

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

**Substantive Order Review Meeting
Thursday, 5 December 2024**

Virtual Meeting

Name of Registrant: Mariana Angelova Svetlinska

NMC PIN: 05J03520

Part(s) of the register: Registered Nurse – RN1
Adult Nursing - October 2005

Relevant Location: Bournemouth, Christchurch and Poole

Type of case: Misconduct

Panel members: Caroline Jones (Chair, Registrant member)
Vivienne Cooper-Thorne (Registrant member)
Saiqa Shaffi (Lay member)

Legal Assessor: Nigel Mitchell

Hearings Coordinator: Hamizah Sukiman

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect immediately in accordance with Article 30(2)**

Decision and reasons on service of Notice of Meeting

The panel had sight of the Notice of Meeting, which was sent to Mrs Svetlinska's registered email address by secure email on 22 October 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 2 December 2024 and inviting Mrs Svetlinska to provide any written evidence within seven days, or request for this matter to be heard at a hearing.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mrs Svetlinska 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 impose a suspension order for a period of six months. This order will come into effect immediately in accordance with Article 30(2) of the Nursing and Midwifery Order 2001 (as amended) ('the Order').

This is the first review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 14 December 2023.

The current order is due to expire at the end of 15 January 2025.

The panel is reviewing the order pursuant to Article 30(2) of the Order.

The charges found proved which resulted in the imposition of the substantive order were as follows:

“That you, a registered nurse between 12 February 2018 and 28 March 2018, whilst working in your capacity as home manager:

1) Failed in your duty to:

- a) ...
- b) *Ensure residents were being re-positioned as required;*
- c) ...
- d) ...
- e) *Ensure residents toilet and incontinence needs were being met;*
- f) *Ensure prescribed medications were being applied/administered;*
- g) *Ensure residents were being provided with adequate hydration;*
- h) ...
- i) ...
- j) *Ensure resident’s care was being delivered in line with their care plans;*
- k) *Ensure residents personal and hygiene care needs were being met;*
- l) ...
- m) ...
 - i) ...
 - ii) ...
- n) ...

2) Failed in your duty to:

- a) *Ensure residents fluid and food records were accurate;*
- b) *Ensure residents records were accurately completed without falsification;*
- c) ...
- d) ...
 - i) ...
 - ii) ...
 - iii) ...
- e) ...

3) ...

- a) ...

- b) ...
- c) ...
- d) ...
 - i. ...
 - ii. ...
 - iii. ...
 - iv. ...
 - v. ...
 - vi. ...
- e) ...
- f) ...
- g) ...
- h) ...

4) *Failed in your duty to:*

- a) ...
- b) ...
- c) ...
- d) *Take action to avoid further harm being suffered by a resident when notified of such harm by an Inspector of the Care Quality Commission.*

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

The panel at the substantive hearing determined the following with regard to impairment:

“The panel is aware that this is a forward-looking exercise and accordingly, it went on to consider whether Mrs Svetlinska’s misconduct is remediable and whether she had strengthened her nursing practice.

Regarding insight, the panel was of the view that Mrs Svetlinska has failed to show insight into her conduct. It noted that Mrs Svetlinska has failed to demonstrate insight on the impact of her conduct on residents at the Home, her colleagues and

the nursing profession. The panel was concerned that Mrs Svetlinska did not demonstrate any understanding of the seriousness of her failings. Mrs Svetlinska did not provide any information about any detailed steps she would take if similar scenarios should occur in future or to prevent such situation in future.

The panel had regard to the case of Cohen v GMC, where the court addressed the issue of impairment with regard to the following three considerations:

- a. 'Is the conduct that led to the charge easily remediable?*
- b. Has it in fact been remedied?*
- c. Is it highly unlikely to be repeated?'*

The panel was of the view that Mrs Svetlinska's misconduct was generally capable of remediation. However, it noted that there was no evidence before it to indicate that Mrs Svetlinska had strengthened her nursing practice in the areas of concern. Mrs Svetlinska has not provided any evidence of training nor testimonials to demonstrate any positive steps she had taken to remediate her failings and strengthen her nursing practice.

