

**Nursing and Midwifery Council
Investigating Committee**

**Fraudulent Entry Hearing
Wednesday 22 May 2024**

Virtual Hearing

Name of Registrant: Claire Hemsworth

NMC PIN: 92C0812E

Part(s) of the register: Adult Registered Nurse - RN1 (1995)

Relevant Location: Nottinghamshire

Type of case: Fraudulent entry

Panel members: Katriona Crawley (Chair, lay member)
Helen Hughes (Registrant member)
Eleanor Harding (Lay member)

Legal Assessor: Ruth Mann

Hearings Coordinator: Rene Aktar

Nursing and Midwifery Council: Represented by Dominic Bardill, Case Presenter

Ms Hemsworth: Present and unrepresented at the hearing

Outcome: **Registration entry fraudulently made**

Direction: **The panel directs the Registrar to remove Ms Hemsworth's entry on the NMC Register in accordance with Article 26(7) of the Order.**

Interim order: **Interim suspension order (18 months)**

Details of charge

That you,

1. On your application for revalidation dated 25 May 2022, stated that you had a reflective discussion with Colleague A on 24 May 2022, when no such reflective discussion had taken place. **(PROVED BY ADMISSION)**
2. On your application for revalidation dated 25 May 2022, stated that you had received confirmation from Colleague A on 24 May 2022, when you had not received such confirmation. **(PROVED BY ADMISSION)**
3. On your application for revalidation dated 25 May 2022, declared that you had completed 450 hours of registered nursing practice in the three years prior to your revalidation, when you had completed fewer than 450 hours of registered nursing practice in that period. **(PROVED BY ADMISSION)**
4. On your application for revalidation dated 25 May 2022, declared that you had met the Continuing Professional Development (CPD) requirements for revalidation when you had not. **(PROVED BY ADMISSION)**

And thereby an entry on Sub part 1 of the NMC register in the name of Mrs Claire Louise Hemsworth, PIN 92C0812E was fraudulently procured or incorrectly made.

Background

On 25 May 2022, you submitted your online revalidation application. You named Colleague A as your reflective discussion partner and confirmer, said that you were employed by Collagenics, declared that you had completed the requisite number of practice hours and continuing professional development (CPD) and that you had a professional indemnity arrangement by virtue of your employment. Your revalidation application was accepted, and your registration was updated. The NMC has attempted to obtain further information from you including your revalidation documents and has obtained witness statements from Colleague A and a manager at Collagenics.

The NMC is concerned that when you submitted your revalidation application, you had not completed the requisite number of practice hours and CPD and had not had a reflective discussion or received confirmation. There is also a concern that you may have set out to deliberately mislead the Registrar as to the extent to which you met the NMC's revalidation requirements.

An interim suspension order for a period of 18 months was imposed on 24 August 2023 in relation to these concerns.

Admitted charges

At the outset of the hearing, the panel heard from you that you admitted the facts alleged in the charges as previously set out in your email 8 January 2024 to the NMC.

"I wish to advise you that I will not be planning any written response. I confirm also that I do not wish my case to be dealt with at a hearing or meeting.

I clarify that the facts alleged in the charges are correct.

Yes I admit that my entry on the register was incorrectly made.

I have nothing to clarify that the entry on the register was fraudulently procured."

You further confirmed that you did not dispute the content of any of the witness statements.

Submissions on facts

Mr Bardill made reference to the revalidation renewal form and that you had positively affirmed that you had a reflective discussion with Colleague A, that you had received confirmation from Colleague A, that you had completed 450 hours of registered nursing practice prior to revalidation and that you had met the continuing professional development requirements.

Mr Bardill submitted that it is the NMC's position that these were fraudulent representations but that you are denying you were dishonest. He referred to your email dated 28 June 2022 to the NMC in which you confirmed that you had had a revalidation discussion with your employer Collagenics. He referred to numerous to the NMC asking that you provide proper detail of this discussion. No response was received from you in this respect.

