STATUTORY COMMITTEE OF THE PHARMACEUTICAL SOCIETY OF NORTHERN IRELAND

In the matter of: Heather Trueick (2448R)

Location: This hearing took place at the premises of the Pharmaceutical Society NI, 73 University Street, Belfast, BT7 1HL.

Date: 24th April 2024 and 1st May 2024

Committee: Mr. Gary Potter (Chair), Mr. Paul Archer (Lay), Mrs. Liz Kerr (Registrant)

Persons Present and Capacity: Mrs. Heather Trueick (Registrant), Mr. Martin Hadley (Registrant's Legal Representative), Mr. JonPaul Shields, Barrister, instructed by Ms. Caitlin Brown, CFR Solicitors (PSNI Legal Representatives), Mr Stephen Moohan, Interim Registrar, Mr Alan Goleac, Paralegal (PSNI)

Service

1. There were no issues about service.

PRELIMINARY LEGAL ARGUMENT

2. There were no preliminary legal arguments.

BACKGROUND

3. The Committee reminded itself that this was a further review hearing of the decision made at the principal hearing of 1st , 2nd and 20th December 2022, and 9th and 13th January 2023 which found the Registrant's fitness to practise to be currently impaired. In accordance with paragraph 7(2)(d) of Schedule 3 to the Pharmacy (Northern Ireland) Order 1976, the Committee directed that the Registrant should be suspended from practice for a period of twelve months. The Committee initially reviewed the initial decision at the principal hearing on the 8th and 9th February 2024 and further suspended the Registrant from practice for a period of 3 months from that time.

4. The Committee reminded itself that on the 1st , 2nd and 20th December 2022, and 9th and 13th January 2023, the Registrant had faced the following allegations:

ALLEGATIONS

1. *"On various dates on and between 18 November 2019 and 1st February 2020 you, as superintendent of Wynrose Limited, failed to ensure that records of private prescriptions were completed and retained properly and in a manner that complied with Regulation 253 of the Human Medicines Regulations.*
2. *On various dates on and between 18 November 2019 and 1st February 2020 you failed to ensure that you properly completed records of private prescriptions in a manner that complied with Regulation 253 of the Human Medicines Regulations.*
3. *On various dates on and between 18 November 2019 and 1st February 2020 you, as superintendent of Wynrose Limited, failed to ensure that the pharmacy's standard operating*

procedure was followed with respect to the recording of private prescriptions.

4. *On various dates on and between 18 November 2019 and 1st February 2020 you failed to follow the pharmacy's standard operating procedure with respect to the recording of private prescriptions.*
5. *On 23rd January 2020, as superintendent of Wynrose Limited, you caused, allowed, or permitted medicinal products other than medicinal products on a general sale list, ordered via an online platform, to be prepared and dispensed from McFaddens Pharmacy other than under the supervision and control of a pharmacist.*
6. *On 23rd January 2020, as superintendent of Wynrose Limited, you caused, allowed, or permitted medicinal products, other than medicinal products on a general sale list, ordered via an online platform, to be prepared and dispensed from McFaddens Pharmacy without the knowledge of the Responsible Pharmacist, Suzanne McKee.*
7. *On 23rd January 2020 as superintendent of Wynrose Limited, you failed to manage and secure the safe and effective running of the pharmacy business with respect to the supply of medicinal products, other than medicinal products on a general sale list, ordered via an online platform.*
8. *Other than at 7 above, on various dates on and between 18 November 2019 and 30 November 2020 as superintendent of Wynrose Limited, you failed to manage and secure the safe and effective running of the pharmacy business with respect to the supply of medicinal products, other than medicinal products on a general sale list, ordered via an online platform.*

9. *On various dates on and between 18 November 2019 and 30 November 2020 as superintendent of Wynrose Limited, you failed to put in place suitable arrangements to allow the safe and effective dispensing of medicinal products, other than medicinal products on a general sale list, ordered via an online platform.*

10. *On various dates on and between 18 November 2019 and 30 November 2020, as superintendent of Wynrose Limited, you caused, allowed, or permitted various pharmacists engaged by the business to dispense medicinal products, other than medicinal products on a general sale list, ordered via an online platform:*
(i)without their normal prescriber, or general practitioner, being notified about the supply, and
(ii)where the medicinal product dispensed had a potential for abuse or dependency."

5. The Committee reminded itself that on 1st December 2022, the Committee received submissions from Mr. Hamill that the Registrant accepted the allegations in relation to allegations one, two, three, four, eight, nine and ten. Mr. Hamill outlined that the Registrant was disputing the allegations, and the underlying facts, in relation to allegations five and six. In relation to allegation seven, Mr. Hamill outlined that the Registrant accepted the general failings outlined in allegations eight, but not any specific failings connected to Ms. McKee, as outlined in allegations five and six, and relating to seven, concerning events on 23rd January 2020.

6. On 2nd December 2022, the Society called Ms. Suzanne McKee, the Responsible Pharmacist on duty at McFaddens Pharmacy on 23rd June 2020, to give oral evidence in relation to the disputed allegations. Ms. McKee was questioned by Mr. Shields, was cross-examined by Mr. Hamill and was subject to a number of questions from the Committee. On 2nd December the Registrant called Ms.

Caroline O'Hagan, the Accuracy Checking Technician (ACT) working at McFaddens Pharmacy on 23rd June 2020. Ms. O'Hagan was questioned by Mr. Hamill, cross-examined by Mr. Shields and subject to a number of questions from the Committee.

7. Prior to adjourning on 2nd of December 2022, it was indicated to the Committee that Mrs Trueick would also give oral evidence in relation to the disputed allegations, on the reconvening of the hearing on 20th December 2022. On the 20th December 2022, Mr. Hamill made submissions on behalf of the Registrant that the Registrant now admits allegations 5, 6 and 7, in the context of the specific events of the 23rd January 2020. As all the facts and allegations were then admitted at that stage, this meant that the Committee did not need to make any findings as to which facts it found proved, and which parts of the evidence it accepted.

