

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

**Substantive Order Review Hearing
Friday, 03 March 2023**

Virtual Hearing

Name of registrant: **Robyn Connelly**

NMC PIN: 08I2210S

Part(s) of the register: Registered Nurse Adult – Sub Part 1
11 April 2012

Relevant Location: Edinburgh

Type of case: Misconduct

Panel members: Rachel Ellis (Chair, lay member)
Marcia Levene Smikle (Registrant member)
Robert Fish (Lay member)

Legal Assessor: William Hoskins

Hearings Coordinator: Nandita Khan Nitol

Nursing and Midwifery Council: Represented by Louise Cockburn, Case
Presenter

Miss Robyn Connelly: Not present and unrepresented

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Suspension Order (6 months) to come into
effect at the end of 29 March 2023 in
accordance with Article 30(1).**

Decision and reasons on application for hearing to be held in private

At the outset of the hearing, Ms Cockburn made a request that this case be held partly in private on the basis that proper exploration of Miss Connelly's case may involve some reference to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Having heard that parts of this case may include reference to [PRIVATE], the panel determined that the interest in keeping such matters private outweighed the interest in holding the hearing in public. It therefore decided to hold the parts of the hearing relating to these matters in private.

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Miss Connelly was not in attendance and that the Notice of Hearing had been sent to her registered email address on 30 January 2023.

Ms Cockburn, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed along with the date, time and the details for joining the virtual hearing. Amongst other things, the Notice of Hearing included information about

Miss Connelly's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Miss Connelly has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Miss Connelly

The panel next considered whether it should proceed in the absence of Miss Connelly. The panel had regard to Rule 21 and heard the submissions of Ms Cockburn who invited the panel to continue in the absence of Miss Connelly.

Ms Cockburn referred to the email sent from Miss Connelly dated 2 March 2023 and submitted that she had voluntarily absented herself. Ms Cockburn submitted that Miss Connelly has not applied for an adjournment and that adjourning the hearing today would be unlikely to secure her attendance at a future date. Ms Cockburn further submitted that this is a mandatory review of a substantive order and that there is a strong public interest in proceeding with the case. Given the circumstances, Ms Cockburn invited the panel to proceed in the absence of Miss Connelly.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Miss Connelly. In reaching this decision, the panel has considered the submissions of Ms Cockburn and the advice of the legal assessor. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Miss Connelly;
- The panel has noted the email from Miss Connelly dated 2 March 2023 where she confirmed that she does not intend to attend the hearing;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and

- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Miss Connelly.

Decision and reasons on review of the substantive order

The panel decided to extend the current suspension order for a further six months period.

This order will come into at the end of 29 March 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 27 August 2021. The order was reviewed on 30 August 2022 where the panel extended the suspension order for six months. The current order is due to expire at the end of 29 March 2023. 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. *On 24 November 2017, at Claremont Care Home,*
 - a. *Did not administer required medication to more than one resident as listed in Schedule 1.*
 - b. *Signed the MAR charts of more than one resident as listed in Schedule 1 to show that required medication had been administered, when it had not been.*

2. *Your actions as set out in charge 1b were dishonest in that you knew you had not administered the required medication but signed the resident MAR charts to show that it had been administered.*

3. *On 17 July 2018, at Cumbrae Lodge Care Home,*
 - a. *Whilst on duty, used an empty resident's room to lie down and rest, on more than one occasion, for approximately one hour, and then again for 30 minutes, informing colleagues that you had management approval to do so.*
 - b. *Told patient A to "oh be quiet".*
 - c. *Called patient B a "pest".*
 - d. *Tapped on patient B's hand.*
 - e. *Said "no, you are stupid" to patient B.*
 - f. *Snatched items from patient B when she was picking up pieces of paper and fiddling at the nurse's station.*
 - g. *Tried to snatch an intercom buzzer from patient B.*
 - h. *Told a patient to abruptly "stop it!" when he repeatedly hit his plate with a piece of cutlery.*
 - i. *Grabbed aprons from a resident in an abrupt manner.*

4. *Your actions as set out in charge 3a were dishonest in that you deliberately sought to mislead your colleagues by informing them that you had management approval to lie down and rest when you knew you did not have such approval.*

AND in light of the above, your fitness to practise is impaired by reason of your misconduct.

