

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

Substantive Order Review Hearing

10 June 2019

Nursing and Midwifery Council, 114-116 George Street, Edinburgh, EH2 4LH

Name of registrant:	Claudia Rijnoveanu
NMC PIN:	13J0175C
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing – October 2013
Area of Registered Address:	England
Type of Case:	Misconduct
Panel Members:	Tim Mann (Chair, Lay member) Lucie Moore (Registrant member) Jennifer Childs (Registrant member)
Legal Assessor:	Fiona Moore
Panel Secretary:	Tara Hoole
Mrs Rijnoveanu:	Not present and not represented in absence
Nursing and Midwifery Council:	Represented by Nasreen Anderson, NMC Case Presenter
Order being reviewed:	Suspension Order (six months)
Fitness to Practise:	Impaired
Outcome:	Striking-off Order to come into effect at the end of 24 July 2019 in accordance with Article 30 (1)

Service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Rijnoveanu was not in attendance, nor was she represented in her absence.

The panel was informed that the notice of this hearing was sent to Mrs Rijnoveanu on 9 May 2019 by recorded delivery and first class post to her registered address. The panel noted that notice of this hearing was returned to sender after being held at the local Post Office delivery office for 18 days and had not been collected.

The panel accepted the advice of the legal assessor.

The panel noted that The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended February 2012) (the Rules) does not require proof of delivery of a notice of hearing. Further the panel noted it is a registrant's responsibility to ensure that their address on the Nursing and Midwifery Council Register is up to date. The panel noted that the notice of hearing for the substantive hearing in December 2018 was signed for by "CLAUDIA" at Mrs Rijnoveanu's address on WISER in October 2018. In the light of the information available the panel was satisfied that notice had been served in accordance with Rules 11 and 34 of the Rules.

Proceeding in absence

The panel then considered proceeding in the absence of Mrs Rijnoveanu. The panel was mindful that the discretion to proceed in absence is one which must be exercised with the utmost care and caution.

The panel considered all of the information before it, together with the submissions made by Ms Anderson, on behalf of the Nursing and Midwifery Council (NMC). The panel accepted the advice of the legal assessor.

Ms Anderson submitted that there has been no response from Mrs Rijnoveanu to any of the NMC's attempts to contact her since her attendance on day 1 of the substantive

hearing in December 2018. She submitted that attempts had been made to contact Mrs Rijnoveanu today, by telephone and by email using the details on the NMC system, but that there had been no response to these efforts.

Ms Anderson therefore submitted that Mrs Rijnoveanu had voluntarily absented herself from today's proceedings. Ms Anderson therefore invited the panel to proceed in Mrs Rijnoveanu's absence.

The panel noted that there had been no response from Mrs Rijnoveanu in relation to the notice of hearing. The panel was mindful that Mrs Rijnoveanu has not engaged at all since her attendance on day 1 of the substantive hearing.

Mrs Rijnoveanu had been sent notice of today's hearing and the panel was satisfied that she was or should be aware of the ongoing NMC proceedings as well as of today's hearing. The panel is of the view that she had chosen to disengage. The panel, therefore, concluded that she had chosen voluntarily to absent herself. The panel had no reason to believe that an adjournment would result in Mrs Rijnoveanu's attendance. Having weighed the interests of Mrs Rijnoveanu with those of the NMC and the public interest in an expeditious disposal of this hearing the panel determined to proceed in Mrs Rijnoveanu's absence.

Decision and reasons on review of the current order:

The panel decided to impose a striking-off order. This order will come into effect at the end of 24 July 2019 in accordance with Article 30 (1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a suspension order, originally imposed by a Fitness to Practise panel on 19 December 2018 for six months. The current order is due to expire on 24 July 2019.

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 17th November 2017, with regards to Resident A:

...

1.5 Shouted at Resident A that “you are going back to the room” or words to that effect

...

1.7 Were physically abusive in that you shook the Resident A’s shoulders, Zimmer frame, and/or, the chair

...”

The original panel determined the following with regard to impairment:

“The panel considered that Ms Rijnoveanu’s conduct had engaged the first three criteria of the guidance in Grant. The panel concluded that Ms Rijnoveanu acted so as to put Resident A at an unwarranted risk of harm by either shaking him or his chair. Ms Rijnoveanu also shouted at Resident A which is an inappropriate way to speak to vulnerable residents in her care and is inconsistent with the compassionate attitude expected of a registered nurse. Ms Rijnoveanu has

breached fundamental tenets of the profession and has brought the profession into disrepute.

The panel noted that as a result of Ms Rijnoveanu's actions, in relation to charge 1.5 and 1.7, by not providing an appropriate standard of care to Resident A, Ms Rijnoveanu failed in her fundamental duty as a Registered Nurse. Ms Rijnoveanu did not fulfil the responsibilities of a Registered Nurse as was expected of her by her colleagues, the public and the NMC as her regulator.

