

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

**Substantive Order Review Meeting
Friday, 5 January 2024**

Virtual Meeting

Name of Registrant: Oltean Ion Florin

NMC PIN 15E0095C

Part(s) of the register: Registered Nurse – Sub part 1
Adult Nursing (RN1) – 12 May 2015

Relevant Location: Worcestershire

Type of case: Misconduct

Panel members: Patricia Richardson (Chair, Lay Member)
Philip Sayce (Registrant Member)
Paul Leighton (Lay Member)

Legal Assessor: Nigel Mitchell

Hearings Coordinator: Angela Nkansa-Dwamena

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Suspension order (12 months) to come into effect at the end of 12 February 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 Ion Florin's registered email address by secure email on 29 November 2023.

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 1 January 2024 and inviting Mr Ion Florin to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In light of all of the information available, the panel was satisfied that Mr Ion Florin 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 current suspension order for a period of 12 months. This order will come into effect at the end of 12 February 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 suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 13 January 2023.

The current order is due to expire at the end of 12 February 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, whilst employed as a staff nurse at Wayside Nursing Home ('the Home') between 2 March 2020 and 16 April 2020:

1. ...
2. ...
3. *On one or more occasion, failed to administer medication which you had signed for.*
4. *Following the monthly delivery of medications on or around 10 April 2020, failed to ensure the medication counts and check-in were completed :*
 - a) *Correctly;*
 - b) *by two nurses.*
5. *Prior to the bank holiday weekend on 11-13 April 2020 failed to take steps to ensure Resident A did not run out of their prescription pain medication.*
6. *When Resident A did run out of prescription pain medication, over the bank holiday weekend on 11-13 April 2020, you then failed to :*
 - a) *contact the out of hours GP;*
 - b) *contact the home manager;*
 - c) *hand over to colleagues that the medication had run out;*
 - d) *take any steps to ensure Resident A had adequate pain relief.*
7. *Over the bank holiday weekend on 11-13 April 2020 failed to:*
 - a) *change one or more patient dressings which needed to be done daily;*
 - b) *record why dressings had not been changed.*
8. *Following the arrival of a new Resident on or around 11 April 2020, you failed to:*
 - a) ...
 - i. ...
 - ii. ...
 - iii. ...
 - iv. ...
 - v. ...

vi. ...

b) ...

c) ...

d) ...

e) ...

9. *On 12 April 2020 slapped the bottom of Colleague A.*

10. *On a date in April 2020 you took the temperature of Colleague B and :*

a) ...

b) ...

11....

12. *Your conduct in charge 9 was sexually motivated in that you sought sexual gratification.*

Or in the alternative

Your conduct in charge 9 was intended to harass or intimidate in that you intended to cause distress or discomfort to that colleague.

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 was satisfied that the first three limbs were engaged. It found that by making numerous clinical errors and behaving inappropriately towards a colleague, patients were put at risk and a patient was at risk of physical harm as a result of Mr Ion Florin's misconduct. A colleague also suffered emotional harm. Mr Ion Florin's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel took into account Mr Ion Florin's lack of engagement with the NMC since May 2020. It had regard to the email from Mr Ion Florin's nursing agency dated 28

April 2020 which confirmed that he had been registered with the agency since 25 October 2019, and that the homes he had been sent to provided 'very good feedback about him', 'wanted him to be booked there again and did not express any concern'. The panel also had sight of a competency feedback form, provided by a home that Mr Ion Florin had been sent to by his agency which indicated that he had worked to an excellent standard. However the panel had not received any further information in respect of Mr Ion Florin or his employment since then.

The panel considered that it had not seen any evidence of insight or remorse from Mr Ion Florin. The panel had not been provided with a recent reflective piece demonstrating an understanding from Mr Ion Florin of why what he did was wrong, and how his actions put patients at risk of harm and impacted negatively on the reputation of the nursing profession. The panel had no evidence before it of how Mr Ion Florin would manage the situation differently in the future. The panel considered that the sexual element to Mr Ion Florin's behaviour towards Colleague A would have required significant demonstration of remediation from him, but the panel had nothing before it to demonstrate this.

The panel was satisfied that the misconduct in this case is capable of being addressed. However, the panel had no evidence before it to demonstrate that Mr Ion Florin has taken steps to strengthen his practice.

The panel was therefore of the view that there is a risk of repetition based on the lack of up to date evidence to suggest that Mr Ion Florin has strengthened his practice and remediated his inappropriate professional behaviour. The panel was mindful of the nature and seriousness of Mr Ion Florin's misconduct. It 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 required as a well-informed member of the public would be concerned to learn that Mr Ion Florin made wide-ranging clinical failings and behaved inappropriately with a colleague, and there was no evidence to show that these had been meaningfully addressed.

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 Ion Florin's fitness to practise impaired on the grounds of public interest.

