

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

**Substantive Order Review Meeting
Wednesday, 15 May 2024**

Virtual Meeting

Name of Registrant: **Claudiu Gabriel Irimia Ungureanu**

NMC PIN: 16J0032C

Part(s) of the register: Registered Nurse – RN1, Adult Nurse (October 2016)

Relevant Location: Wirral

Type of case: Misconduct

Panel members: Paul Grant (Chair, Lay member)
Vivienne Stimpson (Registrant member)
Clare Taggart (Lay member)

Legal Assessor: Ruth Mann

Hearings Coordinator: Eyram Anka

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Striking-Off order to come into effect on 28 June 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 Ungureanu's registered email address by secure email on 5 April 2024.

The panel took into account that the Notice of Meeting provided details of the review, informed Mr Ungureanu that the review meeting would be held no sooner than 13 May 2024 and invited him to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Ungureanu 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 striking-off order. This order will come into effect at the end of 28 June 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the third review of a substantive suspension order originally imposed for a period of 6 months by a Fitness to Practise Committee panel on 30 November 2022. This was reviewed on 17 May 2023 where a Fitness to Practise Committee panel extended the suspension order for a further 6 months. On 14 November 2023 the order was reviewed and extended for a further 6 months.

The current order is due to expire at the end of 28 June 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:

‘That you, a registered nurse in relation to Patient A:

- 1. On or about 15 April 2019:*
 - a) Encouraged them to come out of their room into a communal area*
 - b) Allowed them to be filmed*
 - c) Mocked them by:*
 - i. Dancing with them*
 - ii. Putting a hat on them*

- 2. On or about 17 April 2019:*
 - a) You received video footage by WhatsApp in relation to Charge 1(b) above*
 - b) You retained that footage*
 - c) You failed to report that:*
 - i. The video had been made by Colleague A, unknown*
 - ii. The video had been shared*

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

The second reviewing panel determined the following with regard to impairment:

‘The panel noted that the original and last reviewing panel found that Mr Ungureanu had not demonstrated sufficient insight. It noted that the original substantive panel found that Mr Ungureanu sought to excuse and minimise his actions and failed to address how his misconduct would have negatively impacted the reputation of the nursing profession, and how he would handle such situations differently in the future. This panel had no new information before it to make a different finding.

In its consideration of whether Mr Ungureanu has taken steps to strengthen his practice, the panel considered that Mr Ungureanu has not provided any information such as testimonials or employment references. He has not provided a further reflective piece detailing the impact of his misconduct on patients, colleagues and

the nursing profession. He has not provided any evidence of relevant training. The panel therefore determined that there was no evidence before it to demonstrate that Mr Ungureanu has strengthened his nursing practice.

The original substantive panel determined that Mr Ungureanu was liable to repeat matters of the kind found proved. Today's panel has concluded, given the lack of engagement, lack of developing insight, further 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 Ungureanu's fitness to practise remains impaired.'

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

'...

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mr Ungureanu further time to fully reflect on his previous failings. The panel concluded that a further 6 months suspension order would be the appropriate and proportionate response and would afford Mr Ungureanu adequate time to further develop his insight and take steps to strengthen their practice. It would also give Mr Ungureanu an opportunity to approach past and current health professionals to attest to his conduct in his workplace since his substantive hearing.

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.

The panel determined therefore 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 would provide Mr Ungureanu with an opportunity to engage with the NMC. It considered this to be the most appropriate and proportionate sanction available.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 28 December 2023 in accordance with Article 30(1).'

Decision and reasons on current impairment

The panel has considered carefully whether Mr Ungureanu'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 practise kindly, safely and professionally. 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 Ungureanu's fitness to practise remains impaired.

The panel had no new information from Mr Ungureanu demonstrating further insight, further training or professional development that would represent a significant change in

his fitness to practise. The panel noted that Mr Ungureanu has not engaged with the recommendations of the previous reviewing panel, in terms of what this panel would be assisted by. Given Mr Ungureanu's lack of engagement with the NMC proceedings since October 2021, the panel was concerned about patient protection. Further, it bore in mind that Mr Ungureanu's misconduct breached aspects of the NMC Code, namely treating patients with dignity, respecting their right to privacy and treating patients in a way that does not take advantage of their vulnerability.

The panel determined that the facts relate to a serious incident involving a vulnerable patient. It had regard to the previous panel's indication that Mr Ungureanu's misconduct was remediable, however, the panel had no information to support any kind of remediation. Additionally, the panel considered that Mr Ungureanu has not demonstrated an understanding as to why his actions amounted to misconduct.

The panel took the view that that without any information from Mr Ungureanu as to his level of insight, there remains a real risk of repetition because there is nothing to indicate that he can now practise kindly, safely and professionally. Additionally, due to Mr Ungureanu's lack of engagement with these proceedings the panel has no evidence to conclude that the level of risk has been reduced. 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. Given the risk of repetition and the nature of the misconduct, the panel determined that a well-informed member of the public would be shocked if the NMC did not make a finding of impairment in these circumstances. Consequently, the panel found that a finding of continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Mr Ungureanu'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 and the risk of repetition. 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 Ungureanu'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 Ungureanu'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 Mr Ungureanu'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 seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. Given Mr Ungureanu's lack of engagement the panel was not able to formulate conditions of practice that would adequately address the concerns relating to his misconduct.

The panel next considered imposing a further suspension order. The panel noted that Mr Ungureanu has not engaged with the NMC process and had previously shown only qualified remorse for his misconduct. Further, given his lack of engagement, the panel has no new information to suggest that Mr Ungureanu's previous limited insight into his failings

has improved. There is a significant risk of his misconduct being repeated. The panel was of the view that considerable evidence would be required to show that Mr Ungureanu no longer posed a risk to the public. The incident in question took place in April 2019 some three and a half years prior to Mr Ungureanu's substantive hearing in November 2022. Since that time Mr Ungureanu has had three previous regulatory hearings at which he had the opportunity to demonstrate how he was strengthening his practice and addressing his previous misconduct. He has failed to take advantage of the opportunities. Given this context, the panel determined that a further period of suspension would not serve any useful purpose. The panel therefore concluded that it was necessary to take action to prevent Mr Ungureanu from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

The panel recognised that this sanction may result in adverse consequences for Mr Ungureanu. However, in applying the principle of proportionality, the panel determined that, the need to protect the public and the wider public interest outweighed Mr Ungureanu's interest in this regard.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 28 June 2024 in accordance with Article 30(1).

This decision will be confirmed to Mr Ungureanu in writing.

That concludes this determination.