

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

**Substantive Order Review Hearing
Wednesday, 1 November 2023**

Virtual Hearing

Name of Registrant:	Andrei Petre Dumitrescu
NMC PIN	15H0141C
Part(s) of the register:	RN1: Adult nurse, level 1 (7 August 2015)
Relevant Location:	London
Type of case:	Misconduct
Panel members:	Tanveer Rakhim (Chair, lay member) Jim Blair (Registrant member) Margaret Wolff (Lay member)
Legal Assessor:	Breige Gilmore
Hearings Coordinator:	Rim Zambour
Nursing and Midwifery Council:	Represented by Rowena Wisniewska, Case Presenter
Mr Dumitrescu:	Present and not represented at the hearing
Order being reviewed:	Conditions of practice order (12 months)
Fitness to practise:	Impaired
Outcome:	Conditions of practice order (9 months) to come into effect on 11 December 2023 in accordance with Article 30 (1)

Decision and reasons on review of the substantive order

The panel decided to confirm and vary the current conditions of practice order.

This order will come into effect the end of date in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (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 11 November 2022.

The current order is due to expire at the end of 11 December 2023.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

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

'That you, a registered nurse:

- 1) *On 25 October 2019, in relation to Resident A:*
 - a) *Failed to recognise that Resident A was showing signs of a stroke and/or a deterioration in their health in that you said Resident A was "suffering from the side effects of dementia" and/or that "there was nothing wrong with her" or words to that effect. PROVED*
 - b) *On one or more occasions between 9:00 and 20:00 failed to seek medical assistance for Resident A, having been informed that Resident A was showing signs of a stroke and/or a deterioration in their health. PROVED*

- c) *Failed to inform Resident A's family that they were showing signs of a stroke and/or a deterioration in their health.*

PROVED BY ADMISSION

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 that a patient was put at risk and was caused physical and emotional harm as a result of Mr Dumitrescu's misconduct. Mr Dumitrescu's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel was of the view that Mr Dumitrescu had demonstrated little insight into his actions. It considered that it is extremely alarming that Mr Dumitrescu does not acknowledge and accept that his decision on 25 October 2019 was wrong. The panel noted that Mr Dumitrescu recognised that Resident A had something wrong with her speech, but he did not link it to the possibility of a stroke. The panel also took into account that Mr Dumitrescu during his submissions stated that he did not think that Resident A was in danger. The panel considered that there are gaps in Mr Dumitrescu's clinical knowledge and that if he was in the same position today, there is a real risk that he may make a similar judgement.

During Mr Dumitrescu's submissions on misconduct and impairment he explained to the panel each stage of the FAST stroke test he carried out on Resident A. The panel was of the firm view that nurses should have considerably more knowledge of the signs and symptoms of a stroke over and above those indicated in the FAST stroke test which is limited and is predominately aimed at assisting members of the general public in identifying a stroke. The evidence made it clear that it is important for a

nurse to take into account information received about the normal presentation of the patient.

The panel was satisfied that the misconduct in this case is capable of being addressed. However, having carefully considered the evidence before it, the panel considered that whilst Mr Dumitrescu had attended a two-day training course in relation to strokes, at this hearing he had failed to acknowledge that what he had done in relation to Resident A was wrong. The panel is concerned that this shows a significant lack of insight.

The panel is therefore of the view that there is a risk of repetition based on the lack of insight and lack of remediation in relation to the serious concerns regarding Mr Dumitrescu. The panel therefore 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.

The panel determined that a finding of impairment on public interest grounds is also required because an informed member of the public would be concerned to learn that Mr Dumitrescu, a registered nurse, failed to recognise the symptoms of a stroke and has not sufficiently addressed the serious concerns relating to his clinical practice. Additionally, the panel was also of the view that Mr Dumitrescu had failed to satisfy the panel that he would follow a safe practice if he were to find himself in a similar situation in the future.

In addition, 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 Dumitrescu's fitness to practise impaired on the grounds of public interest.

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

The original panel determined the following with regard to sanction:

'The panel next considered whether placing conditions of practice on Mr Dumitrescu'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:

- 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;*
- ...*
- 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 Mr Dumitrescu would be willing to comply with conditions of practice.

The panel had regard to the fact that these incidents happened three years ago. The panel noted the reference provided by Mr Dumitrescu's employer

in response to the NMC's enquiries about his nursing practice. The reference informs the panel that his previous employer had no concerns regarding his nursing practice and considered him a safe practitioner with regard to escalating concerns and identifying deteriorating health. The panel was of the view that it was in the public interest that, with appropriate safeguards, Mr Dumitrescu should be able to return to practise as a nurse.

Balancing all of these factors, the panel determined 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 Mr Dumitrescu's case because the risks identified in this case would be sufficiently mitigated with conditions of practice.

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

Decision and reasons on current impairment

The panel has considered carefully whether your fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the Nursing and Midwifery Council (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 had regard to all of the documentation before it, including the NMC bundle and your training certificates.

The panel has taken account of the submissions made by Ms Wisniewska on behalf of the NMC.