Mr Bardill took the panel to the statement of Colleague A and messages between the two of you dated 24 May 2022:

"Hiya [Colleague A],

Let me know please if u might be free for a quick chat tomorrow early am if u prefer or this eve

Just checking ahead also with u to confirm a revalidation chat and if I have your permission please to attach your professional details including Pin no, etc as requested for my NMC annual."

Colleague A replied:

"Hi I have to see your folder properly Claire before I can give my details. As for clinic Billie has asked that we go through her with the clinics. x"

Colleague A subsequently received automated notification from the NMC that her details had been used for your revalidation. She was shocked because she had not acted as confirmer or reviewed any documents.

Mr Bardill also referred to a statement from a Manager at Collagenics:

"2. I've been employed by Collagenics as Manager. I have been in this role since 2003 and my responsibilities include general management.

3. Claire joined Collagenics in July 2006 and has been employed as self employed practitioner.

4. Between 25 May 2019 and 25 May 2022, Claire worked around 9 hours as an estimate for Collagenics. I'm unable to provide an exact figure, however I can

confirm that Claire would have worked around 9 hours for Collagenics during the stated timeframe.

5. Between 25 May 2019 and 25 May 2022, Claire did not complete any CPD hours.”

Mr Bardill submitted to the panel that when looking at the evidence, the panel should consider how the witnesses accounts have not been disputed.

Mr Bardill submitted that there is enough evidence to support a finding of fraudulent procurement of your entry to the register and took the panel through the test for dishonesty in the case of *Ivey v Genting Casinos (UK) Ltd [2017] UKSC*.

You chose not to give evidence under oath and you confirmed that you accepted the factual basis for the four charges and that you did not wish to challenge any of the witness evidence. You submitted that you had been working with Collagenics in the field of Aesthetics for more than 10 years. You said that during the COVID period, due to the lockdowns, you were not able to do as many practice hours as previous years. You found it difficult to access CPD as you were working for a private provider. You said you had undertaken your own learning from medical journals. You confirmed you had also undertaken CPD in relation to your other profession, podiatry.

You said that you did not pursue the reflective discussion with Colleague A because you felt there had been a breakdown of communication between you, but you did not wish to comment on this further. You told the panel that you had done more than 9 hours of practise but accepted that the number of hours fell below the required 450 hours.

You said that you completed the revalidation online document in the way that you had as you wanted to be able to continue practising.

Legal advice

The panel accepted the advice of the legal assessor.

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. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel accepted the advice of the legal assessor who referred it to the case of *Ivey v Genting Casinos* [2017] UKSC 67, in which Lord Hughes stated:

'When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.'

Decision and reasons on facts

Charge 1

This charge is found proved.

In reaching this decision, the panel took into account your admission, the evidence of Colleague A and the content of the online revalidation form that you had completed.

Charge 2

This charge is found proved.

In reaching this decision, the panel took into account your admission, the evidence of Colleague A, including the messages sent between the two of you, and the content of the online revalidation form that you had completed.

Charge 3

This charge is found proved.

In reaching this decision, the panel took into account your admission, the evidence of the Manager from Collagenics and the contents of the online revalidation form.

Charge 4

This charge is found proved.

In reaching this decision, the panel took into account your admission and your submissions in relation to the limited CPD that you had undertaken.

Decision on Fraudulent Entry

The panel decided, for the following reasons, that in respect of each charge the entry on the register in your name was fraudulently procured.

The panel bore in mind that for an entry to be fraudulent there must have been a deliberate attempt to mislead whereas an incorrect entry involves a mistake or genuine error.

It was apparent from the statement of Colleague A that she had not consented to you naming her as confirmer, or using her details, because you had not shown her your revalidation documents or had the required reflection discussion. The panel noted that in response to your text to her on 24 May 2022 asking for your permission to include her details, she wrote "*Hi I have to see your folder properly Claire before I can give my details*". You then submitted your revalidation, giving her details, despite the fact that you had not obtained her consent, shown her any documents or had the discussion. The panel found that you did so knowingly and that this was dishonest.