8. The Committee had received a Statement of Case from the Society (Exhibit 5). The parties agreed that, subject to one change, which emerged during the oral evidence session, the facts in this document were agreed as the facts of the case.

9. The Statement of Case outlined the following facts:

    1. *The Registrant first registered as a pharmacist with the Pharmaceutical Society of Northern Ireland in 1988.*
    2. *Since 2nd April 2003, following its incorporation, the Registrant was the Superintendent Pharmacist for Wynrose Limited until 30th November 2020. She has been the company secretary and a director of Wynrose Limited since 2003. During the relevant period there were 4 pharmacies within the Wynrose group.*
    3. *In or around November 2019, Wynrose Limited started to dispense private prescriptions that were ordered online through an online platform operated by Better Health Limited. Better Health Limited offered an online prescription and pharmacy service. Patients could order*

medicines online, including prescription only medicines and Schedule 4 and 5 controlled drugs. Prescriptions were then issued by a GMC registered doctor. These were forwarded electronically to a pharmacy within the Wynrose Group, where the prescriptions were processed, and medicines dispensed. Supplies were then made to patient's throughout the UK, using the postal service. Patients were given the choice to opt out of informing their own GP of the supply. This choice was available to all patients up until March 2020, and then available to patients in Great Britain.

4. *The Registrant, as superintendent, authorised and permitted the business to facilitate the dispensing and supply of medication ordered through the online platform.*
5. *Prescriptions were processed through pharmacies operated by Wynrose Limited namely McFadden's Pharmacy at Duncairn Gardens between November 2019 and 6th February 2020 and Rosetta Pharmacy on Rosetta Road between 7th February 2020 and 9th September 2020.*
6. *Following the introduction of this service, which facilitated the supply of POMs and other medicines not on the general sales list, the Registrant, as Superintendent, did not ensure that records for private prescriptions were completed and retained properly. Regulation 253 of the Human Medicines Regulations 2012 requires a person lawfully conducting a retail pharmacy, in this case the Registrant, to make a written or computerised record containing details of the supply. This record must be made, save in the case of an emergency supply, on the day of the sale or supply, or if that is not reasonably practicable, on the day following that day*.

7. *Between 18th November 2019 and 1st February 2020, records for private prescriptions were not kept in accordance with Regulation 253. A significant number of transactions were not properly recorded. Although the service commenced in November 2019, the Private Prescription Log for BetterHealth prescriptions commenced from 10th January 2020, following an inspection by a Pharmacy Inspector. From 10th January 2020, a considerable number of entries were made to the Private Prescription Log covering supplies that had been already made in November, December and early January. New supplies made after 10th January 2020 were routinely entered late, and not in accordance with the 2012 Regulations. On the face of the Private Prescription Log, there were apparent inaccuracies or errors in relation to the date of supply of medication. By way of example, there were entries completed on 24th January 2020 and 27th January 2020 in the Private Prescription Log that reference a number of prescriptions as having been supplied on 25th December 2019 and 26th December 2019 when the pharmacy would have been closed. Other entries suggest further dispensing occurred when the pharmacy would have been closed.*
8. *Some entries, which were made by the Registrant, referenced supplies made by her on a Saturday from McFadden's Pharmacy when the premises were closed and the RP log reflected the closure.*
9. *Some entries into the Private Prescription Log were made by a non-pharmacist using the login details of a pharmacist giving the incorrect impression that the entries were completed by the pharmacist whose name appeared in the entry.*

10. *The records were not maintained in accordance with Regulation 253 and the accuracy and integrity of the information recorded in the Private Prescription Log appears compromised.*
11. *The Registrant completed some of the entries herself and, as a pharmacist, was involved in some Private Prescription transactions in early January which were not properly recorded in accordance with Regulation 253.*
12. *The Registrant had introduced a Standard Operating Procedure (SOP) on 1st August 2019 with respect to the dispensing and recording of private prescriptions. On various dates on and between 18 November 2019 and 1st February 2020 the Registrant, as superintendent of Wynrose Limited, failed to ensure that the SOP was (i) understood and (ii) adhered to by pharmacist and non-pharmacist employees.*
13. *The Registrant, having introduced it, failed to follow the SOP herself with respect to the recording of private prescriptions.*
14. *A review of medication transactions on 23rd January 2020 for the online service revealed the following information -*
    A. *From a review of the Private Prescriptions and the Private Prescription Log, 35 private prescriptions were dispensed on 23/01/20 from McFaddens (32 were prescribed and dispensed on 23/01/20 and 3 were prescribed earlier, but dispensed on 23/01/20). Entries were made for the 32 prescriptions dated 23/01/20 in the Private Prescription Log on 27/01/20.*

B. *The entries in the Private Prescription log were all noted in the log as having been made and completed by Jenna McBride, a registered pharmacist.*

C. *On 23/01/20, 327 entries were made in the Private Prescription Log, on the face of the Log, by Jenna McBride, many dating back to November 2019.*

D. *The RP on the 23/01/20 was Suzanne McKee, a locum pharmacist.*

E. *Entries for prescriptions dispensed and supplied on 23/01/20 were not made in the Private Prescription Log on a contemporaneous basis.*

15.

