General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

In person

General Pharmaceutical Council, 6th floor, 2 Stratford Place, London E20 1EJ

5 - 6 July 2023

Registrant name:	Jagjit Sihota
Registration number:	2060836
Part of the register:	Pharmacist
Type of Case:	Misconduct
Committee Members:	Angela Black (Chair) Stephen Simbler (Registrant member) Victoria Smith (Lay member)
Committee Secretary:	Zainab Mohamad
Registrant:	Present and represented by Tom Day, counsel
General Pharmaceutical Council:	Represented by Matthew Corrie, counsel
Facts proved by admission:	All
Fitness to practise:	Impaired
Outcome:	Suspension (6 months) with no review
Interim measure:	None

This decision including any finding of facts, impairment and sanction is an appealable decision under *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010*. Therefore, this decision will not take effect until 4 August 2023 or, if an appeal is lodged, once that appeal has been concluded.

Particulars of Allegation

You, a registered Pharmacist:

1. At all material times, you were the superintendent pharmacist of Avantgarde Pharma Ltd, trading as Al-Shafa Pharmacy, Caldmore Green, Walsall ("the Pharmacy"), and you also worked as the Responsible Pharmacist at the Pharmacy.

2. On various dates between around 20 August 2018 and around 8 February 2019, you supplied a controlled drug to Patient A, otherwise than in accordance with a valid prescription, in that one or more of the prescriptions, including those set out below at schedule A, did not specify the dose to be taken.

3. On or around 23 February 2018, you supplied a controlled drug to Patient A, otherwise than in accordance with a valid prescription, in that prescription 29147266473 did not contain the form of the medication.

4. On or around 10 April 2018, in relation to prescription 29147219476, you supplied a controlled drug to Patient A otherwise than in accordance with a valid prescription in that:

4.1. Item 2 on the prescription did not write the quantity of the drug in words and figures;

4.2. Item 3 of the prescription did not contain the drug name.

5. On or around 9 December 2018, you supplied a controlled drug to Patient A otherwise than in accordance with a valid prescription, in that prescription 05019198288 was dated 25 November 2014 and had expired.

6. In relation to controlled drugs supplied to Patient A on one or more occasions between around 22 January 2018 and 8 February 2019, you failed to carry out any, or any, adequate investigation into whether Patient A's prescriptions were genuine.

And by reason of the matters set out above, your fitness to practise is impaired by reason of your misconduct.

Schedule A

Prescription number	Date
Prescription 05019198288	25.11.14
Prescription 29866915816	20.8.18
Prescription 24358643550	21.9.18
Prescription 29866694184	02.10.18
Prescription 29866693167	10.10.18
Prescription 24358648115	18.10.18
Prescription 24358656273	23.10.18
Prescription 32108465144	2.12.18
Prescription 32350337609	02.02.19

Documentation

Document 1 - GPhC hearing bundle

Document 2 - GPhC skeleton argument

Document 3 - Registrant's bundle

Document 4 – Testimonial for Registrant

Witnesses

Ms 1, GPhC Inspector – evidence taken as read

Ms 2, Counter Fraud Specialist for South Warwickshire NHS Trust - evidence taken as read

Mr 3, Controlled Drugs Liaison Officer ("CDLO") at West Midlands Police - evidence taken as read

Mr 4, nurse prescriber at the Forrester Street Practice - evidence taken as read

Dr 5, medical practitioner previously at the Forrester Street Practice - evidence taken as read

Dr 6, medical practitioner at the Forrester Street Practice - evidence taken as read

Dr 7, medical practitioner at the Village Medical Centre - evidence taken as read

Dr 8, medical practitioner at the Lichfield Street Surgery - evidence taken as read

Dr 9, medical practitioner at the Lichfield Street Surgery - evidence taken as read

Dr 10, medical practitioner at the Lichfield Street Surgery - evidence taken as read

The Registrant – gave oral evidence at the impairment stage

Introduction

1. This is the written determination of the Fitness to Practise Committee of the General Pharmaceutical Council ('the Council').

2. The hearing is governed by *The Pharmacy Order 2010* ("the Order") and *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010* ("the Rules").

3. The statutory overarching objectives for these regulatory proceedings are:

    a. To protect, promote and maintain the health, safety and well-being of the public;

    b. To promote and maintain public confidence in the professions regulated by the Council; and

    c. To promote and maintain proper professional standards and conduct for members of those professions.

4. The Committee also has regard to the guidance contained in the Council's *Good decision making: Fitness to practise hearings and sanction guidance* as revised March

2017.

5. A Principal Hearing has up to three stages:

Stage 1. Findings of Fact – the Committee determines any disputed facts.

Stage 2. Findings of ground(s) of impairment and impairment – the Committee determines whether, on the facts as proved, a statutory ground for impairment is established and, if so, whether the Registrant's fitness to practise is currently impaired.

Stage 3. Sanction – the Committee considers what, if any, sanction should be applied if the Registrant's fitness to practise is found to be impaired.