The panel further noted the information in the statement of the manager of Collagenics about your limited practice hours and lack of CPD. You told the panel that you had done more than 9 practice hours, and that you had done some self-learning for CPD, however,

you accepted that you were aware that your practice hours and CPD did not meet the requirements when you revalidated. The panel considered your own state of mind. It determined that in terms of revalidation, you knew the data you were inputting was incorrect and where the test from *Ivey v Genting* of the ordinary person is applied, it is clear they would consider your actions dishonest.

You were asked by the panel what your reason was for submitting your revalidation, despite knowing that you did not satisfy the requirements and had not carried out the required reflection with a confirmer. You told the panel that it was because you wished to continue to be able to practice. The panel found this to be dishonest. The panel concluded that your entry to the register was fraudulently procured.

Decision and reasons on direction

Having determined that you had fraudulently procured an entry on the NMC's register, the panel went on to decide what direction, if any, to make under Article 26(7) of the 'Nursing and Midwifery Order 2001' (the Order).

Article 26(7) 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.'

Mr Bardill referred the panel to the guidance issued by the NMC. He advised that the panel have the option of making no order, directing the Registrar to amend the entry on the register, or directing that the Registrar removes the entry from the register.

Mr Bardill submitted that taking no action would not be appropriate. He also submitted that this was not a case where the entry was entered incorrectly, and amendment would not be appropriate. He submitted that the appropriate approach due to the findings of the panel, including a finding of dishonesty was to direct the Registrar to remove the entry from the register.

You submitted that you fully understand the panel may remove you from the register. However, you would like the panel to consider directing an amendment to the register entry to allow you to continue working.

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

The panel considered that, having found that your entry on the NMC register was fraudulently procured, it would be inappropriate to take no action due to the panel's finding of dishonesty.

The panel bore in mind that the focus of its decision was centred on the integrity of the register and maintaining confidence in the profession. The panel noted its findings that your actions had been to deliberately mislead the NMC by knowingly submitting false information in order to remain on the NMC register and to continue working as a registered nurse. The finding of a fraudulently procured entry to the NMC register is a serious matter and the panel considered that to take no action in these circumstances was wholly inappropriate. The panel also considered that there were no amendments that could be made that would address the panel's finding of dishonesty.

In all the circumstances the panel decided that the only appropriate order is to direct the Registrar to remove your entry from the register in accordance with Article 26(7) of the order.

You will be notified of the panel's decision in writing. You have the right to appeal the decision under Article 38 of the Order. This order cannot take effect until the end of the 28 day appeal period or, if an appeal is made, before the appeal has been concluded.

Decision and reasons on 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.

Mr Bardill submitted that an interim suspension order was necessary to protect the public interest and integrity of the register. He submitted that the interim order should be of 18

months duration to cover the appeal period. Mr Bardill submitted that there are no conditions that would be appropriate to address the concerns.

You submitted that you had been prevented from working with Collagenics since the imposition of the previous interim suspension order and wanted to resume working as a registered nurse.

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

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. It noted that the imposition of an interim order is not an automatic outcome but is a matter for the panel's discretion in the circumstances of the case, having regard to the public interest in maintaining the integrity of the register. It also had regard to Article 31 of the Order and the NMC's Guidance on interim orders.

The panel determined that an interim order was necessary on the ground of being otherwise in the public interest in order to uphold the reputation of the profession, professional standards, and to maintain the integrity of the NMC register.

The panel first considered whether to impose an interim conditions of practice order. It determined that an interim conditions of practice order was not appropriate and incompatible with its decision. There were no workable conditions that could be put in place to address the finding of dishonesty and its impact on the public interest.

Accordingly, the panel determined that an interim suspension order is in the public interest to protect the reputation of the profession and the NMC as its regulator.

The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined.

If no appeal is made then the interim order will lapse upon the removal of your entry in the Register 28 days after you are sent the decision of this hearing in writing.

That concludes this determination.