

**Nursing and Midwifery Council
Investigating Committee**

**Incorrect Entry Hearing
Friday 1 - Monday 4 April 2022**

Virtual Hearing

Name of registrant:	Mr Marco Lo Bello
NMC PIN:	16J0152C
Part(s) of the register:	Registered Nurse Adult Nursing – 17 October 2016
Area of registered address:	Switzerland
Type of case:	Incorrect entry
Panel members:	Godfried Attafua (Chair, Registrant member) Debbie Holroyd (Registrant member) Jill Wells (Lay member)
Legal Assessor:	James Holdsworth
Hearings Coordinator:	Graeme King
Nursing and Midwifery Council:	Represented by Adam Slack, Case Presenter
Mr Lo Bello:	Present, not represented
Translator:	Jessica Hughes (Bostico)
Facts proved:	Charges 1 and 2 – incorrectly made
Facts not proved:	N/A
Outcome:	The panel directs the Registrar to remove Mr Lo Bello's entry from the register in accordance with Article 26(7)
Interim order:	Interim suspension order (18 months)

Details of charge

That you, Mr Marco Lo Bello

1. On your application for revalidation dated 30 September 2019, stated that you had received confirmation from Colleague A on 30 September 2019, when you had not received such confirmation. **(proved)**
2. On your application for revalidation dated 30 September 2019, stated that you had a reflective discussion with Colleague A on 30 September 2019, when no such reflective discussion had taken place. **(proved)**

And thereby an entry on Sub Part 1 of the NMC register in the name of Mr Marco Lo Bello, PIN 16J0152C, was incorrectly made.

Background

You were referred to the Nursing and Midwifery Council (NMC) on 26 September 2019 by Ms A, a Triage Nurse at the Luton Urgent Care Centre after you made contact with her via LinkedIn regarding your NMC revalidation.

You submitted your online revalidation submission form on 30 September 2019 and named Colleague A as your confirmer and reflective discussion partner. Colleague A was contacted by the NMC on 5 October 2019 and advised it that although he was happy to act in this capacity, he did not have a reflective discussion with you or provide confirmation for you at this time.

Decision on the facts

In reaching its decisions on the facts, the panel considered all the evidence put forward in this case together with the submissions made by Mr Slack, on behalf of the NMC, and

representations from you. The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities.

Before making its decision on the facts, the panel heard oral evidence under affirmation from Colleague A and you.

The panel then made the following findings in relation to the charges:

Charge 1

1. On your application for revalidation dated 30 September 2019, stated that you had received confirmation from Colleague A on 30 September 2019, when you had not received such confirmation.

This charge is found proved

In considering this charge, the panel had regard to your NMC Revalidation Summary dated 30 September 2019, Colleague A's witness statement dated 24 August 2020, Colleague A's oral evidence and your oral evidence.

The panel had regard to your NMC Revalidation Summary, in which you had answered 'Yes' when asked '*I have received confirmation from an appropriate confirmer in line with 'How to revalidate with the NMC'.*' It also noted that you had named Colleague A as the person who provided you with your confirmation. The panel considered this to demonstrate that you had indicated that you had received confirmation from Colleague A on your revalidation application.

The panel had regard to Colleague A's witness statement that stated:

'I did not sign any of Mr Lo Bello's revalidation forms. I recall seeing Mr Lo Bello's completed NMC templates but I did not sign them, nor did he ever ask me to sign them.

[...]

The only requirements that were outstanding in Mr Lo Bello's revalidation process were the reflective discussion and confirmation, both of which I did not provide. I did not give Mr Lo Bello consent to use my details for his revalidation form.

[...]

...I was happy to act as his confirmer and reflective discussion partner once I was satisfied with his evidence. However, we never got to this stage.'

The panel considered that Colleague A was consistent in his oral evidence that he did not provide you with confirmation.

The panel also noted that, in your oral evidence, you accepted that you never received a signed confirmation document from Colleague A.

With regard to the above, the panel was satisfied on the balance of probabilities that you did not receive confirmation from Colleague A on 30 September 2019. It therefore found charge 1 proved.

