second Respondent conceding the appeal should be allowed on the basis of the reasons set out in schedule 1.

BY CONSENT IT IS ORDERED THAT:-

1. The appeal is allowed.
2. The Suspension Decision is quashed and substituted with an order directing the Registrar of the First Respondent to strike the Second Respondent’s name from the Register.
3. The First Respondent is to pay the Appellant’s reasonable costs in the agreed amount of £5,500.
4. There be no order as to costs as between the Appellant and Second Respondent.

B Y T H E C O U R T

Schedule 1 – statement of reasons

1. On 23 February 2024 a Fitness to Practise Committee (“the Committee”) of the Nursing and Midwifery Council (“NMC”) decided that Zeenat Maqsood (“the Registrant”) should be suspended.
2. On 4,5, and 13 January 2022, whilst employed as a Band 5 School Nurse, the Registrant accessed the medical records of Child A. On 5 January 2022 the Registrant accessed the medical records of Mother A.
3. On 31 December 2021, Child A had been discovered, deceased, by the emergency services at an address in Oldham. Mother A had been arrested at the scene. This incident was widely reported in the local and national press in the days immediately following the discovery. Mother A was subsequently charged with the murder of Child A.
4. An audit was carried out to ascertain the level of contact that Child A and their family had had with the Trust. This identified that on three dates in January (over a nine-day period) the Registrant had accessed Child A’s medical records, and on one day, accessed Mother A’s records.
5. There was no clinical (nor any other) justification for the Registrant accessing these records. Neither Child A nor Mother A were the Registrant’s patients.
6. In her witness statement provided to the Panel, the Registrant accepted that there was no clinical justification for accessing these records, but that she did “*not believe that [she] was breaching these rules*” and that she thought “*what [she] was doing was within [her] nursing duties as the child was under [her] colleague nursing staff*” (sic). In oral evidence she describes that she had accessed the information “*just to see where things were going with the case*”.
7. The Registrant had previously faced disciplinary proceedings both at a Trust level, in 2019, and before the NMC in 2021 for accessing patient records without clinical justification. Information in respect of both of these instances was before the Panel.
8. On 22 August 2019, the Trust issued the Registrant with a Stage Two Final Warning, effective for twelve months. This was as a result of the Registrant on five occasions in 2018, accessing and viewing the medical records of her own two children without clinical justification. The Registrant initially denied that she had accessed these records, then, after being informed that an audit would be undertaken, suggested that she had accessed them “*accidentally*”, before accepting that she had reviewed them out of curiosity. The disciplinary outcome letter noted that the Registrant “*did not understand the significance and severity of her actions*” and “*appeared to show no regret for her actions*”.

9. The 2019 disciplinary proceedings occurred when the Registrant was already under investigation by the NMC in relation to further non-clinically justified accessing of medical records. On 30 April 2021, the NMC Fitness to Practise Committee imposed a four-month suspension, with review, following findings that the Registrant had, between 1 September 2011 and 27 September 2018, accessed her sister's ('Patient A's) medical records on numerous occasions, without clinical justification, or Patient A's consent. The Panel found that the Registrant passed the home address of Patient A (obtained from her medical records) to another family member. Patient A was caused emotional harm by this. The four-month suspension was allowed to expire on 1 October 2021, following a review hearing which took place on 2 September 2021. The order expired just three months before the misconduct in the current proceedings occurred in January 2022.
10. The Panel in the current proceedings found the Registrant's actions amounted to misconduct, and that her fitness to practise was impaired on both public protection and public interest grounds. It found that there was a "*high risk*" that her behaviour would be repeated, and this was "*potentially liable to cause unwarranted harm in the future*". It found that the Registrant showed only limited insight into her actions.
11. The Panel found that, despite the repetition of the behaviour for a third time, and despite the high risk that the Registrant would repeat her misconduct unless she was under "*constant supervision*", that it did "*not regard [the Registrant] as showing harmful deep-seated personality or attitudinal problems*". The Panel provided no explanation for this finding, save that there had been a "*degree of insight*" and that there had been "*no repetition since the incident*". The Registrant had however not worked as a nurse since she was suspended on 25 January 2022, and subsequently dismissed in June 2022 for gross misconduct.
12. In respect of sanction, the NMC sought a striking-off order.
13. The Panel imposed a twelve-month suspension, with review, finding that the Registrant's "*difficult domestic circumstances*" and diagnosis of depression, consistent low mood and anxiety adversely affected her judgement at the time of the misconduct. The Panel considered that a striking-off order was disproportionate and would be unduly punitive.
14. The Professional Standards Authority for Health and Social Care considered that the decision of the Committee was not sufficient for the protection of the public, and brought an appeal on the following grounds:

Ground 1

The Panel was wrong not to find harmful deep-seated personality or attitudinal problems.

Ground 2

The Panel placed excessive weight on personal mitigation.

Ground 3

The Panel failed to provide any proper consideration of the Registrant's previous suspension for near identical behaviour.

Ground 4

The Panel failed to give adequate reasons why suspension was the appropriate why suspension was the appropriate sanction.

Ground 5

The Panel was wrong to impose a suspension order rather than a strikingoff order

15. The appeal is conceded by both Respondents in relation to Grounds 1,3,4, and 5.