

Neutral Citation No: [2025] NICC 22	Ref: [2025]NICC 22
<i>Judgment: approved by the court for handing down (subject to editorial corrections)*</i>	ICOS No: 24/025215
	Delivered: 09/07/2025

IN THE CROWN COURT IN NORTHERN IRELAND

THE KING

v

NICHOLA HAWES

SENTENCING REMARKS

HIS HONOUR JUDGE MILLER KC

[1] The defendant was arraigned on 21 May 2024 and entered not guilty pleas to all counts on the indictment. The trial began on 10 February 2025, and the prosecution case concluded on 14 February. On 17 February, as the defence case was due to begin the jury was discharged. The reason for this was that defence counsel sought, for the first time, to introduce a raft of material that had not been put to the Crown witnesses, and which would have necessitated the entire case being re-opened. A new trial date was set for 1 September 2025.

[2] In the intervening months discussions took place between counsel, which resulted in the defendant being re-arraigned this morning, when she pleaded guilty to Counts 1-24 and Count 31 on a full facts basis. The remaining counts were left on the books in the usual terms.

[3] The defendant, therefore, falls to be sentenced in respect of 14 offences (Counts 1, 2, 13-24) of selling or supplying prescription drugs, contrary to section 255(1) and 255(10) (Counts 3-12) of possessing a medicinal product with intent to supply otherwise than in accordance with a prescription, contrary to Regulation 255(4) of the Human Medicines Regulations 2012 ("the 2012 Regulations"). The maximum penalties for these counts are unlimited fines and/or a custodial sentence of up to two years.

[4] In addition, the defendant has pleaded guilty at Count 31, to a single charge of fraud by false representation in breach of section 2 of the Fraud Act 2006, contrary to section 1 of the Fraud Act 2006, for which the maximum sentence is 10 years' imprisonment and/or an unlimited fine.

[5] In anticipation of the change of plea, Mr Grant KC (appearing with Mr Chris Holmes) asked that the court consider sentencing Mrs Hawes today without the benefit of a pre-sentence report ("PSR"). To that end, in advance of today's proceedings both the Crown and the defence provided the court with detailed written submissions accompanied, in the case of the defendant, with several character references. Based on this information I am satisfied that I can and should pass sentence today as requested.

[6] The full agreed statement of facts will be made available on request, but I shall for sentencing purposes only highlight the key points.

Facts

[7] On 8 August 2022, the Medicines Regulatory Group ("MRG") received information regarding the prescribing and supplying practices of the defendant Nichola Hawes at her business Nichola Hawes Aesthetics (hereinafter referred to as NHA). As a result, a review was conducted of the prescriptions raised by the defendant.

[8] On 25 October 2022, officers from MRG conducted a warranted inspection at NHA, during which the defendant was asked to explain her practices and procedures. During this inspection a quantity of Hydroxocobalamin B12 was located which appeared to be more than would be required for one client, this was seized by Warren McKee (Medicines Enforcement Officer) and marked exhibit WMcK1.

[9] On 22 November 2022, MRG, were advised by JC that a consignment of prescription only medicines ("POMs") had arrived at her house. These were in her name, but had not been requested by her and she was not receiving any treatment that would require these items. Officers collected these items from JC on 24 November, together with the associated paperwork, which established that the defendant had prescribed these in JC's name.

[10] The defendant had called twice at JC's address and called her to retrieve these POMs. Both JC and her mother JxC had been clients of Hawes for weight loss treatments, but neither had received any other treatments in some time.

[11] The seized POMs were of Ozempic, Hydroxocobalamin, Hyaluronidase, prescribed to JC on 21 November 2022, together with packaging and delivery documentation from Primed Pharmacy to JC, ..., Bangor.

[12] On 25 November, Jacqueline Pyper (Enforcement Officer MRG), having spoken further to both JC and JxC, established that JC had been supplied Ozempic by the defendant, one pen in the name of LC, one in the name of LA. The box for the

latter contained the legend that the pen was prescribed to LA - 28 September 2022 from John Bannon Pharmacy.

[13] As a result of this information, Aaron McKendry Principal Pharmacist seized all documentation and prescriptions raised by the defendant in relation to JC, JxC, LA and LC. A review of this material led to concerns regarding the defendant's prescribing practices, and a second inspection was conducted at NHA on 28 November 2022. This led to the seizure of more than 30 POMs and medical devices including those in the names of various people, which bore no labels, others were labels had been removed and devices obtained under prescription. These were in breach of the 2012 Regulations.