Charge 2

2. On your application for revalidation dated 30 September 2019, stated that you had a reflective discussion with Colleague A on 30 September 2019, when no such reflective discussion had taken place.

This charge is found proved

In considering this charge, the panel had regard to your NMC Revalidation Summary dated 30 September 2019, Colleague A's witness statement dated 24 August 2020, Colleague A's oral evidence and your oral evidence.

The panel had regard to your NMC Revalidation Summary, in which you had answered '30/09/2019' when asked '*Date of reflective discussion*'. It also noted that you had named Colleague A as the '*other NMC-registered nurse or midwife*' with whom you were required to have a reflective discussion. The panel considered this to demonstrate that you had indicated that you had undertaken a reflective discussion with Colleague A on your revalidation application.

The panel had regard to Colleague A's witness statement that stated:

'The only documents Mr Lo Bello sent me were copies of reflective pieces. I recall that I did not have any concerns with the reflective pieces that he sent to me. I have little recollection of this conversation, but I think I may have expressed to Mr Lo Bello that the reflective pieces were satisfactory therefore Mr Lo Bello may have misunderstood this to be a reflective discussion between us. However this discussion was very brief, it was merely me saying that I was satisfied with his reflective pieces.'

[...]

The only requirements that were outstanding in Mr Lo Bello's revalidation process were the reflective discussion and confirmation, both of which I did not provide. I did not give Mr Lo Bello consent to use my details for his revalidation form.

[...]

...I was happy to act as his confirmer and reflective discussion partner once I was satisfied with his evidence. However, we never got to this stage.'

The panel considered that Colleague A was consistent in his oral evidence that he did not have a reflective discussion with you.

The panel also noted that, in your oral evidence, you accepted that there was no reflective discussion, and that your telephone and email communication was mainly regarding the NMC revalidation process.

The panel had no evidence before it of a reflective discussion between you and Colleague A having taken place on 30 September 2019.

With regard to the above, the panel was satisfied on the balance of probabilities that you did not have a reflective discussion with Colleague A on 30 September. It therefore found charge 2 proved.

Decision on incorrect entry

Having found the all the facts proved, the panel then moved on to consider whether your entry on the NMC register, which resulted from the completion of your revalidation application, was incorrectly made.

The panel accepted the advice of the legal assessor and it had regard to the NMC's guidance 'Fraudulent or incorrect entry to the register' which states that:

'If our decision to register, renew or readmit someone onto the register was based on wrong or inaccurate information about whether the person met the relevant requirements, it is an incorrect entry. For example, if someone wrongly declared that they had carried out the required number

of hours of registered practice because they made a mistake when calculating them, their entry in the register is incorrect.

[...]

It doesn't matter whether or not the person whose name was entered on the register was able to meet the relevant criteria to be successfully registered or if they are currently able to practise safely. The key issue is whether we made the entry based on deliberately misleading information.'

In considering whether your entry was incorrectly made, the panel had regard to its factual findings that you had indicated on your revalidation form that you had received confirmation from, and had a reflective discussion with, Colleague A on 30 September 2019 when you had not. It considered that, as a result of the issues identified in the two charges found proved, the NMC's decision to admit you to the NMC register was '*based on wrong or inaccurate information*'.

The panel had regard to your oral evidence that you had put your trust in Colleague A to help you with your revalidation and that '*honesty is important to you*', and it noted that there is no evidence of any dishonesty in this case. It accepted that the incorrect information were mistakes on your part, which appeared mainly to be due to your lack of understanding of English. However, it considered that your NMC revalidation process was your responsibility and the duty was on you to ensure that the relevant requirements were met.

With regard to the above, the panel determined that your entry on Sub Part 1 of the NMC register in the name of Mr Marco Lo Bello, PIN 16J0152C, was incorrectly made.

Submissions on direction

Mr Slack submitted that the only appropriate outcome in this case is for your entry to be removed from the NMC register. He submitted that taking no action would be

inappropriate as your errors are not minor or '*clear cut issues*' which you have now put right, and that to leave the current entry as it is would be inappropriate. Further, your errors can not be classed as '*technical errors*' which have since been remediated.