a. *Suzanne McKee was the RP at McFadden's Pharmacy on 23rd January 2020, working as a locum. A person she believed was an Accredited Checking Technician (ACT) was present in the pharmacy working on the private prescription service that was operating from McFadden's Pharmacy. When asked whether there was anything that the ACT needed the RP to clinically check with respect to the private prescription service, Ms McKee was informed by the ACT that she was organising paperwork. Heather Trueick arrived at the Pharmacy and Ms McKee was advised by the Superintendent that she was not involved in the online pharmacy service.*

b. *The RP, Suzanne McKee was deliberately excluded from the dispensing process with respect to the private prescription service on 23rd January 2020.*

c. *Ms. McKee did not know about any supplies made through the Pharmacy on 23rd January 2020 to patients who ordered via the online service. She did not make any entry into the PMR or the PP Log. As*

she was unaware of any dispensing or supply through the online service, she undertook no clinical check with respect to any such supply. As RP she was not involved in relevant dispensing activity within the pharmacy. Accordingly, medicines such as dihydrocodeine, codeine phosphate, solpadol, co-codamol, and zolpidem were supplied from the pharmacy without the knowledge or involvement of the RP

d. The Registrant was aware that Suzanne McKee was excluded from oversight of this pharmacy activity and that specific dispensing activity in relation to private prescriptions was kept from her as RP.

e. 32 private prescriptions were dispensed on 23rd January 2020.

f. As Responsible Pharmacist on 23rd January 2020, Ms. Suzanne McKee did not supervise the dispensing of these 32 private prescriptions.

g. The Registrant, in her capacity as superintendent, caused, allowed or permitted medicines to be dispensed on 23rd January 2020 without the RP being aware of, or supervising, the activity, notwithstanding her express indication that any supply of medication ordered online was done by and under the supervision of the RP.

10. The Committee further reminded itself that at the principal hearing, after considerations of evidence and submissions from both parties, it had concluded that the Registrant's fitness to practise was impaired. In reviewing the Committee's decision on impairment at the principal hearing, the Committee considered the following to be of particular relevance to the review:

The Committee noted that:

At paragraph 32 The Registrant, as Superintendent Pharmacist, allowed the business to be used to supply medicines of potential abuse and misuse in large quantities, with the obvious inherent limitations. Many of the initial supplies involved controlled drugs up until 12th March 2020 when this activity ceased. This was notwithstanding warnings given to her on 28th February 2020 by the Head of Pharmacy Medicines Management, within the then Health and Social Care Board (HSCB).

1. The Registrant then assured the Society in June 2020 that all supplies of private prescriptions ordered online had ceased as of 21st June 2020. Despite this assurance, this activity continued between July until September 2020.

2. The Committee considered the question of the Registrant's insight and did not think that the Registrant has shown demonstrable insight. There was a failure to pause and reflect upon the operation of online supply service. There was a failure to respond to clear warnings of potential harm. The resumption, and continuation of the service, after informing the society that it had ceased, showed particularly poor judgment, and a fundamental lack of insight. This was a considered and a deliberate act by the Registrant which the Committee considers was undertaken for commercial reasons. There continued to be a failure to fully acknowledge her failure in providing a safe and effective online service, and manage the safe and effective operation of the online dispensing service, which created a potential risk of real harm to patients.

At paragraph 36 the Committee noted that on 16th October 2020 the Statutory Committee found that the Registrant's fitness to practise was impaired, and directed that the Registrant be the subject of a Conditions Order for 18 months. This direction of the Statutory Committee took effect on 14 November 2020. As part of the Conditions Order the Registrant was

not permitted to retain the position of Superintendent Pharmacist. The Statutory Committee found in its determination of 16th October 2020 that Mrs. Trueick put commercial and business interests ahead of professional obligations. The Committee found that this approach is mirrored in this case. The Committee do note that following a review hearing in May 2022, the Statutory Committee decided not to extend the Conditions Order.

At paragraph 41 on the facts of this case the Committee concluded that her conduct did show that her integrity can no longer be relied upon. The Committee noted in particular:

a) Her actions were deliberate

b) Despite warnings from Mr. Brogan, Head of Pharmacy and Medicines Management HSCB, on 28th February 2020, where he noted that:

"for a number of cases, the GP has highlighted clinical concerns in relation to prescribing and supply of controlled drugs to their patients, because of therapeutic duplication and/or current instalment dispensing issues",

the Registrant nevertheless continued to provide online services

c) On the 26th June 2020 the Registrant wrote to the interim Registrar of the Society stating:

"*I do not intend to restart dispensing controlled drugs through the online dispensing service. As of the 21st June 2020, Wynrose Ltd are no longer dispensing any online prescriptions for better health online ordering system and do not intend to recommence doing so",*

"Wynrose Ltd are no longer dispensing any online prescriptions for Better Health online ordering system and do not intend doing so".

d) She stated that from June 2020 she was going to cease the provision of online services. However, despite that undertaking she recommenced the provision of online services in July 2020, without notifying the Society and

despite the previous concerns raised by the Head of Pharmacy and Medicines Management, HSCB. The resumption and continuation of these online services, after informing the Society that they had ceased, demonstrated a fundamental lack of insight.

e) The Committee considered that this was a deliberate act by the Registrant conducted for commercial reasons. The Committee also noted that in the Registrant's statement to the Committee dated 30th November 2022, at paragraph 14, she said:

"In correspondence to the Society's Chief Executive and Interim Registrar, Mr Trevor Patterson dated 26th June 2020, I stated that Wynrose Limited had voluntarily ceased any online dispensing as of 21st June 2020, and did not intend to recommence doing so. Wynrose Limited did recommence the online pharmacy service for a *short period of time between 15th July 2020 and 9th September 2020. This was done solely in order to meet a required contractual period of notice and was limited to the minimum period of time to meet that obligation".*The Registrant's own words confirm, in the Committee's view, that her priority was to meet commercial obligations at the expense of her professional obligations.

f) The Committee noted that the manner in which she initially conducted her case attempted to divert blame from her onto the Responsible Pharmacist. At paragraph 22 of her statement of 30th November 2022, she said that the Responsible Pharmacist would have been aware of any medications being prepared or dispensed. The Responsible Pharmacist and the ACT both had to give evidence about events of the 23rd January 2020.

g) The Committee also noted that the Registrant had effectively conducted covert practices on the 23rd January 2020, without notifying the Responsible Pharmacist about what was going on.

h) The Registrant chose to engage in, continued, and recommenced online practices which facilitated the supply of medications online, without the necessary professional scrutiny.

i)The Committee considered that the Registrant's commercial interests prevailed over her professional obligations, which was in breach of the professional standards.