Ms Wisniewska first turned the panel's attention to the training certificates you provided and submitted that despite the evidence of relevant training, your fitness to practise remains impaired. She submitted that you have not provided sufficient evidence of insight and remediation and have not produced a reflective piece in compliance with Condition 4. Ms Wisniewska further submitted that you have demonstrated limited reflection and insight, and that this is a crucial part of your remediation.

Ms Wisniewska highlighted that you are not currently working in a nursing capacity and that this explains why you have been unable to comply with Conditions 2 and 3.

Ms Wisniewska submitted that the following limbs a, b and c of the test in the Fifth Shipment Report are engaged and your fitness to practise remains impaired:

*'...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...'*

Ms Wisniewska further submitted that it would not be appropriate for the panel to take no action or impose a caution order given the background to the case and, that this would not sufficiently restrict your practice. She submitted that it would be open to the panel to consider a suspension order given the non-compliance with Condition 4 in particular, but that the panel will be aware that you are not currently working in a nursing capacity.

Ms Wisniewska invited the panel to extend the current order for a further period of 12 months and submitted that this remains necessary and proportionate in the circumstances of the case.

The panel also had regard to your representations.

You informed the panel that you have reflected on your actions and acknowledged your guilt. You stated that you have tried to find a job within the nursing sector but have either received no response from employers or been told that they do not wish to proceed with your application due to the conditions on your practice. You also stated that you are currently working in a bakery.

You informed the panel that you have worked in Romania as a nurse for 7 months since the imposition of this order.

In response to panel questions, you stated the following:

- You have strengthened your practice in Romania when someone would not be feeling well and you would provide them with good care, good nursing and would send them to hospital;
- You have completed the relevant training;
- You have read about strokes, the importance of documentation and how to develop your skills as a nurse all on the internet and on the NHS website;
- You recognise the impact your actions had on the resident in that she has to live with the effects of the stroke in her day-to-day life and that her family has also been affected;
- Your actions have had an impact on your profession, in that this is a profession you liked, you enjoyed helping residents and whenever a resident would smile it was rewarding;
- You recognise the impact on your colleagues, in that they supported you and had conversations with you as to how to become a better nurse, how to act and how to recognise certain situations; and
- You will remain in contact with the NMC and keep them informed.

You apologised for your actions and asked the panel to give you another chance by removing the current conditions of practice.

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 your fitness to practise remains impaired.

The panel noted that the original panel found that you had demonstrated '*little*' insight into your actions. At this hearing the panel determined that you have demonstrated evolving insight. It noted that you showed genuine remorse and apologised for your actions. However, the panel also noted that you had a considerable period of time to provide a reflective piece and was concerned to hear this was something you simply '*forgot*' to do. In the view of the panel, you should have realised how important it was. The panel assisted you as much as it could during your submissions and that whilst a written reflective piece was not provided, you gave some elements of reflection orally during the course of the hearing.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account your completion of the relevant training requested of you. However, the panel noted that whilst evidence of the training is there, you did not demonstrate how you would put it into practice.

The original panel determined that you were liable to repeat matters of the kind found proved. Today's panel heard the new information in terms of your oral reflection and training, but determined that there remains a lack of remediation and therefore a risk of repetition also remains. In light of this, this panel determined that you are still 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 therefore determined that the issues found proved are easily remediable, have not been remediated and a risk of repetition remains.

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 your fitness to practise remains impaired.

Decision and reasons on sanction

Having found your 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 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 imposing a varied conditions of practice order on your registration would 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 practical conditions which would address the failings highlighted in this case. The panel accepted that you have been unable to fully comply with conditions of practice due to your current employment status but are engaging with the NMC and are willing to comply with any conditions imposed.

The panel was of the view that a varied conditions of practice order is sufficient to protect patients and the wider public interest. In this case, there are conditions could be formulated which would protect patients during the period they are in force.

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 your case because the issues found proved are remediable and you have complied with some aspects of the current order.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 9 months, which will come into effect on the expiry of the current order, namely at the end of 11 December 2023. It decided to impose the following 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 have regular monthly meetings with a supervisor, who is a registered nurse, to develop a personal development plan (PDP) in relation to the training in respect of condition 1 until, in the view of your supervisor, you have attained the required level of competency.

2. You must obtain reports every three months from your supervisor in relation to your meetings on your clinical issues in respect of your nursing practice. You must provide your NMC case officer with a copy of the reports 14 days prior to the next review of this order.

3. You must produce a written reflective piece, which demonstrates how your knowledge has developed, with regard to the following areas:
 - Recognition of signs of a stroke
 - A deteriorating patient
 - Risk Assessments
 - Escalating actions
 - The ways in which you have strengthened your nursing practice
 - How you have reflected on the incident in respect of this case

You must provide your reflective piece to your NMC case officer 14 days prior to the next review of this order

4. 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.

5. 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.

6. 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.
 - e. Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity
7. 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.
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:
- 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

The period of this order is for 9 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 11 December 2023 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 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:

- Testimonials from any work you have done from any employment in a healthcare setting.

This will be confirmed to you in writing.

That concludes this determination.