The panel bore in mind that it had to look to the future and consider whether Ms Rijnoveanu was liable to act in such a way again. The decision regarding the risk of repetition in this case would be informed by consideration of the level of insight and remorse demonstrated by Ms Rijnoveanu and by whether her misconduct has been or is capable of being remedied.

Regarding Ms Rijnoveanu's insight, the panel determined that she has expressed limited insight into her failings. It noted Ms Rijnoveanu's apology in her witness statement which stated:

'I am extremely sorry if I did or said anything that upset...' Resident A '...as that was not my intention but I was not abusive in any way'.

The panel was of the view that Ms Rijnoveanu did not properly acknowledge the risk of harm to Resident A or the effect the misconduct could have had on colleagues and the nursing profession in general.

That panel had sight of the positive testimonial provided by Ms Rijnoveanu's colleague who worked with her at Windmill which described her as:

'...an active member of the Windmill team, has worked hand in hand with various medical professionals who are greatly impressed of her skill and performance. The residents she has looked after have always made positive remarks about her work and passion for well being'.

The panel bore in mind that that because of the gaps in Ms Rijnoveanu's understanding of why she behaved in the way she did, how it impacted on others and how she will prevent it happening again, and the lack of evidence of remediation in practice, the panel has not been sufficiently persuaded that Ms Rijnoveanu is unlikely to repeat her conduct.

The panel is therefore of the view that there is a risk of repetition and it determined that Ms Rijnoveanu's fitness to practise is impaired on the ground of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health, safety and wellbeing of the public and patients, and to uphold and protect the wider public interest, which 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 public confidence in the profession would be undermined if a finding of impairment were not made in circumstances where a nurse was physically abusive to a vulnerable resident, putting the resident at risk of significant harm and where a nurse spoke in inappropriate manner to the resident by shouting.

The panel therefore also concluded that a finding of impairment was necessary on the grounds of public interest.

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

The original panel determined the following with regard to sanction:

"The panel considered the following aggravating and mitigating factors:

Aggravating

- *Ms Rijoveanu put Resident A at risk of harm;*
- *Ms Rijoveanu has demonstrated limited insight into her failings; and*
- *Ms Rijoveanu has demonstrated little insight into the impact of her misconduct on Resident A, his family or the nursing profession.*

Mitigating

- *Ms Rijoveanu apologised for upsetting Resident A;*
- *the panel had sight of a positive testimonial attesting to Ms Rijoveanu's good character; and*
- *this was an isolated incident in an unblemished career.*

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 having identified a risk of repetition. The panel decided that no further action would fail to address the public protection and the public interest concerns in Ms Rijoveanu's case.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the SG, which stated that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise, however the Fitness to Practise committee wants to mark that the behaviour was unacceptable and must not happen again' The panel determined that Ms Rijoveanu's misconduct involved physical abuse which is not at the lower end of the spectrum. It 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 Ms Rijoveanu'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 took into account the SG. Given Ms Rijoveanu's limited insight into her failings the panel determined that in the current circumstances, there are no proportionate or workable conditions which could be formulated which would sufficiently protect the public and uphold the wider public interest. Further, it determined that it would be difficult to formulate conditions of practice which would

address the issue of behavioural problems in response to challenging situations, which are at the heart of this case. Accordingly, a conditions of practice order would not be appropriate.

The panel next considered a suspension order. It noted that Ms Rijoveanu has engaged with the NMC. However, Ms Rijoveanu did not provide sufficient insight into her actions and the impact they had on Resident A, her colleagues, and the wider nursing profession. The panel considered Ms Rijoveanu's actions to be serious, involving physical abuse and shouting at a vulnerable patient which has brought the nursing profession into disrepute. The panel considered that a suspension order would protect the public and satisfy the wider public interest.

The panel decided that a suspension order for a period of 6 months would be appropriate in the circumstances and would mark the seriousness of Ms Rijoveanu's misconduct. A suspension order would allow Ms Rijoveanu an opportunity to demonstrate the development of insight and undertake any relevant training prior to any review of this order. A 6 month period would also allow Ms Rijoveanu sufficient time to collate meaningful numbers of testimonials and/or reflective pieces relating to challenging situations she had experienced in this period.

The panel considered a striking-off order to be disproportionate in light of this being a single incident in Ms Rijoveanu's unblemished career. It noted the positive testimonial attesting to her good character and her apology for upsetting Resident A and therefore to impose a striking off order at this stage would be punitive.