Service of Notice of Hearing

6. The Committee has seen a letter dated 9 February 2023 from the Council headed 'Notice of Hearing' addressed to the Registrant. No issue was taken with service by either party. The Committee therefore proceeded on the basis that there had been good service of the Notice pursuant to Rules 3 and 17.

Application for part of the hearing to be held in private

7. In the course of cross-examination of the Registrant, the Committee heard an application from Mr Day under Rule 39(3) to hold parts of the hearing in private.

8. Mr Corrie did not oppose the application.

9. The Committee decided to hold certain parts of the hearing in private as evidence of the Registrant's family circumstances, including the health of family, was required for a fair hearing. In making this decision the Committee bore in mind the public interest required a hearing in open session but the majority of the hearing would indeed be in open session.

Registrant's response to Particulars of Allegation

10. The Registrant admitted the Particulars of Allegation in its entirety.

11. In the light of the above, and by the application of Rule 31(6), the admitted factual particulars were found proved.

12. The Committee went on to consider whether the Registrant's fitness to practise is currently impaired, this being a matter for the Committee's judgement.

Background

13. The following summary is drawn principally from the Council's statement of case which was confirmed by the Registrant's counsel to be an accurate account of the background to this case.

14. The Registrant is a pharmacist who, at material times, was the Superintendent Pharmacist and Responsible Pharmacist at Avantgarde Pharma Ltd, trading as Al-Shafa Pharmacy, in Walsall ("the Pharmacy").

15. In summary, the Registrant is alleged to have supplied, between 12 January 2018 and 8 February 2019, controlled drugs to Patient A. These supplies were against a number of prescriptions which contained various handwritten amendments which had not been made by the prescriber.

16. This case was brought by the Council on the grounds that:

    a. A number of the prescriptions were not legally valid in that they did not comply with one or more of the requirements of the Misuse of Drugs Regulations 2001 ("MD Regulations") (Allegations 2 – 5);

    b. In the light of a significant number of red flags apparent from the prescriptions, there was a failure to undertake any, or any adequate, investigation into whether Patient A's prescriptions were genuine (Allegation 6).

17. This matter came to light as a result of a report by the Registrant to National Health Service England's ("NHSE") Sandwell and West Birmingham Clinical Commissioning

Group ("CCG") in about February 2019. The report was in relation to the dispensing of controlled drugs against some possibly fraudulent prescriptions.

18. Ms 2, Counter Fraud Specialist for South Warwickshire NHS Trust, carried out an investigation on behalf of NHS South Warwickshire NHS Trust Counter Fraud. The investigation included six prescriptions for Patient A dated between 19 January and 9 February 2019 which were electronic prescriptions with handwritten amendments either amending the dose and/or amount of medication prescribed or adding additional medications on the prescription. The medications concerned were Actiq, which is Fentanyl, lozenges and Fentanyl sublingual tablets. Fentanyl is a synthetic opioid used in pain control, known for its addictive properties. It is a Schedule 2 controlled drug.

19. According to Ms 2, upon review, it was obvious that the prescriptions were not legitimate. She commenced an investigation alongside Mr 3, CDLO at West Midlands Police. As part of this investigation, on 5 March 2019, they attended the GP practice, the Village Medical Centre, which had issued the prescriptions and established that the handwritten amendments had not been made by the original prescriber. On the same date they attended the Pharmacy and spoke to the Registrant. During the conversation, the Registrant explained that: Patient A had been coming to the Pharmacy for years; was well spoken and well-presented and had had a motorcycle accident which explained his need for the drugs. The Registrant stated that he himself had been present when the prescriptions were presented. According to the Controlled Drug Registers Fentanyl had been dispensed to Patient A at the Pharmacy over a prolonged period.

20. After this visit, copies of relevant prescriptions were obtained. These include eighty-seven prescriptions which were issued between 22 January 2018 and 9 February 2019.

21. The prescriptions were issued by three different GP Practices:

    a. Between 22 January 2018 and 19 July 2018 prescriptions were issued by the Lichfield Street Surgery;

b. Between 25 July 2018 and 2 December 2018 prescriptions were issued by the Forrester Street Practice;
c. Between 7 December 2018 and 9 February 2019 prescriptions were issued by the Village Medical Centre.

22. The prescriptions also appeared to have been issued by various prescribers. However, according to the evidence of prescribers, handwritten amendments were not made by them and the printed name of the prescriber on the prescription was not necessarily the prescriber on each occasion. Prescriptions were issued variously by five different prescribers: Dr 5, Dr 6, Dr 7, Dr 9 and Mr 4.

23. These prescriptions have a large number of handwritten amendments on them including in relation to:

a. the date;
b. the quantity prescribed;
c. the strength prescribed;
d. adding medications.