In light of this, this panel determined that there is a real risk of repetition of Mrs Svetlinska's failings and therefore concluded 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; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel had regard to the serious nature of Mrs Svetlinska's failings and determined that public confidence in the profession would be undermined if a finding of impairment were not made in this case. It was of the view that a fully informed member of the public, aware of the proven charges in this case and her

failure to strengthen her nursing practice, would be very concerned if Mrs Svetlinska were permitted to practise as a registered nurse without restrictions. For this reason, the panel determined that a finding of current impairment on public interest grounds is required. It decided that this finding is necessary to mark the seriousness of the misconduct, the importance of maintaining public confidence in the nursing profession, and to uphold the proper professional standards for members of the nursing profession.

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

The previous panel then determined the following with regard to sanction:

"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 Mrs Svetlinska's nursing 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 Mrs Svetlinska'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 placing conditions of practice on Mrs Svetlinska'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 took into account the SG, in particular:

'Conditions may be appropriate when some or all of the following factors are apparent:

- no evidence of harmful deep-seated personality or attitudinal problems;*

- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *.....;*
- *potential and willingness to respond positively to retraining;*
- *.....;*
- *patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *the conditions will protect patients during the period they are in force; and*
- *conditions can be created that can be monitored and assessed.'*

The panel noted that there was no evidence of deep-seated attitudinal concerns in this case. It was of the view that the concerns identified in this case could be addressed through retraining, robust supervision and assessment of Mrs Svetlinska's nursing practice.

Given the risks that have been identified and the context of the concerns, the panel was satisfied that the risks can be addressed and mitigated with a conditions of practice order. The panel determined that it would be possible to formulate appropriate and workable conditions which would address the failings highlighted in this case and which would protect the public and meet the public interest, while supporting Mrs Svetlinska's return to nursing practice.

Balancing all of these factors, the panel determined that that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of this case. It was of the view that the concerns could be addressed by a conditions of practice order and that it would be unduly punitive in the circumstances of this case to impose a suspension order or a striking-off order."

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Svetlinska'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 considering 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 had regard to all of the documentation before it 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 Mrs Svetlinska's fitness to practise remains impaired. The panel considered that the burden is on Mrs Svetlinska to prove that her fitness to practise is not currently impaired, following the finding made in relation to her impairment at the substantive hearing.

The panel noted that the substantive hearing panel found that Mrs Svetlinska had failed to show insight into her conduct, and it was of the view that a reviewing panel would be assisted by a reflective piece from Mrs Svetlinska demonstrating her insight into the concerns. At this meeting, this panel was informed that Mrs Svetlinska has not engaged with the NMC for over six years. The panel determined that, in the absence of her engagement or reflective piece before this panel indicating insight, Mrs Svetlinska has not discharged her burden to indicate that her current fitness to practise is not impaired.

In its consideration of whether Mrs Svetlinska has taken steps to strengthen her practice, this panel considered that there is no evidence before it indicating Mrs Svetlinska has completed any relevant training since the imposition of the order, as recommended by the substantive hearing panel. The panel was not satisfied that Mrs Svetlinska has strengthened her practice, and consequently, it was of the view that the risk to the public remains.

The substantive hearing panel determined that Mrs Svetlinska was liable to repeat matters of the kind found proved. Today's panel has not received any new information from Mrs Svetlinska in relation to her insight, remediation, or the strengthening of her practice. Consequently, the panel determined that Mrs Svetlinska remains liable to repeat matters of the kind found proved, and it decided that a finding of continuing impairment remains necessary on public protection grounds.

