

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

**Substantive Order Review Hearing
Thursday, 12 December 2024**

Virtual Hearing

Name of Registrant: Mary Frances Jamieson

NMC PIN 99C0143S

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – 13 September 2010

Relevant Location: North Lanarkshire

Type of case: Misconduct

Panel members: John Kelly (Chair, lay member)
Caroline Friendship (Lay member)
Janine Ellul (Registrant member)

Legal Assessor: Caroline Hartley

Hearings Coordinator: Abigail Addai

Nursing and Midwifery Council: Represented by Iwona Boesche, Case Presenter

Mrs Jamieson: Not present and unrepresented

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Suspension order (12 months) to come into effect on 21 January 2025 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Jamieson was not in attendance and that the Notice of Hearing had been sent to Mrs Jamieson's registered email address by secure email on 8 November 2024.

Ms Boesche, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Jamieson'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 Mrs Jamieson 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 Mrs Jamieson

The panel next considered whether it should proceed in the absence of Mrs Jamieson. The panel had regard to Rule 21 and heard the submissions of Ms Boesche who invited the panel to continue in the absence of Mrs Jamieson. She submitted that Mrs Jamieson had voluntarily absented herself.

Ms Boesche had regard to an email sent by Mrs Jamieson on 19 November 2024 to the NMC which read:

‘...Good afternoon, Unfortunately I don’t think my attending the meeting will be possible at this time. I am currently off work [PRIVATE]’

Ms Boesche submitted although there had been engagement by Mrs Jamieson with the NMC in relation to these proceedings, her absence was as a result of her [PRIVATE]. Ms Boesche brought to the panel’s attention that she did not attend her previous review or substantive hearing. Therefore there was no reason to believe that an adjournment would secure her attendance on some future occasion. Additionally, Ms Boesche submitted that the panel should proceed in her absence because the review is important to public interest.

The panel accepted the advice of the legal assessor.

The panel decided to proceed in the absence of Mrs Jamieson. In reaching this decision, the panel considered the submissions of Ms Boesche, and the advice of the legal assessor. It had regard to relevant case law, NMC guidance and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Jamieson;
- Mrs Jamieson communicated that she would not be attending due to [PRIVATE].
- Mrs Jamieson has informed the NMC that she has received the Notice of Hearing and confirmed she will not be attending.
- Mrs Jamieson has voluntarily absented herself
- 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 decided that it is fair to proceed in the absence of Mrs Jamieson.

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

Ms Boesche made a request that this case be held in private on the basis that proper exploration of Mrs Jamieson's case involves references 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.

Therefore, the panel determined that when matters relating to Mrs Jamieson's [PRIVATE], the hearing would go into private to protect her privacy.

This is the second review of a substantive suspension order originally imposed for a period of 4 months by a Fitness to Practise Committee panel. This was reviewed on 12 June 2024 and the reviewing panel extended the suspension order for a further 6 months.

The current order is due to expire at the end of 21 January 2025.

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. In respect of Patient A:*
 - b. Between 25 February 2020 and 26 February 2020 recorded on Patient A's Pressure Care Chart Colleague B's initials to indicate that Colleague B had been present during a Pressure Care Check when she had not.*

5. *Your conduct at Charge 1(b) was dishonest in that you deliberately recorded on Patient A's Pressure Area Care Chart Colleague B's initials to indicate that Colleague B had been present during a Pressure Care Check when you knew Colleague B had not been present.*

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

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

'The panel noted that the original panel found that Mrs Jamieson had insufficient insight. At this hearing the panel heard no new information to undermine this decision. The panel had no evidence from Mrs Jamieson to support that she has developed her insight since the last review. Therefore, the panel determined that Mrs Jamieson's insight remains insufficient to address the concerns identified.

In its consideration of whether Mrs Jamieson has taken steps to strengthen her practice, the panel had no evidence before it to suggest that she has undertaken any further training or further professional development.

The original panel determined that Mrs Jamieson was liable to repeat matters of the kind found proved. Today's panel has heard no new information to undermine this decision. The panel noted Mrs Jamieson's lack of engagement with these proceedings and that she has taken no steps to action the recommendations provided by the previous panel. In the absence of any insight or evidence of retraining, the panel was of the view that Mrs Jamieson remains liable to repeat matters of the kind proved.

The panel therefore decided that a finding of continuing impairment is necessary on the same ground as the previous panel, namely meeting the public interest.

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

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

'The panel first considered whether to take no action but concluded that this would be inappropriate as the charges are serious and relate to dishonesty. 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 nature of the charges, and the public interest issues identified, an order that does not restrict Mrs Jamieson'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.' Given the finding of dishonesty in this case, a caution order would be inappropriate and insufficient to uphold the public interest. The panel therefore 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 Mrs Jamieson'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 Mrs Jamieson's misconduct.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mrs Jamieson further time to fully reflect on her previous dishonesty and misconduct. It considered that Mrs Jamieson needs to gain a full understanding of how her actions may have impacted patients and colleagues as well as the impact of her dishonesty on the nursing profession as a whole. The panel noted that Mrs Jamieson was given a list of six recommendations by the substantive panel on 22 February 2024 of what may assist a reviewing panel

in considering her case. The panel had no information before it today that Mrs Jamieson has completed any of these suggestions.

The panel also noted that Mrs Jamieson's NMC registration expired on 31 October 2021 and that she only remains on the register as a result of these proceedings. The panel was concerned there is not much benefit in conducting repeated reviews where a registrant does not engage with the proceedings or wish to continue nursing. It noted that Mrs Jamieson's non-attendance at today's hearing was the second time she has not attended her scheduled hearing, and that she has not engaged with these proceedings since the beginning stages of the substantive hearing.

