

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

Substantive Order Review Hearing

26 June 2019

Nursing and Midwifery Council, 2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of registrant: Mr Alan Lawrence

NMC PIN: 9713679E

Part(s) of the register: Registered Nurse – sub part 1
Mental Health Nursing (22 September 2000)

Area of Registered Address: England

Type of Case: Misconduct

Panel Members: Julia Whiting (Chair, Registrant member)
Rachel Jokhi (Registrant member)
Suzanna Jacoby (Lay member)

Legal Assessor: Nicholas Levisieur

Panel Secretary: Anjeli Shah

Mr Lawrence: Not present and not represented in absence

Nursing and Midwifery Council: Represented by Feryal Ertan, Case Presenter

Order being reviewed: Suspension Order for 12 months

Fitness to Practise: Impaired

Outcome: Striking-off order to come into effect at the end
of 27 July 2019 in accordance with Article 30
(1)

Service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Lawrence was not in attendance, and he was not represented in his absence.

The panel was informed that the notice of this hearing was sent to Mr Lawrence on 24 May 2019 by recorded delivery and first class post to his registered address. The panel noted that notice of this hearing was signed for at Mr Lawrence's registered address on 19 June 2019 in the name of "MARK".

The panel accepted the advice of the legal assessor.

In the light of the information available the panel was satisfied that notice had been served in accordance with Rules 11 and 34 of The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended February 2012) ("the Rules").

Proceeding in absence

The panel then considered proceeding in the absence of Mr Lawrence. The panel was mindful that the discretion to proceed in absence is one which must be exercised with the utmost care and caution.

The panel considered all of the information before it, together with the submissions made by Ms Ertan, on behalf of the Nursing and Midwifery Council (“NMC”). The panel accepted the advice of the legal assessor.

Ms Ertan submitted, on behalf of the NMC, that there had been no response from Mr Lawrence in relation to attempts to contact him regarding attending today’s hearing. An email was sent to Mr Lawrence on 25 June 2019 by an NMC case officer enquiring whether he would be attending the hearing, to which there had been no response. A telephone call was also made to a mobile number and a landline number held for Mr Lawrence, however the NMC was unsuccessful in getting in contact with him.

Ms Ertan informed the panel that Mr Lawrence had not been engaging with the NMC. She submitted that there was no reason to believe that an adjournment of today’s hearing would secure Mr Lawrence’s attendance at a hearing on a future date. She submitted that it was in the public interest to dispose of the hearing in a swift manner. In these circumstances, Ms Ertan invited the panel to use its discretion to proceed in the absence of Mr Lawrence.

The panel had regard to the information before it, noting that there was no evidence of Mr Lawrence engaging with these proceedings. The NMC had made attempts to contact Mr Lawrence in relation to today’s hearing, which had been unsuccessful. The panel noted that there had been no request for an adjournment. It did not consider that there was any information to suggest that an adjournment would secure Mr Lawrence’s attendance at a hearing on a future date. The panel also had regard to the public interest in the expeditious disposal of these proceedings. In these circumstances, the panel determined to proceed in the absence of Mr Lawrence.

Decision and reasons on review of the current order:

The panel decided to impose a striking-off order. This order will come into effect at the end of 27 July 2019 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (“the Order”).

This is the second review of a suspension order, originally imposed by a panel of the Conduct and Competence Committee on 23 June 2017 for 12 months. That order was reviewed on 21 June 2018 by a panel of the Fitness to Practise Committee and a suspension order for a further period of 12 months was imposed. The current order is due to expire at the end of 27 July 2019.