24. The vast majority of the amendments related to Actiq lozenges or Fentanyl sublingual tablets. However, in some instances there were amendments made in relation to Tramadol capsules and Amitriptyline tablets. Tramadol is a Schedule 3 controlled drug used to treat pain. Amitriptyline is a prescription only medication used as an anti-depressant and for the treatment of neuropathic pain.

25. Ms 1, Pharmacist and GPhC Inspector, makes the following observations, in summary, following a review of a sample of 32 of the prescriptions:

a. A number of the prescriptions did not comply with the requirements of Regulations 15 and 16 of the MD Regulations in various respects such as not setting out the dose, form, name of the medication or the prescription having expired. The effect of this was that the prescriptions were not valid and the medication was supplied against an invalid prescription;

b. Ms 1 noted various matters which she considered unusual about the prescriptions such as handwritten amendments, lack of counter signatures, the dose etc. She

asserts this should have caused the Registrant to conduct checks with the prescriber as to the validity of the prescription.

26. Regulation 15 (1) (f) of the MD Regulations provides that:

"15.— Form of prescriptions

(1) Subject to the provisions of this regulation, a person shall not issue a prescription containing a controlled drug other than a drug specified in Schedule 4 or 5[...][8] unless the prescription complies with the following requirements, that is to say, it shall—

(f) specify the dose to be taken and—

(i) in the case of a prescription containing a controlled drug which is a preparation, the form and, where appropriate, the strength of the preparation, and either the total quantity (in both words and figures) of the preparation or the number (in both words and figures) of dosage units, as appropriate, to be supplied;

(ii) in any other case, the total quantity (in both words and figures) of the controlled drug to be supplied;"

27. Regulation 16 (1) of the MD Regulations provides that:

"16.— Provisions as to supply on prescription

(1) Subject to paragraph (5), a person shall not supply a controlled drug other than a drug specified in Schedule 4 or 5 on a prescription—

(a) subject to paragraphs (1A) and (1C), unless the prescription complies with the provisions of regulation 15;

(b) unless the address specified in the prescription as the address of the person issuing it is an address within the United Kingdom;

(c) unless he either is acquainted with the signature of the person by whom it purports to be issued and has no reason to suppose that it is not genuine, or has taken reasonably sufficient steps to satisfy himself that it is genuine;

(d) before the appropriate date;

(e) subject to paragraph (4), later than twenty-eight days after the appropriate date."

Impairment

28. Having found all the Particulars of Allegation proved, the Committee went on to consider whether the particulars found proved amounted to misconduct and, if so, whether the Registrant's fitness to practise is currently impaired.

29. The Committee took account of the guidance given to the meaning of 'fitness to practise' in the Council's publication *"Good decision-making"* (Revised March 2017). Paragraph 2.11 reads:

> *"A pharmacy professional is 'fit to practise' when they have the skills, knowledge, character, behaviour and health needed to work as a pharmacist…safely and effectively. In practical terms, this means maintaining appropriate standards of competence, demonstrating good character, and also adhering to the principles of good practice set out in your various standards, guidance and advice."*

30. The Committee took into account the evidence of the Registrant who adopted his reflective statements of 11 October 2022 and 28 June 2023. Insofar as is relevant to this stage of the proceedings, the Registrant told the Committee, in summary, it was his view that his actions amounted to misconduct and that there was no defence. He set out the circumstances of the misconduct and the steps he had taken to remediate it. He identified those professional standards which he had breached. He accepted he had taken at face value what Patient A had told him and that he should not have done so. He had reflected on why he had acted as he did and acknowledged his failures. He assured the Committee there was no risk of recurrence.

31. Mr Corrie submitted that the Registrant's actions amounted to misconduct; he identified breaches of various professional standards: 2, 3, 5, 6, 8 and 9. It was submitted the Registrant's conduct was a gross falling short of the standard required of a pharmacist. On the issue of current impairment, Mr Corrie submitted pharmacists had a duty to ensure medication was supplied only in accordance with a legally valid prescription; this was especially the case for controlled drugs with addictive properties. It appeared the Registrant had been "blind, wilfully or otherwise" to a series of obvious issues with the prescriptions presented by Patient A. The alleged misconduct took place over a significant period of time and resulted in Patient A being supplied with a large amount of Fentanyl and other controlled drugs which had not been prescribed.

32. Mr Day conceded that, while it was a matter for the Committee, the Registrant acknowledged his conduct amounted to misconduct. He submitted that, nonetheless, the Committee could find the Registrant's fitness to practise not impaired. He referred the Committee to the guidance in ***Professional Standards Authority v (1) GMC & (2) Uppal [2015] EWHC 1304 Admin*****.** Mr Day submitted the Registrant had remediated his misconduct; there was no risk of repetition. He submitted there were no public protection issues. Insofar as the wider public interest was concerned, he accepted this was "more finely balanced" but submitted the Committee had the discretion to recognise that the public interest could be maintained in other ways than a finding of impairment. He asserted the public was interested not only in the nature of the misconduct but also the response to it. It was recognised that the public interest was engaged and that the purpose of these proceedings was to uphold standards and public trust. He argued that the Registrant's complete insight was highly relevant. There was a restorative aspect to these proceedings: where, as here, the Registrant had demonstrated insight and remediation the public interest in patient safety would be maintained. Mr Day submitted that **Uppal** established that the public interest could be maintained by a rigorous disciplinary investigation, a rigorous disciplinary hearing and a finding of misconduct with the option of a warning/advice. Mr Day asserted that it appeared on the evidence that the Registrant had had an isolated lapse in an otherwise

unblemished career; he asserted the risk of repetition was extremely low and the principle in **Uppal** could be applied here.

