

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

**Substantive Order Review Meeting
Tuesday, 14 November 2023**

Virtual Hearing

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

NMC PIN 16J0032C

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

Relevant Location: Wirral

Type of case: Misconduct

Panel members: Shaun Donellan (Chair, lay member)
Manjit Darby (Registrant member)
Susan Ellerby (Lay member)

Legal Assessor: Nigel Mitchell

Hearings Coordinator: Muminah Hussain

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect on 28 December 2023 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 October 2023.

The panel took into account that the Notice of Meeting provided details of the review namely it will take place no sooner than 13 November 2023, and that it will be held virtually. Mr Ungureanu was invited to submit written representations if he so chose. Further, he was informed he could also request a hearing at which he would be able to attend. The NMC has received no response to these communications.

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 extend the interim suspension order for 6 months. This order will come into effect at the end of 28 December 2023 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second 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.

The current order is due to expire at the end of 28 December 2023.

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 first reviewing panel determined the following with regard to 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 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, which included 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 noted that the original substantive 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 strengthened his practice, the panel took into account that the original substantive panel had no information before it regarding any steps Mr Ungureanu may have taken to address the concerns raised about his practice. This panel was not provided with any evidence of the same from Mr Ungureanu and had no further information to demonstrate that the concerns about his practice identified by the original substantive panel have been addressed and were unlikely to reoccur. 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 evidence of insight, 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 first reviewing panel determined the following with regard to sanction:

'Having found Mr Ungureanu 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 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 a 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 noted that there was no evidence before it of any concerns relating to Mr Ungureanu’s clinical practice. The panel bore in mind the seriousness of the facts found proved at the original hearing and determined that it was not able to formulate conditions that would adequately address the concerns relating to Mr Ungureanu’s misconduct. The panel concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mr Ungureanu a further opportunity to fully reflect on his previous failings. The panel concluded that a further six 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 his 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 the 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 six months which would provide Mr Ungureanu with an opportunity to engage with the NMC. It considered this to be the most appropriate and proportionate sanction available.'

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 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 documentation contained in 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 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.

Decision and reasons on sanction

Having found Mr Ungureanu 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 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 a 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. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Mr Ungureanu's misconduct.

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).

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.

The panel was concerned that there had been no engagement with the NMC from Mr Ungureanu since October 2021. The panel had no information about Mr Ungureanu's current circumstances and whether he was in employment and wishes to remain on the register.

Any future panel reviewing this case would be assisted by:

- A reflective piece which properly addresses the misconduct;
- Evidence of any training which Mr Ungureanu may have undertaken which addresses the misconduct;
- Mr Ungureanu's engagement with the NMC, including his attendance at the next review of this order;
- Testimonials from any caring role, paid or unpaid, which Mr Ungureanu may have undertaken during his period of suspension, and;
- An update on future intentions with regard to remaining on the register.

This will be confirmed to Mr Ungureanu in writing.

That concludes this determination.