

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

**Substantive Order Review Meeting
Wednesday 4 September 2024**

Virtual Meeting

Name of Registrant: Cosmin-Andrei Ivana

NMC PIN: 15L0363C

Part(s) of the register: Registered Adult Nurse - RNA
Level 1 - (December 2015)

Relevant Location: Hampshire

Type of case: Misconduct

Panel members: Gregory Hammond (Chair, lay member)
Helen Reddy (Registrant member)
Stacey Patel (Lay member)

Legal Assessor: Marian Killen

Hearings Coordinator: Rene Akar

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (12 months)**

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 Ivana's registered email address by secure email on 31 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 2 September 2024 and inviting Mr Ivana 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 Ivana 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 conditions of practice order for a period of 12 months. This order will come into effect at the end of 18 October 2024 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 conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 19 September 2023.

The current order is due to expire at the end of 18 October 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:

- 1) *On 24 April 2020 during the initial assessment in relation to Patient A, failed to:*
 - a) *complete an accurate assessment of Patient A's wound;*
 - b) *take baseline photographs of Patient A's wound;*

- 2) *Between 24 April 2020 and 10 May 2020, on more than one occasion, did not follow the correct procedure when providing wound care to Patient A by failing to:*
 - a) *complete accurately or at all the wound care chart after changing the wound dressing;*
 - b) *record an accurate assessment of the condition of the wound;*
 - c) *measure the wound;*
 - d) *take photographs of the wound each time the wound dressing was changed;*
 - e) *...*
 - f) *...*

- 3) *...*

- 4) *Between 24 April 2020 and 10 May 2020, in relation to Patient A, failed to maintain an adequate level of record keeping in that you:*
 - a) *did not complete properly or at all the care records to provide an accurate reflection of the condition of the wound;*
 - b) *did not identify and/or note the changes in the condition of the wound;*
 - c) *continued to record that there were no concerns or changes to the condition of the wound;*

- 5) *On 15 May 2020 during a telephone conversation with Colleague A you provided Colleague A with an inaccurate description of the condition of Patient A's wound in that you said:*

- a) *Patient A's wound was not infected;*
 - b) *there was a small wound with no discharge;*
 - c) *Patient A's wound dressing was being changed every 2 days when it was not;*
- 6) *On 25 May 2020 at a clinical concern meeting inaccurately reported that Patient A's wound was 'grade 2' and healing properly despite the wound being infected;*

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:

'Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, your fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of CHRE v NMC and Grant in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public

confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) ...*

The panel also referred itself to the NMC's guidance document entitled, "Impairment" referenced DMA-1 last updated on 27 March 2023. The panel found limbs a, b and c above engaged.

The panel finds that the patient was put at risk and was caused harm as a result of your misconduct. Your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel considered, as a result of your misconduct, whether you could "practise kindly, safely and professionally."

Regarding insight, in your closing submissions, you informed the panel that “I know I did some mistakes.” It was of the view that this demonstrated limited insight into your failings and there was no evidence before the panel to demonstrate whether you have strengthened your practice to reassure the panel that this would not likely be repeated in the future.

The panel was of the view that there is a risk of repetition due to the lack of evidence of strengthened practice, there is no reflective statement from you to demonstrate how you would attend to the situation differently in the future and your reflection on your conduct generally. Therefore, the panel determined that the risk of harm remains the same as there is nothing to show that this risk has reduced due to your lack of insight. 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; 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. It was of the view that a fully informed member of the public would be shocked by your part in the care undertaken at the Home and would expect professional standards and conduct to be upheld accordingly. The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest. Therefore, the panel determined that a finding of impairment on public interest grounds is required.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.’