Decision on misconduct

33. When considering whether the particulars found proved amounted to misconduct the Committee took into account the *Good Decision making guidance*.

34. The Committee considered whether the Registrant had breached any of the Council's Standards for Pharmacy Professionals (May 2017). The Committee determined that there had been breaches of the following Standards:

    a. Standard 1 - Pharmacy professionals must provide person-centred care.

       On his own evidence, the Registrant did not take responsibility for ensuring that person-centred care was not compromised because of his personal values: he told the Committee he respected Patient A and this compromised his professional relationship with Patient A. He put his personal relationship with Patient A before Patient A's care. The Registrant did not give Patient A safe and effective care: his misconduct put Patient A at risk of serious harm.

    b. Standard 2 – Pharmacy professionals must work in partnership with others.

       The Registrant failed to liaise with Patient A's prescribers and others involved in Patient A's care. Had he done so he would have known the prescriptions were invalid and should not be dispensed. The Registrant did not demonstrate effective team working. He did not take action to safeguard Patient A. He should have appreciated that Patient A was at risk of being or becoming addicted to controlled drugs. The Registrant did not use records appropriately.

    c. Standard 3 – Pharmacy professionals must communicate effectively.

       The Registrant did not listen objectively to Patient A's needs. He merely accepted Patient A's explanations without question when he should have realised that controlled drugs were potentially addictive, particularly in the quantities which were being supplied to Patient A. He did not consider that Patient A might be addicted to them.

d. Standard 5 – Pharmacy professionals must use their professional judgement.

   This is the principal breach in this case and the most serious. The Registrant failed to be objective about Patient A's care and to stand back and use his professional judgement about the drugs he was dispensing. He failed to consider the possibility that the prescriptions which were being produced by patient A might have been forged to support an addiction to or misuse controlled drugs. This is despite the existence of obvious red flags. The Registrant failed to make the care of Patient A his first concern and to act in his best interests; he did not use his judgment to make clinical and professional decisions in dealing with Patient A's prescriptions. He prioritised his personal relationship with Patient A over his professional relationship and, as a result, compromised the patient's care. He was in awe of Patient A and this clouded his professional judgment.

e. Standard 6 – Pharmacy professionals must behave in a professional manner.

   The Registrant himself accepted he had breached this standard; he did not maintain appropriate personal and professional boundaries with Patient A.

f. Pharmacy professionals must demonstrate leadership.

   The Registrant failed to assess the risks associated with the prescriptions presented to him by Patient A. He knew controlled drugs were potentially addictive and dispensed all those prescriptions (during the material period) presented by Patient A. He failed to take into account the ramifications of such quantities for the health of the patient. He failed to consider the possibility that the prescriptions were not valid. He failed to note the prescriptions were not compliant with the MD regulations. He did not lead by example despite being a pre-reg tutor.

35. The Committee bore in mind that the Standards may be taken into account when considering the issues of grounds and impairment but that a breach of the Standards does not automatically result in a finding of misconduct (Rule 24(11)).

36. The Registrant accepts his acts and omissions amounted to misconduct. Mr Corrie identified various features which demonstrated as much. The Committee considers

there is merit to Mr Corrie's submission and finds the following highly relevant:

a. The Registrant was, at material times, an experienced pharmacist;

b. As a pharmacist the Registrant had a professional responsibility to ensure he acted in accordance with the required standards. That responsibility was heightened because the Registrant was a Superintendent Pharmacist ("SI") and a Responsible Pharmacist ("RP"),

c. It is a core feature of pharmacy practice that medications are dispensed against valid prescriptions. This applies to all prescription only medications but is particularly important as regards controlled drugs.

d. To use the words of the Registrant himself: pharmacists are guardians of the nation's medicine cabinets. They have a responsibility to patients and the public to ensure controlled drugs, including those liable to abuse and misuse, are only supplied when appropriate.

e. The Registrant's evidence is that he was directly involved, on each occasion, in the dispensing of controlled drugs to Patient A against invalid prescriptions.

f. There were supplies over a significant period between January 2018 and February 2019.

g. The Registrant's failure to carry out necessary checks on the validity of prescriptions was very serious; he did not act on the obvious red flags which he himself admitted were present. The Registrant accepted in evidence that these red flags ought to have been apparent to him and that he should have acted on them at the outset.