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

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

That you, a registered nurse:

1. *Between 30 March 2015 and 2 September 2015, on one or more of the occasions detailed in Schedule 1:*
 - 1.1 *Requisitioned excessive quantities of medication;*
 - 1.2 ...
 - 1.3 *Requisitioned medication which was outside the scope of your competence;*
 - 1.4 ...
2. *On one or more of the following occasions provided an incorrect clinical justification for requisitioning the following medication:*
 - 2.1 *On 23 April 2015 requisitioned Codeine Phosphate syrup and Codeine Phosphate tablets for community patients with ‘short-term anxiety/ depression;’*
 - 2.2 *On 24 April 2015 requisitioned Codeine Phosphate tablets for patients ‘presenting with conditions such as diarrhoea and cough;’*

2.3 On 11 August 2015 requisitioned Oramorph liquid 'for short term use in anxiety related diarrhoea.'

Schedule 1

Date	Medicine
30 March 2015	Escitalopram 120 tablets 10mg Escitalopram 120 tablets 20 mg Diazepam 56 tablets 2mg Diazepam 56 tablets 5mg Clonazepam 56 tablets 0.5mg Clonazepam 56 tablets 2mg Codeine Phosphate 56 tablets 15mg
9 April 2015	Diazepam 60 tablets 10mg Diazepam 60 tablets 5mg
23 April 2015	Citalopram 56 tablets 20mg Citalopram 112 tablets 40mg Codeine Phosphate 200ml syrup 25mg/5ml Codeine Phosphate 168 tablets 30mg Lorazepam 112 tablets 1mg
24 April 2015	Codeine Phosphate 56 tablets 15mg Codeine Phosphate 56 tablets 30mg Diazepam 56 tablets 2mg Diazepam 56 tablets 5mg Diazepam 56 tablets 10mg
20 May 2015	Diazepam 168 tablets 2mg Diazepam 112 tablets 5mg Diazepam 168 tablets 10mg
26 May 2015	Lorazepam 56 tablets 1mg Zopiclone 112 tablets 3.75mg Zopiclone 112 tablets 7.5mg Co-Dydramol 90 tablets 10/500 Co-Dydramol 60 tablets 30/500 Dihydrocodeine 112 tablets 30mg
12 June 2015	Diazepam 56 tablets 2mg Diazepam 56 tablets 5mg Diazepam 56 tablets 10mg Codeine Phosphate 56 tablets 30mg Codeine Phosphate 56 tablets 15mg
14 July 2015	Co-Codamol 100 tablets 30/500
30 July 2015	Codeine Phosphate 112 tablets 30mg Codeine Phosphate 112 tablets 15mg
11 August 2015	Fluoxetine 120 tablets 20mg Citalopram 112 tablets 10mg Diazepam 112 tablets 2mg Diazepam 112 tablets 5mg Diazepam 112 tablets 10mg Oramorph liquid 2x 300ml bottles

	<i>10mg/5mil</i> <i>Codeine 56 tablets 15mg</i> <i>Codeine 56 tablets 30mg</i>
--	--

The first reviewing panel determined the following with regard to impairment:

“The panel considered whether Mr Lawrence’s fitness to practise remains impaired.

The panel had regard to the decision of the substantive hearing panel and noted the recommendations made by that panel which would have been of assistance to this reviewing panel. The panel noted that Mr Lawrence has not taken any action in relation to the recommendations nor has he provided the NMC with any up-to-date information about his current circumstances. The panel noted that there has been a sustained lack of engagement with the NMC from Mr Lawrence and thus this panel had no information before it to suggest that Mr Lawrence has remediated his failings or demonstrated insight into his breaches.

In the absence of any further information from Mr Lawrence, the panel formed the view that his fitness to practise remains currently impaired on both public protection and public interest grounds.”

The first reviewing panel went on to determine the following with regard to sanction:

“The panel considered imposing a further period of suspension. The panel took into account the seriousness of the charges found proved. The panel noted that Mr Lawrence has not demonstrated any insight or remorse into his failures. The panel further noted that there has been no evidence of remediation from Mr Lawrence. The panel concluded that a further period of suspension for 12 months would adequately protect the public and serve the public interest.

This order must be reviewed before its expiry. A future panel reviewing this order may be assisted by:

- Evidence of Mr Lawrence’s reflection and insight into his failures;
- Evidence from Mr Lawrence of any work undertaken to keep his skills and knowledge up to date; and
- Engagement with the regulator.”

