

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

**Substantive Order Review Meeting
Wednesday, 7 September 2022**

Virtual Meeting

Name of registrant: **Adrian Raduta**

NMC PIN: 14K0727C

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – November 2014

Relevant Location: Worcestershire County

Type of case: Misconduct

Panel members: Derek McFaul (Chair, Lay member)
Helen Eatherton (Registrant member)
Jane Jones (Registrant member)

Legal Assessor: Charles Parsley

Hearings Coordinator: Xenia Menzl

Order being reviewed: Suspension order (6 Months)

Outcome: **Striking-off order to come into effect on 25
October 2022 in accordance with
Article 30 (1)**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that Mr Raduta was not in attendance and that the Notice of Meeting had been sent to Mr Raduta's registered email on 5 August 2022.

The panel took into account that the Notice of Meeting provided details of the review including the time, dates and venue of the meeting.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Raduta has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (as amended) (the Rules).

The panel noted that the Rules do not require delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered home and email address.

Decision and reasons on review of the current order

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect at the end of 25 October 2022 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a substantive suspension order originally imposed for a period of six months by a Fitness to Practise Committee panel on 25 March 2022.

The current order is due to expire at the end of 25 October 2022. 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. *Between 18 and 19 September 2018 at the Summerdyne Nursing Home, slept on duty when you were the only registered nurse on duty. **[PROVED]***
2. *Between 18 and 19 September 2018 refused to assist resident A to sit up. **[PROVED]***
3. *Between 18 and 19 September 2018 refused to assist resident C to sit up or to provide resident C with a drinking cup suited to her disability. **[PROVED]***
4. *Between 18 and 19 September 2018, inappropriately administered medication to resident A in that you used an un-gloved hand and failed to provide resident A with a drink to assist the ingestion of the medication. **[PROVED]***
5. *Between 18 and 19 September 2018, inappropriately administered medication to resident C in that you used an un-gloved hand and failed to provide resident C with a drink to assist the ingestion of the medication. **[PROVED]***
6. *Between 18 and 19 September 2018 informed Nurse A that resident B's blood sugar level was 4.5mmols when you had not taken resident B's blood sugar reading. **[PROVED]***
7. *Your actions in charge 6 above were dishonest in that you knew you had not taken resident B's blood sugar level and intended to mislead Nurse A into believing that you had and that the most up to date reading was 4.5mmols. **[PROVED]***

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

The original panel determined the following with regard to impairment:

'The panel had no evidence before it from Mr Raduta addressing the impact his actions could have had on the residents, his colleagues, the nursing profession and the wider public as a whole. The panel also noted that Mr Raduta has not engaged with the NMC since his email of 4 February 2020, in which he continued to deny the allegations against him, some two years after the incidents. The email did not properly address any of the concerns identified. Therefore, the panel was of the view that Mr Raduta has not demonstrated any insight into his misconduct or dishonesty. The panel could not be satisfied that Mr Raduta understands and appreciates the seriousness of his dishonesty and failure to act appropriately.

In considering whether Mr Raduta has remedied his nursing practice, the panel noted that it did not have any information before it of any steps taken by him to strengthen his practice. The panel was of the view that Mr Raduta's misconduct is potentially remediable. However, it acknowledged that dishonesty and attitudinal issues are often more difficult to remediate than clinical concerns.

The panel therefore considered that there remains a risk of repetition of Mr Raduta's failings and dishonesty and, therefore, a risk of unwarranted harm to patients in his care, should adequate safeguards not be imposed on his nursing practice. Therefore, the panel decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

While the panel noted that the charges occurred during one shift, it found the charges proved serious, showed a pattern of behaviour, illustrated a deep-seated attitudinal issue and included dishonesty. It was of the view that a fully informed member of the public would be concerned by its findings on facts and misconduct. The panel concluded that public confidence in the nursing profession would be undermined if a finding of impairment was not made in this case. Therefore, the panel determined that a finding of impairment on public interest grounds was also required.

Having regard to all of the above, the panel was satisfied that Mr Raduta's fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'The panel next considered whether placing conditions of practice on Mr Raduta's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable, and workable.

As Mr Raduta has not engaged with the NMC process, nor with this substantive hearing, the panel is of the view that there are no practical or workable conditions that could be formulated at this stage, given the nature of the findings and all the circumstances in this case. The panel has had no information to suggest that Mr Raduta has insight into his misconduct; has remediated the concerns; or that he understands the impact his actions have had on the residents, colleagues, and the nursing profession. Further, Mr Raduta's misconduct included dishonest conduct which would be difficult to remediate. Therefore, the panel concluded that the placing of conditions on Mr Raduta's registration would not adequately address the seriousness of this case. A conditions of practice order would not protect the public, nor would it satisfy the public interest considerations.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- The seriousness of the misconduct requires a temporary removal from the NMC Register.*
- A single instance of misconduct but where a lesser sanction is not sufficient.*

The panel considered whether the seriousness of this case could be addressed by temporary removal from the register and whether a period of suspension would be sufficient to protect patients and satisfy the wider public interest concerns. When considering seriousness, the panel took into account the extent of the departure from the standards to be expected of a registered nurse and the risk of harm to the public interest caused by that departure.