37. The Committee finds particularly serious the Registrant's failure to identify that many of the prescriptions were not compliant with Regulations 15(1)(f) and 16(1) of the

MD Regulations. The dispensing of prescriptions is a core responsibility of a pharmacist and the Committee would expect an SI and RP, such as the Registrant, to identify that prescriptions were not compliant with relevant legislation and good practice. On the Registrant's own evidence it was extremely rare to see an electronic prescription with handwritten amendments yet he has not challenged the evidence of Ms 1 who reviewed 32 of such prescriptions issued to Patient A in a year; she identified anomalies in many of them. Some of those anomalies rendered the prescription invalid; others were contrary to best practice. There were many examples where the pharmacist should have queried the content. The Committee considers that the Registrant's conduct fell seriously below that expected of a registered pharmacist of his experience. Furthermore, by his acts and omissions the Registrant put at risk the health and welfare of Patient A (albeit there is no evidence of harm to Patient A).

38. Accordingly, the Committee concluded that, in its judgment, the ground of misconduct is established.

39. The Committee therefore went on to consider whether the Registrant's fitness to practise is currently impaired.

Decision on Impairment

40. Having found that the particulars of allegation amounted to misconduct, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired. In doing so the Committee considered whether the particulars found proved show that the acts/omissions of the registrant:

- *present an actual or potential risk to patients or to the public*
- *has brought, or might bring, the profession of pharmacy into disrepute*
- *has breached one of the fundamental principles of the profession of pharmacy*
- *means that the integrity of the registrant can no longer be relied upon*

41. The Committee finds the misconduct of the Registrant to be remediable. It also finds

that the Registrant has remedied that misconduct: he has taken extensive steps to do so. In particular he has reflected deeply on the reasons for his misconduct. He now acknowledges that his circumstances in the years leading up to the material period were extremely stressful, both professionally and personally. He told the Committee about significant family events which caused him and his wife considerable emotional upset and continue to do so. The Committee accepts those events would have had a detrimental impact on the Registrant in the years leading up to January 2018 and during the period of the misconduct. The Registrant said he was obsessed with work and worked excessive hours. The Registrant has now reflected carefully on his lifestyle and working environment in the years leading up to January 2018 and the year to February 2019. He has reflected not only on his professional life but also his personal life and has taken steps to remedy his poor work-life balance. He has acknowledged that he allowed his relationship with Patient A, whom he trusted and considered to be a life mentor, to cloud his professional judgment. It is a measure of the personal and professional trust he placed in Patient A at the time that he now feels betrayed by him and angry that he was duped by Patient A. That trust was misguided he now realises: it derived from cultural norms such as respect for community elders. The Registrant perceived Patient A to be a successful member of his community. The Registrant held him in high regard. He believed he could improve his own circumstances under Patient A's mentorship. The Registrant now recognises that his trust and reliance on Patient A, both personal and professional, was misguided and that Patient A had manipulated the relationship with the Registrant for his own purposes.

42. In summary, the Committee is satisfied the Registrant has done all he can to remedy his poor judgment with regard to Patient A. It is to his credit that he has not sought to minimise his misconduct or to make excuses for it. It is a measure of the depth and impact of his reflection that he has been open and honest about his misconduct, including with professional peers and junior staff. He has sought to understand the implications of addiction by becoming involved professionally with CGL, a substance misuse team in Walsall. This demonstrates the Registrant has endeavoured to understand the impact of his misconduct in the context of potential or actual

addiction.

43. The Registrant has expressed genuine shame and remorse for his acts and omissions. He told the Committee that initially he felt physically sick and angry at what he had done. He was embarrassed by it. Despite this, he has been open with colleagues in an attempt to teach others to identify fraudulent prescriptions. This is evidence of his putting his reflections and re-training into practice and cascading his learning to others. It is to the Registrant's credit that he has embarked on a course with an occupational psychologist who has enabled him to see the wider picture, including the impact of his family circumstances both personally and professionally. He has not yet completed that engagement and told the Committee it is an ongoing process. The Committee accepts that; this is commensurate with his continuing efforts to change his personal and professional circumstances to ensure a better work-life balance.

44. In summary, the Committee is satisfied there is minimal risk of repetition of the misconduct.

45. The Committee has considered the wider public interest and particularly whether a finding of impairment is required to maintain public confidence in the profession and to uphold professional standards.

46. The Committee does not accept the submission for the Registrant that the findings in **Uppal** assist the Registrant.

47. The Committee acknowledges the minimal risk of repetition, the extent of the Registrant's insight, his remorse and unblemished career both before and after the misconduct. However, this is a case where the Registrant's misconduct occurred in the context of dispensing controlled drugs; this is a duty and responsibility at the core of pharmacy practice. Such drugs have the potential to cause addiction/misuse/abuse. Their use requires close monitoring.