The original panel determined the following with regard to sanction:

‘Decision and reasons on sanction

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Lack of insight into failings;*
- A pattern of misconduct over a period of time;*
- Conduct which put patients at risk of suffering harm;*
- No attempt to address the failings/misconduct;*
- Panel cannot be reassured that something similar may not happen again the future; and;*
- No evidence to show that you can practise safely.*

The panel also took into account the following mitigating features:

- You were not the only nurse looking after Patient A and other nurses also had poor record keeping, therefore you were not solely responsible for the failings; and*
- The event occurred during the COVID-19 pandemic, which caused additional complexity in looking after residents at the Home.*

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 your 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 your 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 your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be relevant, proportionate, measurable and workable. The panel took into account the SG, in particular:

- 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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that you would be willing to comply with conditions of practice and determined that workable and measurable conditions can be put in place.

The panel had regard to the fact that these incidents happened some time ago and was of the view that it was in the public interest that, with appropriate safeguards, you should be able to return to practise as a nurse.

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 would be disproportionate and would not provide you with re-training opportunities to demonstrate insight and strengthened practice.

Having regard to your misconduct, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions are appropriate and proportionate in this case:

‘For the purposes of these conditions, ‘employment’ and ‘work’ mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, ‘course of study’ and ‘course’ mean any course of educational study connected to nursing, midwifery or nursing associates.

- 1. You must keep us informed about anywhere you are working by:
 - a) Telling your case officer within seven days of accepting or leaving any employment.*
 - b) Giving your case officer your employer’s contact details.**

- 2. You must keep us informed about anywhere you are studying by:
 - a) Telling your case officer within seven days of accepting any course of study.*
 - b) Giving your case officer the name and contact details of the organisation offering that course of study.**

- 3. You must immediately give a copy of these conditions to:*

- a) *Any organisation or person you work for.*
 - b) *Any employers you apply to for work (at the time of application).*
 - c) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
4. *You must tell your case officer, within seven days of your becoming aware of:*
- a) *Any clinical incident you are involved in.*
 - b) *Any investigation started against you.*
 - c) *Any disciplinary proceedings taken against you.*
5. *You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:*
- a) *Any current or future employer.*
 - b) *Any educational establishment.*
 - c) *Any other person(s) involved in your retraining and/or supervision required by these conditions.*
6. *You will send the NMC a report seven days in advance of the next NMC hearing or meeting from:*
- a) *your line manager.*
 - b) *mentor or supervisor.*
7. *You must limit your nursing to a single employer which must not be an agency.*
8. *You must ensure that you are supervised by a registered nurse of band 6 or above any time you are working. Your supervision must consist of:*

- *Working at all times on the same shift as, but not always directly observed by, a registered nurse of band 6 or above.*
 - *Biweekly meetings with your supervisor who should be a registered nurse of band 6 or above to discuss your progress, with a particular focus on record keeping and wound management.*
9. *You will send your case officer evidence that you have successfully completed accredited courses on record keeping and wound management within 3 months of commencing employment.*
10. *You must work with your supervisor to create a personal development plan (PDP). Your PDP must address the concerns about record keeping and wound management. You must:*
- *Send your case officer a copy of your PDP within 7 days of commencing employment.*
 - *Send your case officer a report from your supervisor every month. This report must show your progress towards achieving the aims set out in your PDP.*
11. *You must engage with your supervisor on a frequent basis to ensure that you are making progress towards aims set in your personal development plan (PDP), which include:*
- *Meeting with your supervisor biweekly to discuss your progress towards achieving the aims set out in your PDP.*

The period of this order is for up to 12 months.

Before the order expires, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- *Evidence of professional development, including documentary evidence of completion of the above mentioned courses, and testimonials from a line manager or supervisor that detail your current work practices.*

This will be confirmed to you in writing.'

Decision and reasons on current impairment

The panel has considered carefully whether Mr Ivana'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 guidance.

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 Ivana's fitness to practise remains impaired.

