

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

**Substantive Order Review Meeting
Tuesday 4 February 2025**

Virtual Meeting

Name of Registrant: Daniela-Cristina Mihai

NMC PIN 14L0004C

Part(s) of the register: RN1: Adult nurse
Level 1 - 2 December 2014

Relevant Location: Tameside

Type of case: Misconduct

Panel members: Dave Lancaster (Chair, lay member)
Dorothy Keates (Registrant member)
Laura Wallbank (Registrant member)

Legal Assessor: John Moir

Hearings Coordinator: Emma Norbury-Perrott

Order being reviewed: Conditions of practice order (18 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect at the end of 21 March 2025 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 Ms Mihai's registered email address by secure email on 3 January 2025.

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 3 February 2025 and inviting Ms Mihai 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 Ms Mihai 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 six month suspension order. This order will come into effect at the end of 21 March 2025 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 18 months by a Fitness to Practise Committee panel on 23 August 2023.

The current order is due to expire at the end of 21 March 2025.

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 16 June 2020 in relation to Resident A:

- a) At approximately 6:45 am failed to carry out any clinical observations.
- b) At approximately 7:30 am failed to carry out any clinical observations.
- c) Failed to recognise and/or escalate concerns about Resident A's deteriorating health.

2) Failed to make adequate records in relation to Resident A, in that you:

- a) Did not record that Resident A had vomited.
- b) Did not document any changes to Resident A's condition.
- c) Did not document any clinical observations.

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 finds Ms Mihai's failures in respect of Resident A, namely, to carry out any clinical observations, recognise and escalate concerns about his condition and to document any clinical observations placed Resident A, a vulnerable patient, at an unwarranted risk of harm. The panel has determined that Ms Mihai's misconduct breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute by her past actions. The panel are aware that this is a forward-looking exercise, and accordingly it went on to consider whether Ms Mihai's misconduct was remediable and whether it had been remediated.

The panel had regard to the case of Cohen and considered whether the misconduct identified is capable of remediation. It determined that the misconduct is such that it can be remediated through the demonstration of

sufficient reflection on the behaviour, insight and evidence of strengthened practice.

The panel then went on to consider whether Ms Mihai remained liable to act in a way to put patients at risk of harm, to bring the profession into disrepute and to breach fundamental tenets of the profession in the future. In doing so, the panel considered whether there was any evidence of insight and remediation.

Regarding insight, the panel first took into account Ms Mihai's email dated 10 February 2022 in which she outlines her response to the regulatory concerns. She states:

'There are many things I could not prove, but I want to specify once again: the patient's condition was as I described it, which is why I did not act.

[...]

I also want to specify that I know my skills and competence as a nurse, I like my job and in all the years I have been practicing in England, I have not had a single mistake or complaint. I know who I am, I love my job, and I've never put in danger the patients or staff I've worked with.'

The panel then took into account the notes from the local investigation meeting, and it noted that Ms Mihai stated that she 'did not do anything wrong'. Ms Mihai subsequently resigned from her position at the Home with immediate effect. The panel considered that Ms Mihai had not recognised her failings in respect of Resident A, nor has she shown any remorse for her actions, as she has sought to blame others for her failures.

The panel also considered that Ms Mihai has not engaged with these proceedings since her email on 10 February 2022 or provided any further information, even after being made aware of the allegations. Therefore, the panel concluded that Mrs Mihai has not demonstrated any insight into

her misconduct and has not considered the seriousness of her actions, the impact of her behaviour on patients, colleagues or the reputation of the profession.

The panel then considered what steps Ms Mihai has taken to strengthen her practice and to remediate her misconduct. In the absence of any steps to strengthen her practice such as evidence of relevant training or a reflective piece, the panel concluded that Ms Mihai had not remediated her misconduct. In all the circumstances, the panel considered that there is a risk of repetition and that should Ms Mihai return to practice, she remained liable to act in a way which could place patients at risk of harm, bring the profession into disrepute and breach fundamental tenets of the profession in the future. The panel therefore determined that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objective of the NMC is: 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 concluded, given the seriousness of Ms Mihai's misconduct, that public confidence in the profession and in the regulator would be undermined if a finding of impairment were not made in this case. Therefore, the panel also finds Ms Mihai's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Ms Mihai's fitness to practise is currently impaired on both public protection and public interest grounds.'

The original panel determined the following with regard to sanction:

'Having found Ms Mihai's 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 considered the following aggravating features in this case:

- Ms Mihai's misconduct put Resident A, a vulnerable patient, at risk of harm.*
- Ms Mihai has shown a lack of insight.*

The panel then considered the mitigating features in this case and noted that Ms Mihai's misconduct occurred on one shift within a relatively short period of time. Whilst the panel acknowledged this, it considered that concerns were raised by carers in respect of Resident A on two occasions, and on each occasion, Ms Mihai failed to respond appropriately to the concerns raised. The panel, therefore, did not consider Ms Mihai's misconduct to be a momentary lapse in her clinical judgment and in these circumstances, did not identify the short period of incident as a mitigating feature.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public interest and protection issues identified, an order that does not restrict Ms Mihai'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 seen as a whole Ms Mihai's failings were not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified.

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

The panel took into account the SG, which sets out when conditions may be appropriate, and it concluded that the following apply in this case:

- 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;*
 - No evidence of general incompetence;*
 - Potential and willingness to respond positively to retraining;*
 - 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 considered that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel was of view that the issues identified could be addressed through retraining and supervision and that this order would allow Ms Mihai to evidence a period of safe and effective practice. Further, the panel considered that a conditions of practice order would meet the public interest, Ms Mihai would be able to continue practising as a nurse when she returns to England as there is no evidence of general incompetence or attitudinal issues and the public would be adequately protected by the imposition of appropriate conditions.