The Committee reminded itself that pursuant to paragraph 7(2)(e) of Schedule 3 of the Order the Committee at the principal hearing imposed a twelve month suspension order. The review Committee considered all the mitigating factors in the case, and the following aggravating factors identified at the principal hearing concerning the decision on sanction to be of particular relevance.

At paragraph 52 as to aggravating factors the Committee took into consideration that:

a) Despite receiving written concerns from the then Accountable Officer, Mr. Joe Brogan, on 28th February 2020, as to patient safety and clinical appropriateness concerning the supply of medicines and medicinal products through the online service, the Registrant nevertheless continued to supply such products through this service.

b) On 26th June 2020 the Registrant notified the Interim Registrar of the Society that she did not intend to restart dispensing drugs through the online service from the 21st June 2020. In spite of this assurance, and with knowledge about written concerns from Mr. Joe Brogan as to patient safety and clinical appropriateness concerning the supply of medicines and medicinal products through an online service, the Registrant did recommence this online service again on the 15th July 2020 until the 19th September 2020.

c) The Registrant continued, stopped, and then recommenced the online services solely for commercial reasons at the expense of her professional obligations.

d) The Registrant chose to engage in, continued, and recommenced, online practices which facilitated the supply of medications online, when the Registrant knew these practices did not comply with the Society's

"Professional Standards and Guidance for Internet Pharmacy Services (2009)".

e) *The Committee was satisfied that the Registrant had breached a number of principles of the Code of Conduct, Ethics and Performance (2016), including Principle 1, Putting Patients First, Principle 2, Providing a Quality Service, and Principle 3, Acting with Professionalism and Integrity.*

f) *The Registrant's actions gave rise to a potential for harm to patients.*

g) *The Committee noted the previous regulatory finding against the Registrant, of 16th October 2020.*

h) *As Superintendent Pharmacist, the Registrant failed to inform the Responsible Pharmacist on 23rd January 2020, that online pharmacy services were being provided from McFadden's Pharmacy when she should have done.*

i) *The Registrant failed to comply with her own SOPs when providing this online service.*

j) *The Registrant's actions were deliberate and occurred over a prolonged period of time, specifically from the 18th November 2019 to the 21st June 2020 and again from the 15th July 2020 to the 9th September 2020.*

k) *The Registrant failed to keep accurate records when providing the online services from 18th November 2019 to 1st February 2020.*

11. The Committee also considered the following paragraphs of the decision on sanction at the principal hearing to be particularly relevant:

At paragraph 57 at the sanction stage, on the 9th January 2023, the Committee received the further reflective piece from the Registrant within which she demonstrated a greater insight into her actions and the potential impact that they could have had. She said that she fully understood the way in which the online service was set up could only lead to abuse of such a service to obtain medicines that were liable to be misused.

She said that after listening to the evidence over the past few days of the hearing that she can now see how the Board and the Pharmaceutical Society had issues with how she managed the online prescribing services, that with her years of experience she should have been able to manage the whole process better, and should have paused and sought clarity on issues that could be seen as detrimental to the health and wellbeing of any patients using the service. However, the Committee did consider that the Registrant should have had this level of insight into her actions earlier. She did accept that her actions showed her lack of judgment, and that that it was unacceptable for someone in her position. She admitted that she let herself down, she let her team down, and that she let the pharmacy profession as a whole down as well as the public in general. She did offer an apology for her lack of insight and for her actions. She expressed embarrassment at allowing herself to be negligent at this time, during the provision of the online services during which she was relying solely on the prescribing doctor to make clinical decisions on drugs that required special consideration due to their potential for misuse. She acknowledged that when challenged about the service in February 2020 that she should have ceased the service until all concerns had been addressed. She stated that if a similar situation arose in the future that she would have no hesitation in stopping the service until she was satisfied that she was given full assurances about public safety. She indicated that safeguards have now been put in place for private and HSC prescribing. She said that she took full responsibility for not understanding the severity of the communications received on the 28th February 2020 and for not acting on this communication. She accepted that her own SOPs were not followed during the relevant periods. She gave a reassurance that she would not recommence the online service at any time in the future. She said that she now saw the limitations of the online dispensing service and saw the potential harm that may be caused to patients that used the service.

At paragraph 58 the Committee considers that a finding that the Registrant's behaviour is fundamentally incompatible with being a registered professional, and that removing the Registrant from the register is considered to be the only means by which the public can be protected and confidence maintained in the profession, is a very high hurdle. Whilst the Committee do consider that her behaviour was unacceptable, and unbefitting a member of the pharmacy profession, that she had breached a number of fundamental principles in the Code of Conduct and Standards, and that her conduct did demonstrate that her integrity could no longer be relied upon, the Committee are reminded that the supply of medicines and medicinal products through an online services was only one part of the pharmacy services that she had provided to the public. The Committee also took into account that she has now demonstrated some insight in her recent reflective piece, and through the written submissions on her behalf, has ceased the online services, has not recommenced those over the last 2 years or more, and has undertaken not to recommence such services again in the future. The Committee also took into consideration that the Registrant has had a career as a Pharmacist over approximately 35 years to date. The Committee acknowledged the words of Collins J. in Giele –v- General Medical Council 2005 EW8C2143 in which it was said;

> *"I do not doubt that the maintenance of public confidence in the profession must outweigh the interests of the individual doctor. But that confidence will surely be maintained by imposing such a sanction as is in all the circumstances appropriate. Thus in considering the maintenance of confidence, the existence of a public interest in not ending the career of a competent doctor will play a part."*

At paragraph 59 for the reasons set out in its decision on impairment the Committee considers that the facts and the accepted misconduct is so serious that action must be taken to maintain public confidence in the profession and to

protect the public. Having considered the totality of the evidence, and the submissions made at all stages of these proceedings, the Committee considers that the Registrant's conduct fell just short of being fundamentally incompatible with continued registration, and that the serious sanction of Suspension is one of the means by which the Committee consider that confidence can be maintained in the pharmacy profession, and the public can be protected.