The panel finds that patients were put at risk as a result of Mr Ivana's misconduct. Mr Ivana's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel considered that Mr Ivana has not provided any material to today's panel and therefore has not demonstrated an understanding of how his actions put the patient involved at a risk of harm. The panel also considered that Mr Ivana has not shown how his conduct has negatively impacted the reputation of the nursing profession. The panel noted there is nothing before it to demonstrate any strengthened practice.

Accordingly, the panel is of the view that there is a risk of repetition as there has not been any evidence of remediation or training courses or testimonials completed since the original substantive hearing. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind 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 determined that a finding of impairment on public interest grounds is required. Mr Ivana remains liable in the future to put the public at risk of harm, bring the reputation of the profession into disrepute and breach fundamental tenets of the profession.

The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mr Ivana's fitness to practise impaired on the grounds of public interest.

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

Decision and reasons on sanction

Having found Mr Ivana'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 ongoing need for public protection. 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 Ivana'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 Ivana'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 Mr Ivana's misconduct 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 determined that it would be possible to formulate appropriate and practicable conditions which would address the failings highlighted in this case.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that there were no deep-seated attitudinal problems. In this case, there are conditions that could be formulated which would protect patients during the period they are in force. The panel was

of the view that it would be reasonable to allow Mr Ivana another year to demonstrate compliance with the conditions and strengthen his practice.

The panel was of the view that to impose a suspension order would be disproportionate at this time and would not be a reasonable response in the circumstances because a lesser sanction would be sufficient.

Accordingly, the panel determined, pursuant to Article 30(1)(c), to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 18 October 2024. It decided to continue the previous conditions which it considered are appropriate and proportionate in this case:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

1. You must keep us informed about anywhere you are working by:
 - a) Telling your case officer within seven days of accepting or leaving any employment.
 - b) Giving your case officer your employer's contact details.

2. You must keep us informed about anywhere you are studying by:
 - a) Telling your case officer within seven days of accepting any course of study.
 - b) Giving your case officer the name and contact details of the organisation offering that course of study.

3. You must immediately give a copy of these conditions to:
 - a) Any organisation or person you work for.
 - b) Any employers you apply to for work (at the time of application).

- c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
4. You must tell your case officer, within seven days of your becoming aware of:
 - a) Any clinical incident you are involved in.
 - b) Any investigation started against you.
 - c) Any disciplinary proceedings taken against you.
5. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
 - a) Any current or future employer.
 - b) Any educational establishment.
 - c) Any other person(s) involved in your retraining and/or supervision required by these conditions.
6. You will send the NMC a report seven days in advance of the next NMC hearing or meeting from:
 - a) your line manager.
 - b) mentor or supervisor.
7. You must limit your nursing to a single employer which must not be an agency.
8. You must ensure that you are supervised by a registered nurse of band 6 or above any time you are working. Your supervision must consist of:
 - Working at all times on the same shift as, but not always directly observed by, a registered nurse of band 6 or above.
 - Biweekly meetings with your supervisor who should be a registered nurse of band 6 or above to discuss your

progress, with a particular focus on record keeping and wound management.

9. You will send your case officer evidence that you have successfully completed accredited courses on record keeping and wound management within 3 months of commencing employment.

10. You must work with your supervisor to create a personal development plan (PDP). Your PDP must address the concerns about record keeping and wound management. You must:
 - Send your case officer a copy of your PDP within 7 days of commencing employment.
 - Send your case officer a report from your supervisor every month. This report must show your progress towards achieving the aims set out in your PDP.

11. You must engage with your supervisor on a frequent basis to ensure that you are making progress towards aims set in your personal development plan (PDP), which include:
 - Meeting with your supervisor biweekly to discuss your progress towards achieving the aims set out in your PDP.

The period of this order is for 12 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 18 October 2024 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well Mr Ivana has complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Mr Ivana's engagement
- Evidence of training courses in record keeping and wound management
- A reflective piece
- Testimonials or a line manager's report

This will be confirmed to Mr Ivana in writing.

That concludes this determination.