Before the end of the period of the order, a panel will hold a review hearing. At the review hearing the panel may revoke or confirm the order, or it may replace the order with another order. Ms Rijoveanu or the NMC may apply for an early review of the order should circumstances change. Any future panel may be assisted by:

- *Ms Rijoveanu's attendance at the review hearing;*

- *a reflective piece using a recognised model such as Gibbs, demonstrating insight by Ms Rijnoveanu into her actions and their impact on residents, colleagues and the wider profession;*
- *references from any employer, (paid or unpaid work), specifically addressing the issues that are raised in the charges;*
- *training relevant to managing challenging situations and conflict; and*
- *any evidence that Ms Rijnoveanu has kept up to date with nursing practice.”*

Decision on current fitness to practise

The panel has considered carefully whether Mrs Rijnoveanu'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. It has noted the decision of the last panel. However, it has exercised its own judgment as to current impairment.

The panel has had regard to all of the documentation before it. It has taken account of the submissions made by Ms Anderson on behalf of the NMC.

Ms Anderson took the panel through the background to this case. She submitted that there was no new information before the panel. Ms Anderson submitted that Mrs Rijnoveanu has not complied with any of the recommendations of the previous panel.

Ms Anderson submitted that, given the lack of information, there remains a risk of repetition as Mrs Rijnoveanu has not demonstrated any development of her insight nor has she remediated the concerns identified by the previous panel which involved the physical abuse of a vulnerable resident in her care. She submitted therefore that Mrs Rijnoveanu's fitness to practice remains impaired on both public protection and public interest grounds.

Ms Anderson submitted that Mrs Rijnoveanu's lack of engagement and failure to address the concerns identified demonstrated a low level of insight which, the panel may feel, is no longer compatible with her remaining on the register. She submitted that the panel may consider that a further period of suspension would give Mrs Rijnoveanu a final opportunity to demonstrate insight and remediation but that this was ultimately a matter for the panel and its professional judgement.

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 Mrs Rijnoveanu's fitness to practise remains impaired.

Regarding Mrs Rijnoveanu's insight, the panel noted that the last panel found that Mrs Rijnoveanu had demonstrated limited insight into her failings. This panel has no new information before it to determine whether Mrs Rijnoveanu's insight has developed in the last six months or whether she has taken any steps to remedy her practice.

The last panel determined that Mrs Rijnoveanu was liable to repeat matters of the kind found proved. The panel noted the charges in the case are serious. This panel has received no information to demonstrate that there is no longer a risk of repetition of the misconduct identified. In light of this the panel determined that Mrs Rijnoveanu remains liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is justified 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 has determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

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

Determination on sanction

Having found Mrs Rijnoveanu'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 risk of repetition identified and seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered whether to impose a caution but concluded that this would also be inappropriate in view of the risk of repetition identified and seriousness of the case. In addition, having found Mrs Rijnoveanu's fitness to practise impaired on public protection grounds a caution order would provide no restriction on her practice. The panel therefore determined that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered substituting the current suspension order with a conditions of practice order. The panel determined that it would be difficult to formulate conditions of practice which would address the issue of behavioural problems in response to challenging situations, which are at the heart of this case. The panel therefore concluded that there were no workable or practicable conditions which could be formulated which would address the public protection and public interest identified in this case especially in light of Mrs Rijnoveanu's non-engagement.

The panel next considered imposing a further suspension order. The panel considered that Mrs Rijnoveanu has been under a suspension order for six months and has not engaged with the NMC process nor complied with any of the clear recommendations of the previous panel. The panel noted the charges in this case are serious and determined that Mrs Rijnoveanu could be expected to understand that further steps as outlined by the previous panel were necessary to address the misconduct. The panel noted that Mrs Rijnoveanu has not engaged with the NMC since day 1 of the substantive hearing, she has not demonstrated any insight into, or remediation of, her previous misconduct. The panel was of the view that the ongoing risk to the public therefore remains.

The panel determined that, without engagement from Mrs Rijnoveanu and evidence of insight and remediation a further period of suspension would not serve any useful purpose. In addition, the panel considered that it was not in the public interest to continually suspend a nurse nor is it in Mrs Rijnoveanu's interest. The panel considered that public confidence in nurses could not be maintained by allowing Mrs Rijnoveanu to remain on the register. It considered that, in the circumstances, Mrs Rijnoveanu's actions, which were serious, involving physical abuse and shouting at a vulnerable patient along with the lack of insight, remorse or remediation at this time are fundamentally incompatible with her remaining on the register. The panel therefore determined that it was necessary to take action to prevent Mrs Rijnoveanu from practising in the future. The panel concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order. The panel therefore directs the registrar to strike Mrs Rijnoveanu's name off the register.

In accordance with Article 30 (1) of the Nursing and Midwifery Order 2001 this striking-off order will come into effect upon the expiry of the existing suspension order, namely at the end of 24 July 2019.

This decision will be confirmed to Mrs Rijnoveanu in writing.

That concludes this determination.