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

Accordingly, the panel imposed a conditions of practice order for the period of 18 months. The panel considered that such a period of time would afford Ms Mihai the opportunity to develop her insight and evidence

a period of safe and effective practice, whilst working under the conditions of practice order.

The panel was of the view that to impose a suspension order would be disproportionate and would not be a reasonable response in the circumstances of Ms Mihai's case. The panel considered that it would also deprive Ms Mihai of the opportunity to evidence safe and effective practice.

Having regard to the matters it has identified, the panel 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 restrict your nursing practice to one substantive employer or one agency with a minimum placement with that entity of one month.*
- 2. You must ensure that you are supervised by another registered nurse any time you are working. Your supervision must be indirectly supervised at all times on the same shift as, but not always directly observed by a registered nurse.*
- 3. You must work with your line manager/mentor/supervisor to*

create a personal development plan (PDP) within eight weeks of starting a job. Your PDP must address record keeping, clinical assessment skills including use of the National Early Warning Score ('NEWS') and Sepsis protocols and recognising and escalating concerns. You must:

- Meet with your line manager/mentor/supervisor monthly to discuss your progress towards achieving the aims set out in your PDP.*
 - Send your case officer a report from your line manager/mentor/supervisor seven days prior to the NMC review of the substantive order. This report must show your progress towards achieving the aims set out in your PDP.*
- 4. You must send to your case officer a reflective piece seven days prior to the NMC review of this substantive order. This should address your record keeping, clinical assessments and the impact of your actions on Resident A, colleagues and the reputation of the profession.*
 - 5. You must keep the NMC informed about anywhere you are working as a nurse 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.**
 - 6. You must keep the NMC 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.**

7. You must immediately give a copy of these conditions to:

- a. Any organisation or person you work for.*
- b. Any agency you apply to or are registered with for work.*
- c. Any employers you apply to for work (at the time of application).*
- d. Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*

7. You must tell your case officer, within seven days of your becoming aware of:

- Any clinical incident you are involved in.*
- Any investigation started against you.*
- Any disciplinary proceedings taken against you.*

8. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

- Any current or future employer.*
- Any educational establishment.*
- Any other person(s) involved in your retraining and/or supervision required by these conditions.*

Before the order expires, a panel will hold a review hearing to see how well Ms Mihai 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:

- Ms Mihai's engagement with the NMC, including attendance at*

any review hearing.

- *References or testimonials relating to any paid or voluntary work.*
- *Evidence of training relating to record keeping, escalating concerns, Sepsis and clinical assessment skills.*
- *A reflective piece.'*

Decision and reasons on current impairment

The panel has considered carefully whether Ms Mihai'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 Ms Mihai's fitness to practise remains impaired.

The panel noted that the original panel found that Ms Mihai had not effectively demonstrated insight or evidenced the appropriate steps to remedy past failings or strengthen her practice. The panel also noted that Ms Mihai has not contacted the NMC since 10 February 2022, demonstrating Ms Mihai's disengagement from the process. Ms Mihai has not provided any evidence of developing insight, representations, or new information and she has not complied with the conditions set out by the previous panel, specifically condition 4;

'4. You must send to your case officer a reflective piece seven days prior to the NMC review of this substantive order. This should address your record keeping, clinical assessments and the impact of your actions on Resident A, colleagues and the reputation of the profession.

Further, Ms Mihai has not provided the information recommended by the previous panel for this panel to consider. Therefore, the panel had no new information before it to demonstrate that Ms Mihai was highly unlikely to repeat the misconduct found proved by the substantive panel.

The panel noted that the misconduct is capable of remediation with committed engagement from Ms Mihai. However, in light of Ms Mihai's continued non-engagement, and the absence of evidence of insight or strengthening of practise, the panel determined that there is a continued risk that Ms Mihai will 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 given Ms Mihai's lack of engagement, and the steps she has taken to strengthen her practice.

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

Decision and reasons on sanction

Having found Ms Mihai'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 Ms Mihai'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 Ms Mihai'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 Ms Mihai's registration would still be a sufficient and appropriate response. Ms Mihai has not demonstrated any willingness to comply with the conditions of practice set out by the original panel, and nothing is known of her current circumstances or career intentions. In these circumstances the panel concluded that the current conditions of practice are no longer workable or appropriate as Ms Mihai has not demonstrated a willingness to engage with them.

The panel determined therefore that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for a period of 6 months to provide Ms Mihai with an opportunity to engage with the NMC, provide evidence of compliance with the previous conditions of practice order, and to state her current and future career intentions. It considered this to be the most appropriate and proportionate sanction available.

The panel considered a striking-off order but considered that it would be disproportionate and would not allow Ms Mihai another opportunity to engage with proceedings.

The panel notes that the full range of sanctions will be available to a future reviewing panel including that of strike-off. Ms Mihai should endeavour to provide the information

recommended below, so that an informed decision can be made by the next reviewing panel about the further progress of this case.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely the end of 21 March 2025 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:

- Engagement with the NMC and attendance at future hearings
- Written statement clarifying Ms Mihai's current, and future, nursing career intentions
- Evidence of strengthening of practice including certificates of training addressing the concerns in the facts found proved at the substantive hearing
- Reflective piece addressing the concerns in the facts found proved at the substantive hearing
- Testimonials from any employer

This will be confirmed to Ms Mihai in writing.