

**Notice of Decision**

<b>Registrant</b>	Gavin Marshall
<b>SCR Number</b>	6034137
<b>Part of Register</b>	Part 2 – Adult Social Care Worker
<b>Sanction</b>	Undertakings
<b>Date of Effect</b>	20 May 2021

This is a notice of decision of the Northern Ireland Social Care Council (the Council).

**Decision**

The Council has decided:

1. that there is evidence that your Fitness to Practise is impaired by reason of misconduct, as defined in Part 1, Rule 4 (1) of the NISCC Fitness to Practise (Amendment) Rules 2019.
2. to agree undertakings with you.

**Impairment**

The Northern Ireland Social Care Council (Social Care Council) has considered the information it has obtained during the course of its investigation into the allegations against you.

**1. Impaired Fitness to Practise**

The Council has decided that the information received constitutes an allegation of impaired fitness to practise as per Part 1 Rule 4(1) of the NISCC Fitness to Practise (Amendment) Rules 2019. This refers to circumstances which call into question your suitability to remain on the social care register.

The Council has decided that there is a real prospect that a Fitness to Practise Committee would find your fitness to practise impaired by reason of misconduct as follows:

Whilst employed as a Senior Care Assistant by The Macklin Group at Milesian Manor Care Home:

- a) You failed to note that a prescribed dose of medication had been increased. Consequently, and by your own admission you then proceeded to administer the incorrect dose of medication to a service user between 22 and 24 May 2020.
- b) Further to (a) above you admitted falsifying the Controlled Drug records by altering the figures recorded and you failed to report your dosage errors to management.
- c) You admitted that you failed to record your signature in accordance with procedure.

d) On 23 March 2020 when medicine keys went missing you failed to remain on the premises until the keys were located and failed to record that the keys were missing on the handover report.

e) On 29 April 2020 you admitted turning a service user onto her back on your own contrary to the service user's care plan.

## **Reasons**

The reasons that this is considered to constitute impaired fitness to practise are as follows:

- Service users have the right to expect that the care and support they receive from social care workers, in whom they place their trust, will protect them from harm. Any errors in administering medication, and/or failing to report errors, puts service users at risk of harm. You therefore failed in your duty of care and placed service users at risk of harm on several occasions.
- You have displayed a lack of competence when administering medication, recording medication administered, or reporting medication events and /or errors.
- On 29 April 2020, you failed to adhere to a service user's care plan and moved her without assistance, contrary to the care plan in place. By failing to follow a care plan you breached the trust and confidence placed in you by service users and your employer, who are entitled to expect that you will provide a high standard and appropriate level of care at all times. Furthermore, your actions placed the service user at unnecessary risk of harm.

## **NISCC Standards of Conduct and Practice for Social Care Workers**

The Standards of Conduct for Social Care Workers that your actions have breached are as follows:

### **Standard 2**

**As a social Care worker, you must strive to establish and maintain the trust and confidence of service users and carers.**

This includes:

**Standard 2.1** Being honest and trustworthy;

### **Standard 5**

**As a social care worker, you must uphold public trust and confidence in social care services.**

In particular you must not:

**Standard 5.8** Behave in a way, in work or outside work, which would call into question your suitability to work in social care services.

### **Standard 6**

As a social care worker, you must be accountable for the quality of your work and take responsibility for maintaining and improving your knowledge and skills.

This includes:

**Standard 6.1** Meeting relevant standards of practice and working in a lawful, safe and effective way.

**Standard 6.4** Maintaining clear and accurate records as required by procedures established for your work.

**Standard 6.5** Informing your employer or the appropriate authority in a timely manner about any personal difficulties that might affect your ability to do your job competently and safely.

The Standards of Practice that your actions have breached are as follows:

### **Standard 1**

**As a social care worker, you must understand the main duties and responsibilities of your own role within the context of the organisation in which you work.**

This includes:

**Standard 1.7** Keeping records that are up to date, complete, accurate and legible.

**Standard 1.8** Reporting any adverse events, incidents, errors and near misses that are likely to affect the quality of care and wellbeing of service users or carers.