At paragraph 60 the Committee considered that the sanction of Suspension for the maximum period of 12 months available to the Committee is the appropriate and proportionate sanction and is one which achieves the regulatory objectives of protecting the public, maintaining public confidence in the profession and maintaining proper standards of behaviour.

1. The Committee did seriously consider removal as the appropriate sanction. However, the Committee felt that the Registrant's behaviour, whilst very serious, was not in all the circumstances fundamentally incompatible with being a registered professional, and did not think that removing the Registrant from the register was the only means by which the Committee could protect the public and ensure the maintenance of confidence in the profession. Whilst there was a serious departure from the principles in the Code of Conduct, and that her integrity was found not to be reliable, nevertheless the Committee did not think that her behaviour was fundamentally incompatible with being a registered professional, and that removal was the only available sanction. As we have said above the Registrant has now demonstrated a limited degree of insight, she has apologised, and expressed remorse, she has ceased the online services, she has acknowledged the potential for danger arising from the online services, and she has acknowledged the potential harm to patients. The Committee also take into consideration the fact that she has otherwise provided professional pharmaceutical services for approximately 35 years.

2. In deciding on a period of 12 months suspension the Committee took into account the gravity of the facts and the misconduct and the potential risks to patients, and that there were serious breaches of the fundamental principles in the Code of Conduct. The Committee expect that during the 12-month period that the Registrant can further reflect upon her actions and can work to providing and maintaining the highest professional standards going forward. The suspension will be reviewed by the Statutory Committee before the expiration of the 12 month suspension period.

REVIEW DECISION ON THE 8TH AND 9TH FEBRUARY 2024

12. The Committee reminded itself that its role in a Review Hearing is not to reassess the appropriateness of the original sanction but to examine the Registrant's actions since the principal hearing, and to consider whether the Registrant's fitness to practise is no longer impaired or remains impaired**.** The Committee was reminded of the relevant words of the Supreme Court in the case of the GPhC v Khan [2016] UKSC 64, where the Supreme Court emphasised:

> "the focus of a review hearing is upon the current fitness to practise of the Registrant to resume practice, judged in the light of what he has, or has not achieved since the date of the suspension. The review Committee will note the particular concerns articulated by the original Committee and seek to discern what steps, if any, the Registrant has taken to allay them during the period of suspension. The original Committee will have found that his fitness to practise *was* impaired. The review Committee asks: does his fitness to practise *remain* impaired?"

13. The Committee's attention is also drawn to the words of Blake J Abrahaem v GMC,

> "In Practical terms there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient and through insight, application, education, supervision or other achievement sufficiently addressed past impairments"

14. This review Committee has to consider whether "all" the concerns raised in the original findings have in fact been sufficiently addressed.

15. Having received both oral and written submissions from Mr Shields for the Society, and Mr Hadley for the Registrant, including two statements from the Registrant and a further reflections document, and having admitted an additional bundle of material, the Committee does consider that the Registrant's fitness to practise continues to be currently impaired. The Committee did not consider that the Registrant has discharged

the persuasive burden lying upon her to demonstrate that she has fully acknowledged why her past professional performance was deficient, and what steps has actually been taken to remedy those deficiencies. She has not provided sufficient evidence of insight or remediation steps to sufficiently address her past impairments to satisfy the legal test at this stage.

REASONS AT REVIEW HEARING ON 8TH AND 9TH FEBRUARY 2024

16. In the Committee's main decision issues were raised about the Registrant's judgement and decision-making. In paragraph 51 the Committee noted that the Registrant herself had accepted the Committee's fitness to practise decision on impairment that she displayed a degree of poor judgement. In paragraph 57 the Committee acknowledged receipt of a further reflective piece from the Registrant at the sanction stage and noted that the Registrant should have demonstrated a level of insight into her actions earlier, and that she accepted that her actions showed her lack of judgement which was unacceptable for someone in her position.

17. The Committee received the Registrant's bundle including a statement of the 25 January 2024, and a reflection review document of January 2024, and whilst the reflective piece broadly acknowledged why her past professional performance was deficient, she did not acknowledge the covert practices relating to the online services that took place on the 23rd January 2020.

18. The Registrant's statement and her reflective piece did not set out what she actually achieved during the year of suspension to remediate her past impairments. The Registrant focused on what she intended to do rather than the action she actually had taken.

19. At page 3 of her reflective piece she said she should have proactively identified risks in her practice, and at regular intervals, to ensure that patient safety was not compromised. She did not produce any evidence that she had in fact taken any steps

to identify any potential risks to patient safety arising from any of her stores during the period of suspension.

20. Whilst the Registrant had SOPs in place, it was correctly submitted on her behalf that it was not enough to have SOPs in place but it was necessary to review those. There is no evidence that she did in fact review her SOPs during the period of suspension.

21. At pages 5-6 of her reflective piece she acknowledged that she needed to be a role model for all members of her team and colleagues. She also said she should have given a clearer example to the team, leading by taking the most appropriate course of action to protect the public. The Registrant could have provided the Committee with positive examples of the benefit that she had actually brought to her pharmacies, to her staff, and to the local community during the period of suspension.

22. At page 6 of the reflective document she said that she would set up regular team meetings to provide a forum whereby individuals can raise concerns, and open discussions can take place to ensure public safety to include managing meetings to discuss issues, manage situations, regarding governance, training to be performed, new services that are highlighted, and what would be needed to ensure compliance and public safety. She did not in fact produce evidence of what steps she had actually taken in these respects.

