

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

**Substantive Order Review Meeting
Friday, 16 August 2024**

Virtual Meeting

Name of Registrant: Thankgod Reuben

NMC PIN 01A10300

Part(s) of the register: Registered Nurse Adult – Sub part 1
RN1 – 21 December 2000

Relevant Location: Hampshire

Type of case: Misconduct

Panel members: Dale Simon (Chair, lay member)
Katrina Maclaine (Registrant member)
David Newsham (Lay member)

Legal Assessor: Breige Gilmore

Hearings Coordinator: Khatra Ibrahim

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect at the end of 19 September 2024 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 the Notice of Meeting had been sent to Mr Reuben's registered email address by secure email on 12 July 2024.

The panel took into account that the Notice of Meeting provided details of the review that the review meeting would be held no sooner than 12 August 2024 and inviting Mr Reuben to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In light of all of the information available, the panel was satisfied that Mr Reuben 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).

Decision and reasons on review of the current order

The panel decided to make a suspension order for a period of 6 months.

This order will come into effect at the end of 19 September 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of a substantive conditions of practice order originally imposed for a period of nine months by a Fitness to Practise Committee panel on 19 May 2023.

This was reviewed on 6 February 2024, and the conditions of practice order was replaced by a suspension order for a period of six months.

The current order is due to expire at the end of 19 September 2024.

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:

'On 13 October 2020:

1. Took hold of Patient A's right wrist:

- i. when there was no clinical need to do so.*
- ii. or, in the alternative, with more force that was clinically required.*

2. Twisted Patient A's right wrist:

- i. when there was no clinical need to do so.*
- ii. or, in the alternative, with more force that was clinically required.'*

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 has considered carefully whether Mr Reuben'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 Reuben's fitness to practise remains impaired.

The panel noted that the original substantive panel found that Mr Reuben had not demonstrated any insight or remorse. It noted that the original substantive panel had no evidence before it to demonstrate that Mr Reuben had an understanding of how his actions caused a vulnerable patient to suffer injury, pain and distress. This panel had no new information before it to suggest any development of insight or remorse.

In its consideration of whether Mr Reuben has strengthened his practice, the panel took into account that the original substantive panel had no information before it regarding any steps Mr Reuben may have taken to address the concerns raised about his practice. This panel was not provided with any evidence of the same from Mr Reuben and had no further information to demonstrate that the concerns about his practice identified by the original substantive panel have been addressed and were unlikely to reoccur. Mr Reuben has not engaged with the NMC to provide any information such as testimonials/employment references or evidence demonstrating that he has complied with the conditions of practice order imposed. He has not provided any evidence of relevant training addressing the regulatory concerns. The panel therefore determined that there was no evidence before it to demonstrate that Mr Reuben has strengthened his nursing practice since the conditions of practice order was put in place.

The original substantive panel determined that Mr Reuben was liable to repeat matters of the kind found proved. Today's panel has concluded, given the lack of engagement, lack of evidence of insight, remorse or strengthened practice, that there still remains a risk of harm to the public. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

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, in this case, a finding of continuing impairment on public interest grounds is also required.

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

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

'Having found Mr Reuben's 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 Reuben'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 Reuben'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 imposing a conditions of practice order on Mr Reuben's registration would still be a sufficient and appropriate response. It was mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind that Mr Reuben has not engaged with the NMC and has not followed the last panel's recommendations. It also noted that it has no knowledge of Mr Reuben's current circumstances. As a result, the panel could not be satisfied that Mr Reuben would be willing to comply with a conditions of practice

order in the future and therefore concluded that a conditions of practice order is no longer practicable in this case. It determined that a conditions of practice order was not appropriate to protect the public or satisfy the wider public interest.

The panel considered the imposition of a suspension order. It considered that a suspension order would allow Mr Reuben a further opportunity to fully reflect on his previous failings. The panel was of the view that a six month suspension order would afford Mr Reuben adequate time to engage with the NMC, and to demonstrate insight and steps he has taken to strengthen his practice. It would also give Mr Reuben an opportunity to provide evidence of compliance with the previous conditions of practice order.

The panel therefore determined that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. Accordingly, the panel decided to impose a suspension order for the period of six months to give Mr Reuben a further opportunity to engage with the NMC. It considered this to be the most appropriate and proportionate sanction available.

The panel gave serious consideration to a strike-off order. However, it determined that it would be disproportionate at this stage. The panel noted that a strike-off order would be available to the next reviewing panel.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely the end of 19 March 2024 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. It will be open to Mr Reuben to apply for an early review of the suspension order if he has new information to provide.

Registered professionals have a duty to cooperate with their regulator in its consideration of matters affecting their fitness to practise. If they do not, they throw into question their suitability to remain on the register. Mr Reuben has failed to communicate with the NMC at all in the period since the substantive hearing. A key

requirement for a future panel will be information about Mr Reuben's current work circumstances and future intentions, whether this is work inside or outside of the nursing profession. It would also be assisted by:

- *Mr Reuben's engagement with the NMC*
- *Mr Reuben's attendance at a future NMC hearing*
- *Evidence of up-to-date training addressing the regulatory concerns*
- *Up-to-date testimonials and references from those that Mr Reuben works with.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Reuben'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 and Mr Reuben's recently completed training certificate.

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 Reuben's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mr Reuben had no insight. At this meeting this reviewing panel noted that it had insufficient evidence before it to

demonstrate that Mr Reuben had an understanding of the impact his actions had on a vulnerable patient, and that there was no evidence of remorse.

Today's panel noted that it had no information before it to evidence that Mr Reuben had taken any steps to address the concerns raised related to his clinical practice. The panel determined that due to the minimal engagement with the NMC, and the fact that the information provided does not demonstrate that he had strengthened his practice, there remains a real risk of repetition.

The last reviewing panel determined that Mr Reuben was liable to repeat matters of the kind found proved. Today's panel determined that due to the lack of evidence of insight and remorse, that Mr Reuben remains liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

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, in this case, a finding of continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Mr Reuben's 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 Reuben'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 Reuben'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 Reuben'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 that Mr Reuben has failed to comply with the conditions of practice order imposed at the original hearing and concluded that there was nothing to suggest that Mr Reuben would comply with a conditions of practice order in the future. The panel therefore concluded that an imposition of a conditions of practice order would not be appropriate in this case.

The previous reviewing panel had seriously considered the imposition of a striking off order due to Mr Reuben's lack of engagement and failure to comply with the recommendations made by the original panel. This panel noted that following the imposition of the suspension order in February of this year, Mr Reuben submitted a training certificate dated March 2024. This panel were of the view that the training certificate did not address the concerns of the original panel in that it was a multi subject online course that was not assessed, and it also was not accompanied with any reflections from Mr Reuben on how the training day had strengthened his practice.

The panel concluded that the provision of the training certificate was the first sign of engagement with the NMC by Mr Reuben since the imposition of the original order. Therefore, the panel decided to impose a further suspension order to give Mr Reuben another opportunity to fully address the concerns of the original panel, by demonstrating that he has developed insight and strengthened his practice.

The panel determined that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 6 months.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 19 September 2024 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:

- An extensive reflective piece detailing the impact Mr Reuben's actions had on his patient, the patient's family, colleagues, his employer and the reputation of the nursing profession;
- Engagement with the NMC and attendance at any future hearing;
- Evidence of completed up to date training courses addressing the regulatory concerns;
- Up to date testimonials and references from those that Mr Reuben works with.

This will be confirmed to Mr Reuben in writing.

That concludes this determination.