Decision on current fitness to practise

This panel has considered carefully whether Mr Lawrence's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. It has noted the decision of the last panel. However, it has exercised its own judgment as to current impairment.

The panel had regard to all of the documentation before it. It took account of the submissions made by Ms Ertan, on behalf of the NMC.

Ms Ertan submitted, on behalf of the NMC, that the question of impairment was a matter for the panel's judgement. Ms Ertan submitted that nothing had changed since a substantive order was first imposed upon Mr Lawrence. She submitted that Mr Lawrence had stopped engaging with the NMC, despite the best efforts of the NMC to contact him and to secure his engagement. Ms Ertan submitted that there had been no relevant information from Mr Lawrence, including no evidence of keeping his clinical knowledge and skills up to date and no evidence of insight and remorse into the original misconduct. In light of these circumstances, Ms Ertan submitted that a significant risk of repetition remained. She invited the panel to find that Mr Lawrence's fitness to practise remained impaired, in order to protect the public and to uphold proper standards of conduct and behaviour, and to maintain public confidence in the nursing profession and in the NMC as a regulator.

Ms Ertan submitted that sanction is a matter for the panel. She invited the panel to have regard to the NMC's Sanctions Guidance ("SG") and to bear in mind the need to protect the public and that the public interest should be at the forefront of its mind. She submitted that Mr Lawrence had not engaged with the NMC, and there was no evidence that he could return to safe practice.

The panel accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Mr Lawrence's fitness to practise remains impaired.

The panel noted that Mr Lawrence had not been engaging with the NMC's proceedings, and no information had been provided by him since April 2017. The panel also noted that Mr Lawrence had not provided any evidence of remediation of the original misconduct, nor had he demonstrated any evidence of insight or remorse into his original failings. The panel considered that there had been no change of circumstances since the original substantive hearing in 2017.

In these circumstances, the panel considered that Mr Lawrence remained liable to repeat matters of the kind found proved by the original substantive hearing panel. The panel therefore determined that a finding of impairment remains necessary on the grounds of public protection.

The panel bore in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel also determined that a finding of impairment remains necessary on public interest grounds.

For these reasons, the panel finds that Mr Lawrence's fitness to practise remains impaired.

Determination on sanction

Having found Mr Lawrence's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 29 of the Order. The panel also took into account the SG and bore in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the risk of repetition identified and the seriousness of the case. The panel determined that taking no action would not protect the public and it would not satisfy the public interest.

The panel then considered whether to impose a caution order but concluded that this would also be inappropriate in view of the risk of repetition identified and the seriousness of the case. The panel determined that imposing a caution order would not protect the public and it would not satisfy the public interest.

The panel next considered whether to impose a conditions of practice order. The panel noted that Mr Lawrence had not engaged with the NMC's proceedings for over two years, and therefore there was no evidence to suggest any evidence of remediation on his part. In these circumstances, the panel considered that there was no evidence to suggest that Mr Lawrence would be willing to comply with a conditions of practice order. The panel concluded that it was not possible to formulate practicable and workable conditions which would suitably protect the public and satisfy the public interest in this case.

The panel next considered imposing a further suspension order. The panel noted that Mr Lawrence had been subject to two periods of suspension since the original substantive hearing, during which time he had not engaged with the NMC's proceedings, and had not provided any evidence to demonstrate remediation, insight and remorse. In these circumstances, the panel considered that whilst a further period of suspension may protect the public from the risk of repetition identified, it would serve no useful purpose in allowing Mr Lawrence to provide evidence that he was capable of safe practice because he was likely unlikely to engage with the proceedings. The panel

considered that it was not in the public interest for these proceedings to continue when they would not facilitate the return of a nurse to safe practice. The panel determined that it was necessary to take action to prevent Mr Lawrence from practising in the future. The panel concluded that a striking-off order was the only sanction sufficient to uphold the public interest, in maintaining proper standards and maintaining confidence in the nursing profession and in the NMC as a regulator.

This decision will be confirmed to Mr Lawrence in writing.

That concludes this determination.