48. Furthermore, the misconduct occurred over the course of about a year. It could have caused serious harm to Patient A (although there is no evidence of this). The Registrant missed numerous obvious red flags indicating that the prescriptions might

have been fraudulent yet he failed to take action to establish their validity. The prescriptions did not comply with the MD regulations and the Registrant should have known this. These were not minor amendments to the prescriptions: in many cases, controlled drugs were added to prescriptions for dispensing to Patient A. The result of the dispensing of the invalid prescriptions was that Patient A was supplied inappropriately with controlled drugs and in quantities in excess of those validly prescribed.

49. The Committee also considers it highly relevant that, according to the Registrant, Patient A is facing criminal proceedings as a result of the Registrant's report to NHSE. While the nature of those proceedings is not known to the Committee they are likely to arise from the existence of invalid prescriptions in favour of Patient A. Irrespective of the charges against Patient A the Registrant would be perceived by the public as having failed in his responsibility to ensure the prescriptions were valid. He may well be perceived as having facilitated Patient A's access to controlled drugs which had not been prescribed for him. This perception is highly likely to undermine public confidence in the profession. The misconduct suggests serious incompetence on the part of the Registrant in failing to identify from obvious red flags that the prescriptions, against which he was dispensing controlled drugs, were invalid and possibly fraudulent. Furthermore, members of the profession would expect a finding of impairment in circumstances where a registrant had failed to meet the most basic and fundamental standards of his profession: the safeguarding and control of controlled drugs. As the Registrant himself so aptly put it: he is a guardian of the nation's medicines cabinets; he failed in that role.

50. In summary, the Committee considers the wider public interest requires a finding of impairment, irrespective of the minimal risk of recurrence: it is necessary to mark the seriousness of what occurred and thereby maintain public confidence and promote professional standards by making clear to other professionals what is expected. It is also required to deter other professionals from failing to meet professional standards.

51. In conclusion, the Committee finds the Registrant's current fitness to practise to be impaired on public interest grounds only. It determines that Rule 5(2)(b) and (c) are

engaged.

Decision on Sanction

52. Having found impairment, the Committee has gone on to consider the matter of sanction. The Committee's powers are set out in Article 54(2) of the Order. The Committee should consider the available sanctions in ascending order from the least restrictive, taking no action, to the most restrictive, removal from the register, in order to identify the appropriate and proportionate sanction that meets the circumstances of the case.

53. The purpose of the sanction is not to be punitive, though a sanction may in fact have a punitive effect. The purpose of the sanction is to meet the overarching objectives of regulation, namely the protection of the public, the maintenance of public confidence and to promote professional standards. The Committee is therefore entitled to give greater weight to the public interest over the Registrant's interests.

54. The Committee had regard to the Council's '*Good decision making: Fitness to practise hearings and sanctions guidance'* to inform its decision.

55. The committee took into account the submissions made by Mr Corrie and Mr Day. It also had regard to the oral evidence of the Registrant given at the impairment stage.

56. In summary, Mr Corrie submitted that the appropriate and proportionate sanction was one of suspension for 12 months. He identified aggravating and mitigating features. He referred to the oral evidence of the Registrant on the issue of proportionality. He advocated consideration of the whole picture, not merely the misconduct. He submitted there was a strong public interest in this case because it involved the unlawful supply of controlled drugs. He referred to the Committee's findings about the public perception and the gravity of the case. He submitted that, notwithstanding the findings on remediation and insight, a mere warning would undermine public confidence. It was not sufficient for a well informed member of public who would be surprised that only a warning had been issued. It would send the wrong message to the wider profession. He submitted suspension for 12 months

was required to mark the seriousness of the misconduct. Removal was not sought due to the Registrant's remediation and insight.

57. Mr Day, for the Registrant, submitted in summary that this was a case where either a warning be issued or suspension imposed. He submitted the former was the appropriate response. Both would mark the conduct and would be visible on the register albeit for different lengths of time. The difference was the reputational effect, the practical effect on the family and how the public would see the sanction. He submitted that the Registrant's family circumstances amounted to a mitigating factor pursuant to the Council's guidance. Mr Day identified three factors which made the difference between a warning and suspension: the passage of time; the proportionality of the impact on the Registrant and his family; and the depth of the Registrant's insight and his devotion to it.

58. The Committee first considered what, if any, aggravating and mitigating factors there may be.

59. The Committee identified some aggravating factors, including:

    a. The Registrant was Superintendent Pharmacist and Responsible Pharmacist throughout the period of the misconduct.

    b. The misconduct occurred in relation to many prescriptions in the course of a year. This was not a one-off event.

    c. The Registrant's acts and omissions could have caused serious harm to Patient A who was potentially vulnerable (although there is no evidence of such harm).

    d. The Registrant's misconduct in providing medication without valid prescription had the potential to disrupt the care plan put in place by Patient A's GP, Dr 9.

    e. The misconduct involved the uncontrolled supply of controlled drugs to a patient who may have been addicted to them.