Mr Slack submitted that your errors fell under sections which are fundamental for admission to the NMC register and therefore an amendment to the current entry would be insufficient to address the concerns identified.

Mr Slack invited the panel to remove your entry from the NMC register so that you can reapply in accordance with the relevant requirements.

You did not make any representations to the panel at this stage.

Decision on direction

Having determined that your entry in the NMC register was incorrectly made, the panel then decided what direction, if any, to make under Article 26(7) of the Nursing and Midwifery Order (2001) (the Order).

The panel accepted the advice of the legal assessor who reminded it that Article 26(7) of the Order states:

'.....if the Investigating Committee is satisfied that an entry in the register has been fraudulently procured or incorrectly made, it may make an order that the Registrar remove or amend the entry and shall notify the person concerned of his right of appeal under article 38.'

The panel was aware that it had the power to take no action, to order the Registrar to amend your entry or to order the Registrar to remove your entry from the register.

The panel determined that, having found that you made serious errors on your revalidation form, and that your entry on the register was incorrectly made, it would be inappropriate to take no action. It considered that to take no action would undermine the integrity of the register and the revalidation process.

The panel also determined that an amendment to your entry would be inappropriate as your errors were not administrative ones which could be easily amended. It considered that your errors were not of a technical nature nor have they been addressed. Further, the panel considered that you had failed to comply with the requirements of revalidation.

The panel determined that the only appropriate course of action was to direct that your entry be removed from the register. It considered that you had not complied with the requirements of revalidation and had provided incorrect information that is fundamental to the revalidation process. The panel considered that to remove your entry would uphold the integrity of the register and maintain public confidence in the profession and its regulatory process.

Accordingly, the panel directs that the Registrar remove your entry from the register.

Interim order

Having directed that the Registrar remove your entry from the register, the panel then considered whether an interim order was required under Article 26(11) of the Order, in relation to the appeal period.

The panel accepted the advice of the legal assessor.

Mr Slack invited the panel to impose an interim suspension order for 18 months on the grounds that it is necessary on public interest grounds to uphold confidence in the nursing profession and maintain the integrity of the register. He submitted that 18 months is an appropriate period to allow for you to appeal the panel's substantive order should you wish to do so.

In reaching its decision on whether to impose an interim order, the panel had regard to the reasons set out in its decision on the facts and its decision to direct the Registrar to remove your entry from the register. It also had regard to the NMC's published guidance on fraudulent and incorrect entry cases.

The panel noted that there is no evidence of any clinical concerns with your practice and that there are no public protection issues identified in your case. It therefore determined that an interim order is not necessary on grounds of public protection.

The panel went on to consider whether an interim order is otherwise in the public interest. It had regard to its finding that your entry on the register was incorrectly made and considered that not to make an interim order would be inconsistent with those findings. Further, to permit you to practise unrestricted in the United Kingdom after directing that your entry is removed from the NMC register could damage the reputation of the profession and would not maintain the integrity of the register.

In all the circumstances of this case, the panel concluded that the threshold for imposing an interim order on grounds of public interest alone is met. It considered that that a well-informed member of the public would be troubled if you were permitted to practise in the United Kingdom without restriction after the Registrar had been directed to remove your entry from the register.

The panel first considered an interim conditions of practice order but was unable to formulate interim conditions of practice that would adequately address the issues identified above. It considered that it would be inappropriate to impose an interim conditions of practice order having directed the Registrar to remove your entry from the register. Further, the panel noted that there are no clinical concerns in your case, that you currently work in Switzerland and that you stated that you do not have any plans to practise in the United Kingdom at present. The panel therefore could not formulate any practicable or workable conditions.

In the circumstances, the panel considered that an interim suspension order would be the appropriate order in this case.

The panel decided that the order should be for a period of 18 months to allow for the possibility of an appeal and, if one is brought, to allow sufficient time for it to be resolved. If no appeal is made then the interim order will lapse 28 days after you are sent the decision of this hearing in writing.

This will be confirmed to you in writing.

That concludes this determination.