However, the panel was of the view that 4 months is a short period of time. It noted that while it may have been possible to address the concerns identified and demonstrate a strengthening of practice in this period, the panel had received no evidence of this. Nonetheless, in adhering to the value of fairness to all, the panel determined that it would be fair, proportionate and appropriate at this time, to afford Mrs Jamieson a further opportunity to show that her fitness to practice is no longer impaired.

The panel concluded that extending the suspension order for 6 months, amounting to a cumulative 10 months of suspension, would be the appropriate and proportionate response, would uphold the public interest, and afford Mrs Jamieson adequate time to further develop her insight and take steps to strengthen her practice.

Accordingly, the panel determined to impose a suspension order for the period of 6 months would provide Mrs Jamieson with an opportunity to engage with the NMC and to provide evidence of compliance with the recommendations put forward by the previous panel which today's panel reiterated. It considered this to be the most appropriate and proportionate sanction available at this time.'

Submissions on current impairment and sanction

Ms Boesche submitted that Ms Jamieson has not provided the NMC with any documentation to show she has remediated the concerns. Further, an email was sent out on 11 December to Mrs Jamieson to ask if she would like to provide any further documents. However, Mrs Jamieson did not provide any further documentation. Ms Boesche reminded the panel that it is for the registrant to show they are no longer impaired as set out in *Abrahaem v GMC* [2008] EWHC 183. Therefore, Ms Boesche informed the panel that it may find a further period of suspension could allow Mrs Jamieson to address any [PRIVATE] and provide a future review panel with further information.

Ms Boesche went through the available sanctions. Ms Boesche submitted that a conditions of practice order is impractical as Mrs Jamieson is not currently working. Ms Boesche submitted that a further 8-month suspension will give Mrs Jamieson time to address the concerns raised.

The panel heard and accepted the advice of the legal assessor.

Decisions and reasons on current impairment

The panel considered whether Mrs Jamieson'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 carried out a comprehensive review of the current suspension order. Whilst it noted the decision of the last panel, this panel exercised its own judgement as to current impairment.

The panel had regard to all of the documentation before it, including the NMC bundle and the correspondence from Mrs Jamieson. It has taken account of the submissions from by Ms Boesche on behalf of the NMC. The panel also had regard to the recommendations of the previous panel which set out the type of information that Mrs Jamieson may consider providing to assist this panel in its deliberations as follows:

'Any future panel reviewing this case would be assisted by:

- *Mrs Jamieson's attendance at any review of this order.*
- *A written reflective piece showing Mrs Jamieson's understanding and insight into the impact of her misconduct on patients, colleagues and the nursing profession.*
- *Evidence of any steps Mrs Jamieson has taken to strengthen her practice to ensure that the misconduct would not be repeated.*
- *Relevant training addressing the concerns raised in relation to record keeping and honesty.*
- *Any relevant up to date testimonials from any work undertaken, paid or voluntary.*
- *Evidence of where Mrs Jamieson has demonstrated good record keeping practice and honest behaviour.'*

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 noted that at the last review hearing, it was found that Mrs Jamieson's insight remained insufficient to address the concerns identified at the substantive hearing. In the absence of any new information to undermine the substantive hearing panel's finding of impairment, the review panel concluded that Mrs Jamieson's fitness to practice remained impaired. At this hearing, the panel also had no new information about the steps Mrs Jamieson had taken to develop her insight and/or meet the recommendations of the previous review panel.

The panel also took into account the lack of information has made the panel unclear about her current situation from a [PRIVATE]. It is unclear to the panel the nature of Mrs Jamieson's current employment status and although Mrs Jamieson has given brief details about being [PRIVATE] the panel do not have any independent information on how this impacts upon Mrs Jamieson. This panel therefore determined Mrs Jamieson's fitness to practice remains impaired.

The panel noted that at the substantive hearing, the test for impairment set out in the Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council and (2) Grant [2011] EWHC 927 (Admin), [2011] ACD 72 was found to be engaged in limbs b,c and d relating to the reputation of the nursing profession, breach of fundamental tenants of the profession and acting dishonestly. This was considered and confirmed by the first review hearing.

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 a well-informed member of the public would be extremely concerned if the NMC did not make a finding of impairment in these circumstances. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is required. For these reasons, the panel finds that Mrs Jamieson's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Jamieson's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted its powers set out in Article 30 of the Order. The panel also took into account the 'NMC's Sanctions Guidance' (SG) and 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 Mrs Jamieson'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 Mrs Jamieson'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 Mrs Jamieson'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 her dishonesty and misconduct.

The panel considered the imposition of a further period of suspension. The panel concluded that a further 12 month suspension order would be the appropriate and proportionate response and would afford Mrs Jamieson adequate time to further develop her insight and take steps to strengthen their practice.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 12 months would provide Mrs Jamieson with an opportunity to engage with the NMC and address the concerns.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 21 January 2025 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:

- Mrs Jamieson's attendance at any review of this order.

- A written reflective piece showing Mrs Jamieson's understanding and insight into the impact of her misconduct on patients, colleagues and the nursing profession.
- Evidence of any steps Mrs Jamieson has taken to strengthen her practice to ensure that the misconduct would not be repeated.
- Relevant training addressing the concerns raised in relation to record keeping and honesty.
- Any relevant up to date testimonials from any work undertaken, paid or voluntary.
- Evidence of where Mrs Jamieson has demonstrated good record keeping practice and honest behaviour.
- An indication from Mrs Jamieson as to her intentions in relation to her return to practice with supporting evidence.

This will be confirmed to Mrs Jamieson in writing.

That concludes this determination.