60. The Committee identified some mitigating features including:

a. The Registrant self-declared his concerns to NHSE in about February 2019.

b. The Registrant has shown full insight into the circumstances of his misconduct, the impact of it and the need to adjust his professional conduct in future. There is minimal risk of repetition or recurrence of the misconduct.

c. The Registrant's personal, including family, circumstances were extremely challenging at material times. In this regard the Committee specifically rejects Mr Corrie's submission that these circumstances are merely the context in which the misconduct occurred; such challenges would have preyed on the Registrant's mind at material times.

d. The Registrant has an otherwise unblemished career, both before and after the misconduct.

61. The Committee has had regard to the mitigating and aggravating features at each stage of its consideration of the appropriate and proportionate sanction in this case.

62. It has also had regard to the many positive references and testimonials attesting to the Registrant's professionalism and good character. They have been provided by professional colleagues of long standing and by personal friends. The authors appear to know the Registrant well and to be well placed to attest to his character. The authors are aware of the allegations against the Registrant and that he intended to admit all the Particulars of Allegation. These testimonials merit evidential weight.

63. The Registrant is a caring pharmacist who is proud of his role as a pharmacist and his work as a pharmacist is undoubtedly valued within his community. He described the escalation of support provided by the Pharmacy since the COVID-19 pandemic because the community perceived the Pharmacy had kept its doors open while the GP surgery had not. This is indicative of the Registrant providing a beneficial service to his community and being valued by that community.

64. Throughout its consideration of an appropriate sanction, the Committee has had in mind the issue of proportionality, weighing the interests of the public against those of the Registrant. In doing so the Committee has had regard to mitigating and

aggravating factors set out above.

65. It is agreed by the parties, and the Committee concurs, that this is not a case where no action can be taken: members of the public, with knowledge of the misconduct and the circumstances in which it took place, would be surprised were no action to be taken, particularly as the misconduct is associated with criminal proceedings against Patient A. The Registrant's misconduct warrants action by this Committee to mark its disapproval of his actions.

66. On the issue of a warning the Committee has had regard to its findings at the impairment stage as regards the seriousness of the misconduct; they are not repeated here. It has also had regard to the guidance which states this may be appropriate where:

> "There is a need to demonstrate to a registrant, and more widely to the profession and the public, that the conduct or behaviour fell below acceptable standards."

The Committee considers that the Registrant's conduct fell, not merely below, but far below acceptable standards and, as a result, put a patient, over a prolonged period, at risk of serious harm (albeit there is no evidence of this).

67. The Committee has decided against imposing a warning because the Registrant's misconduct, notwithstanding his full remediation and the minimal risk of repetition, amounted to serious incompetence in the management of Patient A's prescriptions for controlled drugs. As the Registrant himself has said, there were many obvious red flags which he failed to act upon; that failure continued over the course of a year. While the Committee is mindful of the Registrant's difficult personal circumstances at material times, he allowed his relationship with Patient A to compromise his professional judgment on matters which are at the core of pharmacy practice: the safeguarding of controlled drugs. The Registrant's misconduct entailed fundamental breaches of professional standards to which the Registrant was expected to adhere

as a member of the profession. While a warning would serve as a public acknowledgement that the conduct was unacceptable, it is not sufficient to mark the seriousness of his misconduct, the damage done to the reputation of the profession and the extent to which public confidence in the profession is undermined by such misconduct relating to the uncontrolled distribution of controlled drugs. Nor would a warning be sufficient to uphold professional standards or deter others from misconduct such as that of the Registrant in this case.

68. In summary, while the Committee has had regard to the eloquent submissions of Mr Day as regards the three factors which might distinguish this case as an opportunity for a warning, it rejects those submissions. Rather it finds that they are factors which should be taken into account in the assessment of proportionality.

69. The Committee next considered whether to impose conditions on the Registrant's registration but agrees with the parties that this is not appropriate given the absence of any current concerns about the Registrant's professional performance: there are now no shortcomings in his pharmacy practice. His misconduct occurred over four years ago and conditions would be wholly inappropriate in this case.

70. With regard to the option of suspension, the Committee noted the guidance in "Good decision making: fitness to practise hearings and sanctions guidance" that suspension may be appropriate to highlight to the profession and the public that the conduct of the Registrant was unacceptable and unbefitting a member of the pharmacy profession. It might also be appropriate when public confidence in the profession demanded no lesser sanction.

71. The Committee adopts its findings at the impairment stage regarding the perception of the public about the Registrant's misconduct.

72. Insofar as the potential impact of suspension on the Registrant and his family is concerned, the Committee has borne in mind his oral evidence. He told the Committee at the impairment stage that if he were unable to practise it would be

"incredibly difficult" and his "family life would certainly suffer". He said that while his wife was also a pharmacist her career was on hold because she was the primary carer for their son; she would be unable to work as an RP. She would be unable to give up her role as primary carer due to her family's circumstances. He told the Committee that being a pharmacist was "engraved in [his] personality".