23. At page 2 of the Registrant's statement of the 6 February 2024, the Registrant accepted that communication could have been better. She accepted a failure to supply medications would have caused distress to members of staff and cause possible issues for patients which could have been allied by proper communication with staff. The statement of Mr McGrann did not support any steps having been taken so far to improve communication with staff.

24. In page 7 of her reflective piece, she said that during the past year, on advice, she handed over management of the company to the acting superintendent. She said that she did not put herself in the situation whereby she was seen to be giving advice or direction to a pharmacist, and that she was leaving the pharmacies to the sole

responsibility of the superintendent. At paragraph 6 of the witness statement of the 25th January 2024, she said that due to her suspension she gave up complete control of her business, and appointed a replacement superintendent, and that he took complete control of her business. In paragraph 7 she said she took advice from the NPA and they advised that she should not be allowed in the pharmacy at all, and that she followed this advice, and did not want to take any steps that would compromise her suspension order. She then went on to say that the only reason she visited the premises was to collect her monies, HR purposes and to organise locum cover. In her statement of the 25th January 2024, paragraph 7, she said that she followed the advice not to be in the pharmacy "at all". This is contradicted by her owns words at paragraph 8, that she did in fact visit the premises, albeit for specific reasons. The statement from Mr McGrann would challenge the accuracy of her assertions.

25. The Registrant made a number of references to seeking advice from the NPA and obtaining legal advice. If she was in any doubt about what she should or should not do arising from the suspension order as an experience Registered Pharmacist, and as a Registrant with previous experience of the regulatory process, she should have satisfied herself that she was getting the correct clarity of advice. She did not do so.

26. In her signed statement of the 6 February 2024, she acknowledged that it was very difficult for her superintendent, Mr McGrann, to work as superintendent whilst she was the business owner. She acknowledged that there were issues about ordering medication and who was responsible for that. The Committee did not have any evidence to consider how the role of the superintendent was in fact clarified by the Registrant contractor and how they would work together to provide a safe and effective pharmacy service.

27. There are also further question marks about the Registrant's judgement and decision making in the appointment of MM as superintendent. She did appoint MM in that role but there are concerns about whether she gave sufficient support and flexibility to allow him to perform that role. The Committee noted that MM has recently ceased acting as superintendent.

SANCTION IMPOSED ON THE 9TH FEBRUARY 2024

28. The Committee has reviewed the Indicative Sanctions Guidance and reminded itself that its decision must be proportionate.

29. The Committee acknowledges that the purpose of the sanction is not to be punitive, but to protect the public interest, and that the sanction it determines should impose no greater restriction on the Registrant than is absolutely necessary to achieve regulatory objectives.

30. The Committee is entitled to give greater weight to issues of public interest, and to the need to maintain public confidence in the profession, than to the consequences to the Registrant herself of the imposition of the appropriate sanction.

31. The Committee has to take into consideration issues of protection of the public, maintenance of public confidence in the profession and the maintenance of proper standards of professional behaviour.

32. As is required, the Committee considered all the potential sanctions available to it, starting with the lowest potential sanction, to decide which was the most appropriate and proportionate sanction in the circumstances of this particular case.

33. Addressing the sanctions in ascending order the Committee did not consider that taking no action or giving a warning would be proportionate or in the public interest.

34. At the very end of the hearing the Committee were invited to consider imposing conditions. It was suggested by the Registrant's legal representative that a condition could be imposed for the Registrant to enter into a system of reporting with inspectors, and also to devise a development plan. Conditions have to be workable and be capable of being verified by the Statutory Committee. The Committee were reminded that the Society has no control over the work of the MRG and its inspectors and the Society does not have a duty to cooperate with the Registrant member regarding any

development or action plan. The Committee were not satisfied that conditions could be met nor were capable of being verified.

35. Given the Committee's findings that the Registrant had not discharged the persuasive burden on her to demonstrate that she had sufficiently addressed past impairments, the Committee consider that a further suspension should be imposed. The period of suspension is for a further 3 months. At the end of the review hearing the Registrant's legal representative suggested that a mentor could be appointed. The Committee recommend during this time that she provides documentary evidence of the engagement of a mentor who would agree to mentor the Registrant going forward. The Committee also suggest that the Registrant provides evidence about what steps she has actually taken to remediate her impairments. The evidence that the Registrant has produced to the Committee contains information about the steps that she intends to take, but has not yet taken. The Committee suggests that the Registrant produces evidence of actual positive steps she has taken and has completed in the intervening period to address past impairments. The Committee noted that she undertook 3 certified hours of training on 24th January 2024. The Committee would have expected any remedial actions to have been initiated at the commencement of her suspension. This would have provided sufficient time and opportunity for her to evidence the outputs of the remediation to the Committee at it's review hearing and explicitly what steps she had taken to enhance her insight and improve the safe supply of medicines.

36. The Committee expects that the Registrant would satisfy the review Committee with relevant evidence based examples of:

    a) the selection and safe recruitment of all staff including the superintendent with the necessary role clarification to empower authority

    b) the review of SOPs to effect the safe supply of medication to the public

    c) the assurance processes in place to monitor and optimise safe practice.

The suspension will be reviewed by the Committee before the expiration of the 3 months suspension period.

37. The Committee has afforded the Registrant an opportunity to sufficiently address remedial actions and considers that continued suspension is appropriate as a Sanction at this time . The Committee did not consider removal to be necessary appropriate or proportionate at this time as the public is protected .