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 Mrs Svetlinska's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Svetlinska'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 Mrs Svetlinska'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 Mrs Svetlinska'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 further conditions of practice order on Mrs Svetlinska's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel then considered a conditions of practice order. The panel determined that Mrs Svetlinska has not engaged with the NMC since the imposition of the conditions of practice order and there is no information before it to conclude that Mrs Svetlinska is willing to comply with any conditions imposed upon their practice. The panel acknowledged that a conditions of practice order is the appropriate sanction to address the misconduct at the time of the substantive hearing. However, the panel determined that Mrs Svetlinska's non-engagement has rendered the imposition of a further conditions of practice order unworkable, as it was not satisfied that compliance with a conditions of practice order will be achieved. The panel was of the view that, given the public protection concerns identified, it would be inappropriate to impose a further conditions of practice order when there is no evidence of Mrs Svetlinska's intention to comply.

On this basis, the panel concluded that a conditions of practice order is no longer the appropriate order in this case. The panel concluded that no workable conditions of practice could be formulated which would protect the public or satisfy the wider public interest.

The panel next considered whether a suspension order is the appropriate sanction which would address the public protection and public interest concerns. It had regard to the SG on suspension orders (SAN-3d), which stated a suspension order may be suitable when:

- *“a single instance of misconduct but where a lesser sanction is not sufficient;*
- *no evidence of harmful deep-seated personality or attitudinal problems;*
- *no evidence of repetition of behaviour since the incident;*
- *the Committee is satisfied that the nurse, midwife or nursing associate has insight and does not pose a significant risk of repeating behaviour;*
- ...
- ...”

The panel noted that the concerns were not a single instance of misconduct.

The panel had regard to the findings at the substantive hearing, which determined that there is no evidence of harmful, deep-seated attitudinal concerns. However, the panel was of the view that Mrs Svetlinska's continued non-engagement may be indicative of some attitudinal concerns at this stage. Notwithstanding this, the panel was not satisfied, at this review meeting, that this concern was deep-seated or fundamentally incompatible with remaining on the nursing register at this stage.

The panel also considered that there has been no evidence on whether there has been repetition, and there is no information before it on Mrs Svetlinska's insight. However, the panel was of the view that, at this stage, a suspension order may allow Mrs Svetlinska the time and opportunity to engage with the NMC regarding her insight and demonstrate that the risk of repetition of the misconduct proved has diminished or ceased.

Accordingly, the panel determined to impose a suspension order for the period of six months. It was of the view that this period of suspension would provide Mrs Svetlinska with an opportunity to engage with the NMC and indicate her future plans in relation to her nursing career. If she wishes to return to nursing, the panel was satisfied that this period of suspension would give her adequate time to reflect on the findings made against her and strengthen her practice.

The panel noted that Mrs Svetlinska had not engaged with the NMC for over six years despite her duty to comply with her regulator in relation to these proceedings. The panel was of the view that a future reviewing panel could take this into account when considering Mrs Svetlinska's attitude to the regulator and the regulatory process more generally, and whether this is compatible with remaining on the nursing register.

The panel considered that, at this stage, a striking-off order would be disproportionate and inappropriate. It was of the view that, at this stage, the public protection and public interest considerations could be served by a lesser sanction which would give Mrs Svetlinska a further opportunity to reflect on how she wishes to proceed and engage with the NMC.

This suspension order will replace the current conditions of practice order with immediate effect in accordance with Article 30(2) as the panel has deemed the imposition of a conditions of practice order unworkable due to Mrs Svetlinska's non-engagement.

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:

- Mrs Svetlinska's engagement and attendance at any future review hearing;
- Any information as to Mrs Svetlinska's future nursing career plans;
- A reflective piece from Mrs Svetlinska, demonstrating insight into the concerns;
- Any references or testimonials attesting to Mrs Svetlinska's capability to perform her duties in any paid or unpaid work; and
- Evidence of any strengthening of Mrs Svetlinska's practice, including training certificates in the areas of concern.

This will be confirmed to Mrs Svetlinska in writing.

That concludes this determination.