73. Under cross-examination, the Registrant said his job would be kept open for him if his registration were suspended but he was unable to say for how long that would continue. He said another pharmacist "would be able to step in" in his absence. He said that suspension of his registration would have a "significant impact" on him. He thought it would be "tricky" to find alternative employment although it could be done; it would depend on the length of time of the suspension.

74. Given the Registrant's evidence, the Committee concludes that a period of suspension would cause disruption and inconvenience. It would also cause reputational damage. However, there is no suggestion that the family would lose their home, for example. There is more than a possibility that the Registrant's post would remain open for him and that it could be covered in his absence. Thus the Registrant may have a degree of job security even if his registration were suspended; this is likely to be particularly so if it were for a shorter period than 12 months.

75. This is a public interest case; there is minimal risk of the misconduct being repeated. The public interest includes protecting the public, maintaining public confidence in the profession and maintaining proper standards of behaviour. It is not the purpose of this Committee to punish the Registrant but the Committee is entitled to give greater weight to the public interest than the Registrant's own interest.

76. The maximum period of suspension which the Committee could impose is 12 months. The Committee bears in mind the mitigating and aggravating factors. The Registrant's behaviour has damaged public confidence in the profession and its reputation. Nonetheless, a fully informed member of the public and of the profession would acknowledge and give credit to the Registrant for the meaningful steps he has

taken and continues to take to remediate his misconduct and to learn from his experience. He has taught others to be vigilant. Such members of the public and profession would consider that a period of suspension of the Registrant's registration would be sufficient to mark the seriousness of the Registrant's misconduct, notwithstanding the aggravating features.

77. In making this decision, the Committee has borne in mind the Council seeks an order of suspension for 12 months on grounds inter alia of the gravity of the misconduct and the impact on the wider public interest. However, the Committee considers this would be disproportionate given the nature and extent of his remediation, his otherwise competent practice and the passage of time (which has enabled him to demonstrate insight and remediation). It considers a fully informed member of the public would take those factors into account in considering whether the sanction was appropriate, as would fellow members of the profession. Suspension for a lesser period than 12 months would be sufficient to uphold professional standards and deter others from such misconduct.

78. Given the positive features in this case (notwithstanding the aggravating factors), the Committee determines that six months' suspension is the appropriate and proportionate sanction in this case.

79. The Committee does not consider a review is required before the end of the period of suspension. This is a public interest only case. The Registrant has demonstrated, by his actions, full insight and remediation; there is no benefit to his attending a further hearing for a review of his fitness to practise. While the Good Decision Making Guidance indicates that a committee would usually direct that a review hearing take place before the expiry of the suspension period, this Committee finds that, in these particular circumstances, a review is not required, necessary or desirable.

80. Given the seriousness of the Registrant's misconduct and the potential for serious harm to Patient A, the Committee also considered a longer period of suspension and

indeed removal of the Registrant's name from the register but determined that, given his full insight and the very low risk of repetition, neither was warranted. His misconduct, in the context of his remediation, is not fundamentally incompatible with his continuing to remain a registered professional.

81. In summary, the Committee determines, on public interest grounds, to suspend the name of the Registrant from the Council's Register for a period of six months. It directs the Registrar accordingly.

DETERMINATION ON INTERIM MEASURES

82. Following the Committee's determination on sanction, the Committee invited both counsel to make submissions on the issue of whether the Committee should impose interim measures.

83. Neither Mr Corrie nor Mr Day made submissions on whether such measures should be imposed pursuant to Article 60 of the Pharmacy Order 2010.

84. Nonetheless the Committee considered this matter of its own motion. In so doing it took account of the Council's guidance of March 2017.

85. The Registrant has 28 days in which to pursue an appeal against the Committee's decision. If he were to do so he would be free to return to unrestricted practice because this Committee's decision would not take effect until the appeal proceedings were concluded.

86. The Committee has found there are no public protection issues. Consideration of interim measures falls to be determined on the basis of the wider public interest alone. Interim measures are by no means the default position and every case must be considered carefully to determine whether the bar for their imposition is met. That bar is high. The Committee takes into account its earlier findings and, in

particular, that the misconduct occurred in the course of the Registrant's pharmacy practice. However, it is now over four years since the misconduct occurred and there have been no other concerns about the Registrant's practice.

87. The Committee is satisfied that, in the particular circumstances of this case, the public interest is addressed by the imposition of the substantive sanction of suspension for a period of six months. The Registrant has indicated through his counsel that he accepts the findings of the Committee on impairment of his fitness to practise. Public confidence in these proceedings would not be undermined by the Registrant's continuing in practice pending the suspension of his registration.

88. For these reasons, the Committee finds an interim measure of suspension is not warranted in this case; this is consistent with the substantive findings at the impairment and sanction stages of this hearing.

89. In summary the Committee does not impose an interim measure in this case.

90. That concludes this determination.