

## Notice of Decision

<b>Registrant</b>	Kerry Bienfait
<b>Registration number</b>	3005679
<b>Part of Register</b>	Practitioners in a Care Home Service for Adults
<b>Town of employment</b>	Fort William
<b>Sanction</b>	Warning to stay on your registration for a period of 12 months
<b>Date of effect</b>	18 August 2019

This is notice of a decision of the Scottish Social Services Council (SSSC).

### Our decision

We decided:

1. that based on the facts found your fitness to practise is impaired, as defined in Rule 2 of Part 1 of the Scottish Social Services Council (Fitness to Practise) Rules 2016 (the Rules) as amended by the Fitness to Practise (Amendment) Rules 2017
2. to place a warning on your registration, on the part of the Register for Practitioners in a Care Home Service for Adults, for a period of 12 months

### Findings of Fact

We decided that there is evidence that:

On or around 8 May 2018, while employed as a Social Care Worker by NHS Highland, at Invernevis House (Care Home) in Fort William, and during the course of that employment, you did:

1. fail to adequately check the controlled medication book prior to dispensing Oxycontin for Resident AA
2. fail to check the Medication Administration Record for AA prior to dispensing Oxycontin for AA
3. complete the relevant entry in the controlled medication book prior to Oxycontin being administered to AA

4. when you had indicated on the controlled medication book that you had given the Oxycontin to AA, permit colleague ZZ to administer the Oxycontin to AA without you being present
5. when you had permitted colleague ZZ to administer the Oxycontin to AA without you being present, complete the relevant entry in the Medication Administration Record for AA
6. by your actions at allegations 1-5, breach your employer's policy on Medicine Management in Adult Residential and Day Care Services
7. by your actions at allegations 1 and 2, contribute to AA being given a third tablet of Oxycontin when her prescription was for two tablets per day

and in light of the above your practice is impaired due to your misconduct.

### **Reasons for the finding that your fitness to practise is impaired**

1. Your fitness to practise is impaired because:

- service users have the right to expect that the care and support they receive from social service workers, in whom they place their trust and confidence, will protect them from harm. By committing a medication error that resulted in AA being given an overdose of controlled medication you placed her at risk of acute physical harm. Resident AA was admitted to hospital as a consequence of your actions which is likely to have caused resident AA and her family unnecessary distress and concern. This was a breach of trust placed in you by people using services, their families and your employers. It is not behaviour that would be expected from a person registered with the SSSC.
- the behaviour was serious and risked causing acute harm to a service user and related emotional harm to their family. While your misconduct in incorrectly completing medication records was intentional, the over medication of the service user was not. However, it was reckless. You have experience of around 20 years in practice and should have been aware of the importance of and expectations around following policies and procedures.
- in considering the risk of repetition, it is notable that this incident was isolated. You have shown remorse and have a lengthy history of registration without complaint. It has been a year since the incident and training and employer assessment has taken place. The risk of repetition has therefore reduced, although any repetition of the behaviour could cause acute harm and at worst the death of a service user.

- in considering public protection it cannot be overlooked that this was reckless behaviour which could have caused acute harm. There remains some risk of harm to people using services.
  - given the serious nature of the misconduct the public may lose confidence in the profession if a finding of impairment was not made. It should be recognised that this was conduct that falls below the standards expected by a person registered with the SSSC.
2. In relation to allegations 1 to 7 you have failed to follow parts **2.1, 2.4, 3.10, 5.1, 5.7, 5.8, 6.1 and 6.2** of the SSSC Code of Practice for Social Service Workers in force from 1 November 2016.

### **The sanction**

After referring to our Decisions Guidance, we decided that the appropriate sanction is to place a warning on your registration for a period of **12 months**.

### **Reasons for the sanction**

When making our decision we considered the following factors:

#### **Factors of concern**

- You were an experienced practitioner in a senior position
- The conduct took place inside work and related to care provided to a vulnerable adult who was dependant on you to keep them safe and protect them from harm
- Although this was an isolated incident it was significantly serious in nature
- Your actions left a service user at serious risk of acute harm.

#### **Factors in your favour**

- You have accepted your error, undertaken training and shown regret
- You have a significant previous employment history in social services without incident
- We received positive references in relation to your current practice which noted no ongoing concerns at this time

- You cooperated fully with the SSSC during investigations.

### **Documents we have referred to**

When making our decision, we referred to the documents:

- Regulation of Care (Scotland) Act 2001.
- Scottish Social Services Council (Fitness to Practise) Rules 2016 (the Rules) as amended by the Fitness to Practise (Amendment) Rules 2017
- Decisions Guidance for Fitness to Practise Panels and Scottish Social Service Council staff.

### **Acceptance of the warning**

Having been advised of the consequences of accepting or not accepting the **warning** and recommended to take legal advice, you admitted that your fitness to practise is impaired and accepted the **warning** on: **30 July 2019**

### **Date of effect**

The notice comes into effect on 18 August 2019.