FURTHER REVIEW DECISION 24TH APRIL 2024 AND 1ST MAY 2024

38. The Committee reminded itself that its role in a Review Hearing is not to reassess the appropriateness of the original sanction but to examine the Registrant's actions since the principal hearing, and to consider whether the Registrant's fitness to practise is no longer impaired or remains impaired**.** The Committee was reminded of the relevant words of the Supreme Court in the case of the GPhC v Khan [2016] UKSC 64, where the Supreme Court emphasised:

> "the focus of a review hearing is upon the current fitness to practise of the Registrant to resume practice, judged in the light of what he has, or has not achieved since the date of the suspension. The review Committee will note the particular concerns articulated by the original Committee and seek to discern what steps, if any, the Registrant has taken to allay them during the period of suspension. The original Committee will have found that his fitness to practise *was* impaired. The review Committee asks: does his fitness to practise *remain* impaired?"

39. The Committee's attention is also drawn to the words of Blake J Abrahaem v GMC,

> "In Practical terms there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient and through insight, application, education, supervision or other achievement sufficiently addressed past impairments"

40. This review Committee has to consider whether “all” the concerns raised in the original findings have in fact been sufficiently addressed.

41. Having received both oral and written submissions from Mr Shields for the Society, and Mr Hadley for the Registrant, including a further reflections document, and a supplemental bundle of material, the Committee does consider that the Registrant’s fitness to practise continues to be currently impaired. The Committee did not consider that the Registrant has discharged the persuasive burden lying upon her at this second review hearing.

REASONS

42. The Committee heard from the Registrant for the first time, and that was helpful. The Committee also received a further reflections document adding to the document previously provided to the Committee at the first review hearing. That reflective piece addressed for the first time one of the fundamental problems in the case, that the Registrant set up an online service, that this was a commercial enterprise that did not adequately safeguard patient’s safety. Her expanded reflective piece also addressed the fact that she had required Ms. McKee to give evidence, and the Committee noted that the Registrant said in evidence, that she wished to apologise to Ms McKee for the position she put her in.

43. The Committee also noted the insight the Registrant showed by admitting in her evidence that she had not provided a patient centered service.

44. The Committee reminded itself that it had concerns around the Registrant’s judgment and decision-making. At the last review hearing the Committee were not satisfied that the Registrant had taken sufficient steps to demonstrate insight and address risks of recurrence.

45. Whilst the Registrant has provided some evidence concerning the recruitment of new staff, the appointment of a Superintendent Pharmacist, a review of some SOPs and has now identified a mentor to mentor her going forward, the Committee believes that the

Registrant's approach has been to a certain extent, and continues to be, rather last minute, and reactive, to the Committee's recommendations, rather than demonstrating a more proactive approach.

46. As far as the mentor is concerned, the issue of a mentor was raised at the last minute at the review hearing on 09 February 2024. Whilst the Committee has heard from the Registrant about difficulties of engaging a mentor, the Committee notes the following: At page 27 of the Registrant's bundle the Committee were informed that the Registrant chose to ask Liam Bradley to look into the financial issues in her business. Michael Gueran was contacted and there were discussions about the best way forward for the business. The Committee considers that the Registrant continues to give too much emphasis to the business side of things rather than focusing on how to take steps to prioritise patient safety. The Committee reminded itself that one of the concerns at the original hearing was that the Registrant's commercial interests prevailed over her professional obligations.

47. On the 24 April 2024, the Committee received a short note from Una O'Farrell dated the 24 April 2024, indicating her apparent agreement to act as a mentor for the Registrant, "in so long as this is a requirement under recommendation laid out by PSNI". Whilst the Committee received a more detailed letter from Ms O'Farrell on the second day of this review hearing, on 1 May 2024, which provided some detail as to the mentoring role that she might undertake, again this is all very last minute. The Committee have had no opportunity to make any assessment as to whether the mentoring process has been or could be constructive to allow the Committee to consider whether the Registrant has demonstrated further insight into her original failings, and whether there is likely to be a risk of recurrence which might affect patient safety.

48. In the Society's supplemental bundle, the Committee notes a number of matters of ongoing concern, given the Committee's decision at the original hearing, and the review hearing in February 2024. The Committee received a letter from Matthew Dolan of the SPPG dated 22 April 2024. He said,

> " As part of the visit process certain operational aspects of the contracted pharmacies became apparent that gave some indication that the SI arrangement and the actual

business itself may not be in a stable position. These were brought to Ms Trueick's attention as the director/owner of Wynrose Ltd in the letter on 14 March 24. We did not receive a written response to the letter and a verbal response was more to challenge detail such as the exact dates the incumbent SI would step down as opposed to giving us a firm assurance".

49. The Committee was surprised at the lack of engagement by the Registrant with the SPPG, when requested, particularly given the findings of the Committee at the February 2024 review hearing. The Committee noted that the Registrant did not adequately respond and did not adopt a more proactive and cooperative approach. Mr Dolan, in that letter, set out other concerns that were unresolved. He said " There does not appear to be a clear understanding by Ms Trueick of the need for a pharmacy to have a robust plan should the business continuity fail, for whatever that reason is. Given what occurred in February this should not be a hypothetical concept for Ms Trueick and does not demonstrate to us an insight into the impact those closures had on patient care. Hence the very real possibility to SPPG whereby a future closure would result in a similarly disordered and unmanaged scenario to February".

50. On the 24 April 2024 the Committee were then provided with the Registrant's business continuity plan which she said in evidence she revised on the 23 April 2024, from earlier business continuity plans. The Committee were not provided with any earlier plans, but if such plans had been in existence when requested by the SPPG, the Committee finds it difficult to understand why they were not provided at the earliest opportunity. The Committee also noted that evidence of a plan being in place was not apparent through

the handling of the unexpected pharmacy temporary closures of early February, according to Mr Dolan of the SPPG, in his letter of 22 April 2024.