[14] On 22 February 2023, the defendant attended, in the company of her solicitor, at MRG offices at Castle Buildings Stormont and was cautioned and interviewed in relation to the offences identified during the investigation. Her solicitor read out a prepared statement in which she said she would order extra Botox for repeat clients rather than doing a prescription every time. She also stated that a colleague accidentally turned off a fridge soiling some products and that there could be breakages and spillages. She deals specifically with JC and states that a typo occurred, and that JC contacted her directly about it. She states that any surplus medicines are disposed of. After this prepared statement was read in the record, Mrs Hawes gave "no comment" replies to all questions.

[15] This interview was then suspended at her request so she could consult with her solicitor. On resumption a further prepared statement was read into the interview. This conflicted, in part, with the first prepared statement in that she accepted she "took shortcuts" and gave Ozempic pens to patients not in their name which she said was for "convenience." She said no one ever received the wrong medicine, just the wrong label. Thereafter she, again, adopted a "no comment" response to most questions put to her. She was informed the matter would be reported.

[16] Following the aborted trial, the Crown served additional evidence including information relating to a second box provided by LA. Further a review of prescriptions raised by the defendant established that she had prescribed 22 Ozempic pens in the name of AW between June 2021 and January 2022. A pen should last four weeks, so 22 pens in six months would be above normal prescribing practices.

[17] Documentation provided by the defence at the original trial, included a prescription in the name of ET. The Crown obtained a statement from her in which she confirmed that she had never been the defendant's client and had not asked for or received treatment by her.

[18] The Crown and defence are at odds regarding the defendant's level of culpability with much of the circumstances relied upon as mitigation by Mrs Hawes

being subjected to trenchant criticism. I do not intend to recite each of the arguments in detail but having considered the competing arguments I have reached the following conclusions:

- It is an accepted fact that no one was harmed by the defendant's actions. This was explicitly stated when the Crown opened its case before the jury.
- The defendant, together with the two professionals who have provided character references, but who refused to give evidence in support of her at trial, continue to argue that the law regarding regulation is wrong. They cite a difference in approach taken in Scotland to the rest of the UK regarding stockpiling in support. With respect this is no excuse for deliberately breaching the known and accepted regulations applicable in this jurisdiction and displays a lack of understanding of the need to comply with the law verging on arrogance.
- The defendant deliberately ordered prescriptions in the names of clients and former clients without their knowledge and for treatments they neither requested nor needed. She then took steps to try and cover her tracks by seeking to retrieve the items before these could be seized by MRG. At trial and on her instruction these witnesses were cross-examined and accused of lying, when they were plainly telling the truth and their testimony remained robust and credible. This is indicative of a lack of remorse on the defendant's part and is a significant aggravating factor in determining the level of her culpability in respect of the fraud charge.
- The purpose behind the regulations is to ensure that POMs are only dispensed pursuant to a prescription. By her actions the defendant put the integrity of the system recording POMs in jeopardy.
- The pharmacist acts as a safeguard in the medicine supply process. The separation of functions between prescribing a medication and supply of that medication is an important safety mechanism allowing a pharmacist the opportunity to assess the clinical appropriateness of a prescribed medication for a patient. The actions of the defendant bypassed this 'appropriate check' as prescriptions were written for patients not necessarily receiving the treatment.
- Mr Grant submits that the defendant's breaches and fraud were a matter of administrative convenience. The reality is that the defendant's business was in the field of beauty/cosmetic treatment. The POMs she dispensed were not essential medicines and she did not aid the sick or provide free medical care.
- Fraud enabled the defendant to have an advantage over competitor businesses operating in compliance with the legislation, by having stock on hand to make immediate supplies. This competitive advantage would

obviously result in financial return. Through her actions she had a ready supply of POMs to provide for any client who might attend her practice and for which she could charge at a significant markup. To take one example, a single Ozempic pen costing her £75.00, she sold to clients for between £140 and £250.

- Reference is made in the defence submissions to shortages of Ozempic in the post-Covid period, something which is not disputed by the Crown. The submission, however, that the defendant received texts from pharmacies advising of stock being in place and warning that if orders were not placed immediately, she would miss out on supply for the foreseeable future, has not been evidenced by any material placed before this court.
- The bottom line is that the 2012 Regulations have been in place since the introduction of nurse independent prescribing. Mrs Gilmore notes the position as follows:

“However, the Crown would submit that the regulations have not been re-interpreted and RA guidance regarding possession of stocks states: The changes to legislation to introduce nurse independent prescribing were based on the long-standing principle that a prescriber prescribes and that his/her prescription is then dispensed by a pharmacist. Nurse Independent Prescribers can administer drugs themselves and authorise others to do so under their patient specific direction. The Department of Health and the MHRA do not consider that there are compelling grounds for reviewing the position.”