### **Standard 3**

**As a social care worker, you must deliver person centred care and support which is safe and effective.**

This includes:

**Standard 3.2** Delivering care in line with assessed needs and service user and carer preferences;

### **Standard 5**

**As a social care worker, you must maintain health and safety at work.**

This includes:

**Standard 5.2** Applying your organisation's policies and procedures in relation to medication and healthcare tasks;

**Standard 5.3** Applying your organisation's policies and procedures in relation to moving and handling service users.

### **Sanction**

Having regard to the document '*Indicative Sanctions for Consensual Disposal*' the Council decided that the appropriate course of action was to agree undertakings with you. An undertaking is an agreement between you and the Council, setting out limits within which you must practise.

### **Agreed Undertakings:**

1. That you will not administer medication to service users, or involve yourself in the recording, reporting or auditing of matters relating to medication.
2. That you will submit evidence verified by any new social care employer that you have availed of all relevant training in regard to moving and handling service users and evidence that you have complied with same.
3. That you will inform NISCC of any professional investigation started against you, and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them
4. That you will inform the following parties that you are subject to an undertaking under the NISCC's fitness to practise procedures, and disclose the undertakings listed above, to them:
  - i. Any organisation or person employing, contracting with, or using you to undertake social care work
  - ii. Any agency you are registered with or apply to be registered with (at the time of application)
  - iii. Any prospective employer (at the time of application)
  - iv. Any educational establishment at which you are undertaking a course of study connected with social care work, or any such establishment to which you apply to take such a course (at the time of application).
  - v. You are also required to notify Council within 7 days of accepting any post or employment requiring registration with NISCC and provide the name and contact details of the organisation offering you the post.

Having considered the factors set out in the 'Consensual *Disposal Indicative Sanctions*' the Council considers the above proposed undertakings to be appropriate for the following reasons:

- Your actions had the potential to place service users at risk of harm.
- Your actions took place while you were at work, and in a position of responsibility as Senior Care Assistant.
- There have been several concerns reported to NISCC in relation to the standard of your work when administering medication and you have failed to follow your employer's policies and procedures in regard to this important area of practice.
- You confirmed you were aware of the procedure for counting medications including PRN pain relief such as Paracetamol. You admitted you did not follow this procedure and based your account on an incorrect assumption.
- You admitted that you had received medication training upon commencement of employment and with the Home's Pharmacist in March 2020.

However;

- You have co-operated with your former employer's investigation and have received a severe sanction of dismissal.
- You have not been subject to any previous referral to the Council during your employment at Milesian Manor Care Home.
- There is no evidence of intent to cause harm.

- You made admissions to the allegations during the employer investigation/proceedings in regard to your actions, citing human error and you did demonstrate insight into the potential impact of distractions during medication administration.
- You have no previous record of misconduct with the Council and no previous disciplinary proceedings whilst employed at Milesian Manor.
- No direct harm was caused to service users.

## **Agreement**

Having been advised of the consequences, and having been recommended to take independent advice, you agreed to the 4 undertakings detailed above. A record of the undertakings has been placed on your entry in the Register. Other than the restrictions detailed in the undertakings, your ability to practise is not affected.

## **Duration of undertakings**

The undertakings will continue indefinitely. However, under Rule 13 (12) you can apply to be released from an undertaking, and the Council will consider your request at that time.

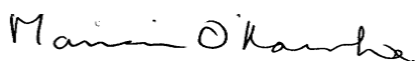
## **Consequences of non-compliance with an undertaking**

Under Rule 13 (13), if the Council receives information that you have not complied with an undertaking, or you fail to provide information to confirm compliance when requested, the Council may:

- (a) Refer the original allegations to the Preliminary Proceedings Committee; and
- (b) Treat the failure to comply with an undertaking as a separate allegation of impaired fitness to practise and refer this allegation to the Preliminary Proceedings Committee.

## **Date of Effect**

The undertakings come into effect on 20 May 2021



20<sup>th</sup> May 2021

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Marian O'Rourke  
Interim Director of Regulations and Standards

Date