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

The original panel determined the following with regard to sanction:

'The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- A single instance of misconduct but where a lesser sanction is not sufficient;*
- No evidence of harmful deep-seated personality or attitudinal problems;*
- No evidence of repetition of behaviour since the incident;*
- The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour...*

The panel considered that Mr Ion Florin's behaviour towards Colleague A did amount to a single instance of sexual misconduct, albeit that it was still deplorable. His clinical failings were not a single instance. They consisted of numerous and varied incidents over a specific period of time. However, the panel was of the view that these clinical failings were capable of being addressed and Mr Ion Florin's practice is capable of being strengthened. The panel considered Mr Ion Florin's lack of engagement,

remorse and insight into his actions. It was of the view that this posed a significant risk of repeated behaviour and a continued risk to patient safety. However, it also noted that it had not been provided with evidence of repetition of behaviour since the incidents. The panel was satisfied that in this case, whilst the misconduct was not fundamentally incompatible with remaining on the register, this was a serious case that warranted Mr Ion Florin's temporary suspension from nursing practice for a substantial period.

The panel was satisfied that a suspension order would prevent Mr Ion Florin from working as a nurse whilst giving him time to meaningfully reflect on the way he delivered care to vulnerable residents and behaved towards Colleague A. He would also be able to inform a future panel about what he could do to address the issues, and reassure it, should he wish to engage with the NMC and return to nursing practice. The panel determined that in the circumstances, a suspension order would be the appropriate and proportionate sanction to suitably protect the public and meet the wider public interest.

The panel noted the hardship such an order will inevitably cause Mr Ion Florin. However this is outweighed by the public interest in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

In making this decision, the panel carefully considered the submissions of Mr Brahimi in relation to the sanction that the NMC was seeking in this case. The panel did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, the panel concluded that it would be disproportionate. The panel considered that although serious, deplorable and wholly inappropriate, Mr Ion Florin's inappropriate sexual behaviour was a single instance and at the lower end of the scale of sexual misconduct. It also considered that his clinical failings are capable of being addressed. The panel was of the view that a well-informed member of the public would consider a striking-off order disproportionate in this case at this stage.

Whilst the panel acknowledges that a suspension is intended to mark the seriousness of the misconduct, it would be unduly punitive in Mr Ion Florin's case to impose a striking-off order now. The panel was of the view that Mr Ion Florin had much to give to the public as an experienced nurse if he were to decide to engage with his regulator, address the concerns and strengthen his practice.

The panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the misconduct. The panel also concluded that this period was appropriate to provide Mr Ion Florin with the opportunity to think about the areas of concern, engage with the NMC, and should he choose to do so, take steps to improve his practice and assure a future panel that he can return to nursing safely.'

Decision and reasons on current impairment

The panel carefully considered whether Mr Ion Florin'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 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 Ion Florin's fitness to practise remains impaired.

The panel had regard to all of the documentation before it, including the NMC bundle. The panel noted that since the last hearing in January 2023, there had been no engagement

and no new information put forward by Mr Ion Florin. Further, Mr Ion Florin had not undertaken any of the recommendations of the previous panel, namely:

- *'Mr Ion Florin's engagement and attendance at the review hearing.*
- *A reflective piece that demonstrates Mr Ion Florin's understanding of the impact of his clinical failings and his misconduct towards Colleague A on residents, the public, the reputation of the nursing profession and Colleague A.*
- *Documentary evidence of training including medicines management, administration and record keeping, working collaboratively and equality issues.*
- *Testimonials from Mr Ion Florin's paid or unpaid work.'*

The panel therefore had no new information before it, to conclude whether Mr Ion Florin had developed any insight into his actions or to demonstrate that he can practise kindly, safely and professionally. In respect of Mr Ion Florin's misconduct, the panel considered that there had been no material change of circumstances since the initial substantive hearing. The lack of engagement with the NMC in the past year gave the panel no indication that Mr Ion Florin had developed any insight into his failings and the charges found proved. In the absence of any information indicating insight, strengthened practice or remorse for his actions, the panel concluded that Mr Ion Florin's circumstances had not changed.

In all the circumstances, the panel considered that there remains a risk of repetition, therefore Mr Ion Florin 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 remains necessary on the grounds of public protection, by reason of Mr Ion Florin's misconduct.

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 Ion Florin's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mr Ion Florin'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 regulatory concerns in this 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 Ion Florin'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 Ion Florin'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 order on Mr Ion Florin's registration would be a sufficient and appropriate response. The panel was 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 determined that although a conditions of practice order could

address some of the concerns identified, Mr Ion Florin's lack of engagement demonstrated that it was unlikely that it would be complied with and would not be workable in these circumstances.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mr Ion Florin further time to fully reflect on his previous failings and engage with the NMC. The panel concluded that a further 12-month suspension order would be the appropriate and proportionate response and would afford Mr Ion Florin adequate time to further develop his insight and take steps to strengthen his practice.

The panel considered a striking off order however, it decided that this would not be proportionate or appropriate at this time.

The panel therefore determined 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 decided to impose a suspension order for the period of 12 months would provide Mr Ion Florin 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 12 February 2024 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:

- Mr Ion Florin's engagement with the NMC.
- An indication from Mr Ion Florin as to whether he intends to return to nursing practice.
- A reflective piece that demonstrates Mr Ion Florin's understanding of the impact of his clinical failings and his misconduct towards Colleague A, on

residents, the public, the reputation of the nursing profession and Colleague A.

- Documentary evidence of training including medicines management, administration and record keeping, working collaboratively and equality issues.
- Testimonials from Mr Ion Florin's paid or unpaid work.

This will be confirmed to Mr Ion Florin in writing.

That concludes this determination.