- Nevertheless, the court notes that the regulations have been amended in Scotland to allow NIPs to hold stock of POMs and this has not compromised safety, where it might previously have been perceived to do.
- The defendant is entitled to mitigation in sentence by virtue of her guilty pleas, but this must be seen in the context of her having contested the Crown case in full at the aborted trial. This will, therefore, be at a much-reduced level to that applicable had she pleaded at arraignment.
- Account will, however, be taken of her previously clear record and her personal circumstances.

Personal background and family circumstances

[19] The defendant is now just shy of her 50th birthday. She is married with three adult children, the youngest of whom hopes to commence a nursing degree at

Edinburgh University in the autumn. The older children, who are twins are already at university here in Northern Ireland.

[20] The defendant is described by family, friends and indeed clients, as caring, industrious, working hard throughout her life from school age, values instilled in her by her parents. She earned a place at Queen's University Belfast to study nursing, where she qualified as a Learning Disability Nurse in 1997. It was whilst working in her first placement at St Andrew's Hospital in Northampton, that she met her future husband, to whom she has been married for 25 years. They relocated back to Northern Ireland in 1999 and after a period living near her family home in Portadown, they eventually moved to Bangor, where they still reside and where their children grew up. Her family has always been important to her. Mrs Hawes' parents and sister all reside within walking distance in Bangor, creating a tight-knit support network.

Professional career and achievements

[21] Mr Grant sets out Mrs Hawes' professional career in detail and the court notes both from this outline and the character references that she is clearly a very capable and experienced practitioner with 27 years' experience in nursing specialising in various areas including a decade-long specialisation in enteral nutrition (2003-2013) with Nutricia, which the court is told, represents perhaps her most significant contribution to clinical care.

[22] The transition to aesthetic nursing came in 2014 and she completed the Independent Nurse Prescribing qualification through Gloucester University in 2016 and subsequently established her own clinic in 2019. In January, this year she attained Level 7 Diploma in Clinical Aesthetic Injectables, which is described as the crowning achievement in her career, placing her at the pinnacle of her specialty.

[23] Her professional excellence has been recognised by her peers through consecutive nominations (2022 and 2023) for both Best Aesthetics Clinic and Best Nurse Practitioner at the prestigious Northern Ireland Cosmetic Medicine Awards. Her accreditation with Save Face, the UK government approved register for accredited aesthetic practitioners, provides independent validation of her professional standards.

Current financial circumstances

[24] Clearly these proceedings have had a significant impact on Mrs Hawes' financial situation, as primary earner with repercussions in respect of damage to reputation and business leading to a marked reduction in the profits of her business. Aside from the normal fixed outgoings of the business, home and family responsibilities, there have been the legal costs to bear. The court is also mindful of potential proceedings being taken by the NMC, which might threaten her nursing registration and livelihood.

Conclusion

[25] The offences carry the potential for the imposition of custodial terms. Given the defendant's background and her lack of any previous convictions I am satisfied that the custody threshold is not passed. Nevertheless, this is a serious case. Regulations are there for a purpose and the court rejects the implication that the defendant has been victimised or that she had no choice other than to do as she did. The reality is she knowingly broke the rules. Furthermore, she deliberately ordered supplies in the names of several people who were not her patients or clients. She then instructed her legal team to challenge those witnesses and effectively accuse them of lying when it was, she who was acting deceitfully. That was fraud pure and simple and was designed for financial gain.

[26] In setting the starting point for the fines I have taken account of both the aggravating and mitigating factors including an acknowledgement that the regulations regarding holding of stock is not the same throughout the entire UK. Whilst this doesn't excuse the defendant's actions, it is something that should not be ignored.

[27] I take a starting point of £10,000.00, which is what I would have imposed had she been convicted of these offences after a contested trial. In all the circumstances I shall allow a discount of 20% to take account of the plea at a late stage of proceedings but before the re-trial could take place. This reduces the total sentence to £8,000.00.

Sentence

[28] Counts 1-24 - Breach of regulation - £250.00 x 24 = £6,000.00

Count 31 - Fraud - £2,000.00

Total Fines: £8,000.00