In considering the sanctions guidance regarding a suspension order, the panel remained concerned that it had already identified attitudinal issues in this case. Further, Mr Raduta had demonstrated no insight into his failings. The panel did go on to seriously consider whether a striking-off order would be proportionate. The panel reminded itself that although Mr Raduta demonstrated attitudinal issues, the charges concerned a single shift and the most serious element, the dishonesty, arose from a single statement. The panel therefore found that the misconduct was not fundamentally incompatible with remaining on the register. It was satisfied that a suspension order was proportionate and would adequately protect the public while it was in place. It considered that the public interest considerations can be satisfied by a less severe outcome than permanent removal from the NMC register. The panel did consider this to be a finely balanced decision, but it reminded itself that the purpose of a sanction is not to be punitive, and it decided that Mr Raduta should be afforded the opportunity to demonstrate insight, remorse, and remediation into his

misconduct. Therefore, the panel concluded that a striking-off order was not necessary in Mr Raduta's case, at this stage.

Balancing all of these factors the panel has concluded that a six-month suspension order would be the appropriate and proportionate sanction and would mark the seriousness of the misconduct. The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.'

Decision and reasons on current impairment

The panel has considered carefully whether Mr Raduta'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.

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 Mr Raduta's fitness to practise remains impaired.

The panel noted that Mr Raduta has disengaged from the NMC proceedings and that it had no new information before it to be considered at this review. With the absence of any evidence to suggest that Mr Raduta has gained insight, is remorseful, has remediated his

failings or strengthened his practice, the panel determined that there has been no material change in circumstances since the original hearing.

The panel determined that Mr Raduta was therefore liable to repeat matters of the kind found proved.

In light of this the panel determined that for the same reasons as outlined above by the previous panel, Mr Raduta's fitness to practise remains impaired.

The panel determined that a finding of impairment was required both to protect the public and on public interest grounds.

Decision and reasons on sanction

Having found Mr Raduta 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 Mr Raduta'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 Mr Raduta'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 on Mr Raduta'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 reasoning of the original panel that a conditions of practice order was not appropriate in this case due to the nature of the misconduct and Mr Raduta's failure to engage with the regulatory process. It concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest.

The panel next considered extending the current suspension order. It noted that in the six months since the last hearing Mr Raduta has not provided the panel with any evidence showing that he has developed further insight, remediated or had plans to remediate his practice or engaged with the NMC proceedings in any meaningful way. The panel was of the view that considerable evidence would be required to show that Mr Raduta no longer posed a risk to the public. The panel noted that the previous panel determined that:

'Mr Raduta should be afforded the opportunity to demonstrate insight, remorse, and remediation into his misconduct. Therefore, the panel concluded that a striking-off order was not necessary in Mr Raduta's case, at this stage.'

The previous panel had indicated that this panel would be assisted by the following:

- *'Mr Raduta's full engagement with the NMC in the future;*
- *Attendance at any future hearing;*
- *A detailed reflective piece to demonstrate Mr Raduta's insight into his misconduct and the impact it had on the residents, colleagues, the public confidence in the nursing profession and the public;*
- *Evidence of any up-to-date training, specifically addressing the concerns in this case; and*
- *Evidence of relevant testimonials from Mr Raduta's current employer, whether in paid or unpaid employment. This must have particular regard to his failings found proved.'*

The panel noted that Mr Raduta had not addressed any of these recommendations. Despite various communications from the NMC, to date no response had been received from Mr Raduta. It noted from the substantive determination that the most recent communication from Mr Raduta to the NMC, which stated that he had left the United Kingdom, was made in February 2020, more than two and a half years ago.

The panel noted that the previous panel '*noted that the charges occurred during one shift, it found the charges proved serious, showed a pattern of behaviour, illustrated a deep-seated attitudinal issue and included dishonesty*'. It determined that whilst it was difficult to remediate the misconduct it may be possible to do so with reflection alongside engagement in the NMC process. However, it found that Mr Raduta had clearly disengaged from the proceedings. The panel determined that the failure to engage with the proceedings in a meaningful way raises fundamental questions about Mr Raduta's professionalism as a registered nurse, is indicative of a lack of respect for the NMC as his regulator and shows a negative attitude towards the profession. It therefore determined, given Mr Raduta's non-engagement, that a further period of suspension would not serve any useful purpose in all of the circumstances.

The panel determined that the public interest will be best served by not prolonging proceedings with another period of suspension and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order. The panel determined that such an order was necessary to maintain public confidence in the profession.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 25 October 2022 in accordance with Article 30(1).

This decision will be confirmed to Mr Raduta in writing.

That concludes this determination.