Schedule 1

1. *Clopidogrel, Fresubin and Letrozole to patient D.*
2. *Citalopram, Clopidogrel and Setraline to patient F.*

3. *Colecalciferol, Docusate, Donepezil, Hydroxychloroquine and Ranitidine to patient C.*
4. *Galantamine, Omeprazole and Perindopril Erbumine to patient L.*
5. *Aspirin, Colecalciferol, Fludrocortisone, Lamotrigine, Ranitidine and Tegretol Prolonged Release to patient K.*
6. *Aspirin, Doxazosin, Furosemide, Omeprazole and Spironcaltone to patient J.*
7. *BisoProlol, Metformin, Paroxetine, Ranitidine and Rivarozaban to patient E.*
8. *Amisulpride, Atenolol, Candesartan, Furosemide and Linagliptin to patient H.*
9. *Bendroflumethiazide, Bisprolol, Clopidogrel, Lisinopril and Paroxetine to patient I.*
10. *Clopidogrel and Landoprazole to patient G.'*

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

'The panel considered whether Miss Connelly's fitness to practise remains impaired.

The panel had no new information before it. This meant that there was no indication that there had been any change in the circumstances of Ms [sic] Connelly's case since the substantive hearing. There was no evidence of further insight, through reflection, or evidence of any training undertaken, even though Miss Connelly had been asked to undertake this by the previous panel. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne 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 determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

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

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

'Having found Miss Connelly'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 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne 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 continuing public protection concerns in this case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the public protection issues identified, an order that does not restrict Miss Connelly's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.' The panel considered that Miss Connelly's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice order on Miss Connelly's registration would be a sufficient and appropriate response. The panel considered whether a conditions of practice order could support Mis [sic] Connelly's return to safe and effective nursing practice and was mindful that any conditions imposed must be proportionate, measurable, and workable. The panel

seriously considered making a conditions of practice order. However, without any reflection or insight from Miss Connelly, particularly into the dishonesty and behaviour issues identified, and without her engagement and assurances, it was not satisfied that she would be willing or able to comply with such an order, or that the public would be protected by any conditions it imposed.

The panel then considered the imposition of a further period of suspension. The panel was of the view that Miss Connelly must demonstrate insight and an understanding of how the dishonesty of one nurse can impact upon patients and the nursing profession as a whole and not just the organisation that the individual nurse is working for. It was of the view that a suspension order would allow Miss Connelly further time to fully reflect on her past misconduct and dishonesty and to provide the NMC with a reflective statement and information on her efforts at remediation, without which a future panel may decide that it was appropriate to make a striking-off order. The panel concluded that a further six-month [sic] suspension order would be the appropriate and proportionate response and would afford Miss Connelly further time to engage with the NMC and to take the required steps, if she wishes to return to nursing practice.

The panel also considered whether to impose a striking off order, but it determined that this would be disproportionate at this time. The panel determined that Miss Connelly should be given a further, albeit short period, to engage with the NMC and these proceedings. However, should Miss Connelly not engage a future panel will have to give serious consideration to a striking-off order.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of six months. It considered this to be the most appropriate and proportionate sanction available.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 29 September 2022 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- *Miss Connelly's engagement and attendance at the review hearing.*
- *Evidence of any training or reading Miss Connelly has done to keep her nursing practice up to date.*
- *Evidence of further training in medication administration and management.*
- *A reflective piece by Miss Connelly on the importance of safe medication administration, respectful and compassionate treatment of those in her care and honesty in her nursing practice. The reflective piece should address the impact of her actions on the patients under her care, her colleagues, the reputation of the nursing profession, and the wider public.'*

Decision and reasons on current impairment

The panel has considered carefully whether Miss Connelly'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. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle. It has taken account of the submissions made by Ms Cockburn and has accepted the advice of the legal assessor.

Ms Cockburn referred the panel to the background of the case and submitted that a substantive order remains necessary on the grounds of public protection and is also otherwise in the wider public interest.