51. The Committee also noted an email from Mr McKendry of the MRG of the 17 April 2024. It referred to the high level of concerns about the Registrant's business due to of a lack of a settled Superintendent Pharmacist who is a senior manager with the autonomy to make decisions that affect the running of the retail pharmacy business. He said that there had been considerable inconsistencies in the position of the Superintendent Pharmacist with multiple pharmacists having occupied the position for varying periods. He said that some of those Superintendent Pharmacists may have had questionable authority in relation to decision-making. The Committee also noted that Mr McKendry in his inspection of January 2024 identified a number of deficiencies in Wynrose pharmacies. Despite correspondence with numerous Superintendent Pharmacists since January 2024 some of the previously identified deficiencies in the pharmacies remained outstanding.

52. Whilst the Registrant has now another Superintendent Pharmacist in position from 4 April 2024, she has only been in that post for a matter of weeks. The Committee reminded itself that at the initial review hearing it was concerned about the Registrant's interference in the role of her staff, and in particular, Superintendent Pharmacists, with concerns about whether she gave sufficient support and provided flexibility to Superintendent Pharmacists to perform their role. It is too early to assess whether the Registrant has remediated concerns about her decision making and judgment with

regard to the role of the Superintendent Pharmacist, and accordingly the Committee has some ongoing concerns about the risk of recurrence in that regard.

53. Whilst the Registrant has made progress, which is encouraging, the Committee has continuing concerns, and does not consider that she has sufficiently addressed all matters. Consequently, the Registrant has not sufficiently discharged the persuasive burden lying upon her.

SANCTION

54. The Committee has reviewed the Indicative Sanctions Guidance and reminded itself that its decision must be proportionate.

55. The Committee acknowledges that the purpose of the sanction is not to be punitive, but to protect the public interest, and that the sanction it determines should impose no greater restriction on the Registrant than is absolutely necessary to achieve regulatory objectives.

56. The Committee is entitled to give greater weight to issues of public interest, and to the need to maintain public confidence in the profession, than to the consequences to the Registrant herself of the imposition of the appropriate sanction.

57. The Committee has to take into consideration issues of protection of the public, maintenance of public confidence in the profession and the maintenance of proper standards of professional behaviour.

58. As is required, the Committee considered all the potential sanctions available to it, starting with the lowest potential sanction, to decide which was the most appropriate and proportionate sanction in the circumstances of this particular case.

59. Addressing the sanctions in ascending order the Committee did not consider that taking no action or giving a warning would be proportionate or in the public interest.

60. The Committee were invited to give a warning by the Registrant's legal representative. However, the Committee did not think that there was sufficient evidence before it to justify giving a warning.

61. Realistically, the most relevant sanctions at this stage, given all the evidence that the Committee has received, were the sanctions of conditions or suspension. The Committee's attention was drawn to the fact that the Registrant had been suspended for one year and at the first review the Committee did not think that she had done enough to address the Committee's concerns in the original determination. The Committee did give the Registrant a further opportunity to demonstrate that she had sufficiently addressed her identified failures. The Committee acknowledged that during the 3 months suspension period she had difficulties with her business, but she has provided the Committee with further evidence of steps that she has taken to demonstrate insight, to remediate past failings and to reduce the risk of recurrence. The Committee is not convinced that a further short period of suspension would provide the platform for the Registrant to further remediate. On balance, the Committee have decided to impose the conditions set out in the schedule to this determination. The Committee considers that these conditions are necessary, and proportionate. The Committee believes that conditions will achieve the regulatory objective, and will protect the public. The Committee want to make it clear to the Registrant that she should strictly adhere to the conditions it has set within a period of 12 months which the Committee believes is a

realistic timetable for the Registrant to comply with. The Registrant is reminded that compliance with these conditions should take place from the 10 May 2024, the date of expiration of the suspension order, through the full period of 12 months. The Committee will review the Registrant's compliance with these conditions prior to the expiration of the 12 month period.

62. Given the Committee's reasons set out in its decision on impairment at this second review, and given the material and information put before the Committee, the Committee does not consider that a further suspension should be imposed. The Committee considers that the imposition of these Conditions which are workable, and can be verified, will hopefully allow the Registrant to remediate the reasons for the finding of impairment. The Committee did not consider that at this stage, and on this evidence, that a suspension order with recommendations would allow the Registrant the opportunity to clearly demonstrate to the Committee what steps she has taken to remediate past failings. At this stage of this case the Committee do not now believe that a suspension is proportionate and is not necessary to protect the public interest.

63. The Committee did not consider removal to be necessary, appropriate or proportionate on the evidence.

SCHEDULE OF CONDITIONS

(i) The Registrant shall appoint and work with a credible mentor.

(ii) The Registrant shall ensure that the mentor provides monthly written reports on the Registrant's progress to the Registrar.

(iii) The mentor shall not be an employee of the Registrant.

(iv) The Registrant shall not act as a Superintendent Pharmacist at any time during the 12 month period.

(v) The Registrant shall devise and implement structures and protocols to demonstrate genuine diversification of the role of Superintendent Pharmacist and the Registrant as the business owner, in Wynrose Pharmacy.

(vi) Before the expiration of the period of conditions the Registrant shall provide written signed and dated reports both from the Superintendent Pharmacist, and the mentor, to confirm the work carried out by the Registrant, to include how the Superintendent Pharmacist has been able to work independently to provide effective control to manage risk and promote patient safety.

(vii) In all professional dealings the Registrant should make all professional parties aware of the Conditions imposed on her pharmacy practice.

(viii) The Registrant shall notify the Pharmaceutical Society of Northern Ireland of any position which requires the Registrant to act as a Registered Pharmacist in the course of her duties, and to provide the Pharmaceutical Society of Northern Ireland with the contact details of her Superintendent Pharmacist.

(ix) The Registrant shall inform the Pharmaceutical Society of Northern Ireland if the Registrant applies to work as a pharmacist outside of Northern Ireland.

COST

64. No costs application was made by the Society.

Gary Potter
Chair of the Statutory Committee
1 May 2024