Ms Cockburn referred to the original substantive decision and submitted that Miss Connelly's fitness to practise remains impaired. She submitted that the panel on that occasion found that patients were put at an unwarranted risk of harm as a result of Miss Connelly's misconduct, both by not receiving medication due to them and by physical and emotional abuse. Miss Connelly's misconduct has breached fundamental tenets of the nursing profession, including those of honesty and integrity, and compassion and respect. Therefore, Miss Connelly has brought the nursing profession's reputation into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

Ms Cockburn again referred to the previous panel's decision and submitted that Miss Connelly had shown limited insight and highlighted the fact that her reflective piece provided in the substantive hearing did not address how her actions affected her colleagues, the patients under her care and the reputation of the nursing profession. Ms Cockburn further submitted that Miss Connelly also did not address her dishonesty regarding incorrectly filling the MAR charts and telling Health Care Assistant's (HCA) that she had obtained managerial permission to lie down in an empty resident's room.

Ms Cockburn submitted that although, Miss Connelly did not attend the previous hearings she did email the NMC stating that she would not be able to attend the hearing due to [PRIVATE]. [PRIVATE].

Ms Cockburn submitted that there has been no evidence to show that Miss Connelly has taken any steps to strengthen her practice in the areas of concern nor has she provided evidence of any further insight into her misconduct. Consequently, Ms Cockburn submitted that there remains a risk of repetition and therefore a risk of harm to the public. She submitted that a finding of impairment remains necessary on the grounds of public protection.

Furthermore, Ms Cockburn submitted that a fully informed member of the public would be concerned by Miss Connelly's misconduct and lack of engagement with the NMC. Therefore, a finding of impairment is also otherwise in the wider public interest.

Addressing the panel next on sanction, Ms Cockburn submitted that in light of Miss Connelly's email, the panel may consider that a further period of suspension would enable her [PRIVATE], to reflect on the findings of all of the previous panels, to develop her insight and to engage with the NMC proceedings. A further period of suspension would also protect the public and satisfy the wider public interest.

The panel heard and 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 Miss Connelly's fitness to practise remains impaired.

The panel was of the view that the charges are serious, and they relate to dishonesty, in regard to Miss Connelly's incorrectly filling out an MAR chart and telling the HCA that she had managerial permission to lie down in an empty resident's room. In addition, Miss Connelly was physically and mentally abusive to patients under her care. The panel considered that Miss Connelly's actions in the charges fell short of the standards expected of a registered nurse.

The original and the previous panel determined that Miss Connelly was liable to repeat matters of the kind found proved. Today's panel has determined that there has been no evidence of meaningful engagement, remorse, strengthening of practice, insight or reflection from Miss Connelly.

In light of this, this panel determined that Miss Connelly has the potential to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne 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 determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Miss Connelly'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 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne 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 seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Miss Connelly's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Miss Connelly's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether conditions of practice on Miss Connelly's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and

concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Miss Connelly's misconduct as she has not yet provided evidence that she has developed her level of insight or that she has strengthened her practice in any way.

The panel noted Miss Connelly's email dated 2 March 2023 which stated that:

'[PRIVATE]'

The panel determined that in light of the email and the fact that Miss Connelly had made limited engagement in the substantive proceedings and in the last review, there were [PRIVATE] which may have led to her failure to engage. In light of this, the panel determined that Miss Connelly should be provided with another opportunity to demonstrate her insight into her misconduct and to present any future reviewing panel with [PRIVATE]. Given the circumstances, the panel concluded that a striking-off order would be disproportionate and that a suspension order remains appropriate and proportionate at the present time. It was satisfied that a period of further suspension would both adequately protect the public and uphold the wider public interest.

Accordingly, the panel determined to extend the suspension order for a period of six months. The panel has decided on a period of six months to clearly indicate to Miss Connelly that she should re-engage with the NMC promptly and provide evidence of [PRIVATE]. It noted that a future reviewing panel would have all options for a sanction available to it, including a striking-off order.

This order will take effect at the end of 29 March 2023 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Miss Connelly's engagement and attendance at the review hearing.
- Evidence of any training or reading Miss Connelly has done to keep her nursing practice up to date.
- Evidence of further training in medication administration and management.
- A reflective piece by Miss Connelly on the importance of safe medication administration, respectful and compassionate treatment of those in her care and honesty in her nursing practice. The reflective piece should address the impact of her actions on the patients under her care, her colleagues, the reputation of the nursing profession, and the wider public.
- Information from Miss Connelly about her future intentions in relation to her practice as a nurse.
- [PRIVATE]

This will be confirmed to Miss Connelly in writing.

That concludes this determination.