

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

Substantive Order Review Meeting

14 November 2019

Nursing and Midwifery Council, 2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of registrant: Mr Gheorghe-Ionut Ticala

NMC PIN: 16B0335C

Part(s) of the register: Registered Nurse – Sub Part 1

Area of Registered Address: England

Type of Case: Misconduct

Panel Members: Florence Mitchell (Chair, Registrant member)
Catherine Askey (Registrant member)
James Hurden (Lay member)

Legal Assessor: Andrew Reid

Panel Secretary: Kelly O'Brien

Order being reviewed: Suspension Order (12 months)

Outcome: Striking-off order to come into effect on 29
December 2019 in accordance with Article 30
(1)

Service of notice of meeting

The panel was informed at the start of this meeting that notice had been sent to Mr Ticala on 20 August 2019 by recorded delivery and first class post to his registered address. The notice informed Mr Ticala that his suspension order would be reviewed before its expiry at a meeting on or after 1 November 2019 and gave him the opportunity to request a hearing. The panel noted that no request for a hearing had been made by Mr Ticala.

The panel observed that notice of this hearing was delivered to Mr Ticala's registered address on WISER on 21 August 2019. The panel noted that Mr Ticala had not responded to the notice of hearing, and had not been in contact with the NMC since his telephone contact in September 2018 where he confirmed that he was in Romania and would not be returning to the UK for the review.

The panel accepted the advice of the legal assessor.

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 Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended February 2012) (the Rules).

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 29 December 2019 in accordance with Article 30 (1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of a conditions of practice order, originally imposed by a Fitness to Practise panel on 29 November 2017 for 12 months. At the first review on 23 November 2018 a Fitness to Practise panel imposed a suspension order for a period of 12 months. The current order is due to expire on 29 December 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, whilst working at Manchester House Nursing Home:

1. *Incorrectly administered an additional dose of Amlodipine 10mg to Resident A on one or more of the following occasions:*
 - a. *16 March 2016*
 - b. *18 March 2016*
 - c. *21 March 2016*
 - d. *22 March 2016*
 - e. *24 March 2016*
 - f. *26 March 2016*
 - g. *27 March 2016*
 - h. *28 March 2016*

2. *Failed to administer Sodium Valproate 100mg and/or Sodium Valproate MR300 mg to Resident B on one or more of the following occasions:*
 - a. *16 May 2016*
 - b. *17 May 2016*

- c. 22 May 2016
- d. 25 May 2016
- e. 26 May 2016

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:

At the substantive hearing, the panel determined that Mr Ticala had provided no evidence of insight or remediation and that there was, therefore, a real risk that he would repeat the medicine administration errors that had brought him before his Regulator. That panel noted that Mr Ticala had made repeated medicine administration errors despite having been given a warning by the Home he was working in. That panel considered that in light of the nature of the misconduct, namely clinical errors which could be remediated, it was appropriate to allow Mr Ticala that opportunity by making a conditions of practice order. It also indicated that a reviewing panel would be assisted by:

- *Mr Ticala's attendance at and engagement with these proceedings*
- *A reflective piece demonstrating insight into his actions, and their impact upon patients, colleagues and the wider nursing profession*
- *Evidence of any training that he has undertaken and/or how he has managed to keep his knowledge and skills up to date*
- *Recent testimonials from his employer*

Mr Ticala has not heeded these suggestions. He has returned to Romania and thus not be in a position to comply with the conditions of practice order. He has not provided a reflective piece, nor has he provided any evidence of training or how he has kept his skills and knowledge up to date. He has not provided any testimonials. The substantive order panel provided Mr Ticala with an opportunity to develop his insight and remediate his failings. He has not taken up that opportunity. Accordingly, almost one year on, this panel still has no evidence of

insight, remorse or remediation. It follows that there remains a risk that Mr Ticala will repeat his errors and put patients at unwarranted risk of harm were he allowed to return to practise without restriction. The panel therefore finds that Mr Ticala's fitness to practice remains impaired on public protection grounds.

The panel went on to ask itself whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment of fitness to practise were not made in the current circumstances. The panel concluded that it would in light of the serious errors made. It therefore concluded that a finding of impairment on public interest grounds is required.

The first reviewing panel determined the following with regard to sanction:

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 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 impose a caution order.

The panel next considered the imposition of a further conditions of practice order. However, in light of Mr Ticala's return to Romania, and his complete lack of engagement with the previous conditions of practice order, the panel considered that to extend the current order or indeed make a new one would be futile. Whilst the errors made are of a kind that could be remedied, a conditions of practice order requires the active engagement of the registrant concerned in order to ensure that he reaches a stage where he is fit to practise safely. Since Mr Ticala is in Romania it is simply not possible to devise conditions of practice that could be workable.

The panel next considered imposing a suspension order and whether such an order would protect the public and meet the public interest considerations of this case. The panel noted from his telephone call to the NMC on 6 September 2018, that Mr Ticala said that whilst he was not currently working as a nurse he felt like he might like to return to it in the future. Since conditions would not currently be workable, and the public would not be protected if Mr Ticala were allowed to return to unrestricted practice, the panel concluded that the appropriate and proportionate sanction at this stage was to make a suspension order. This would allow Mr Ticala the opportunity to return to the UK, and to nursing, by demonstrating his willingness to do so. It would always then be open to him to request an early review of this order and for consideration to then be given to a further conditions of practice order.

The panel did not consider a striking off order to be appropriate or proportionate at this stage, given Mr Ticala's indication that he might like to return to nursing in the future and given that the errors made are of a kind which could be remediated.

In accordance with Article 30 (1) of the Nursing and Midwifery Order 2001, this suspension order will come into effect upon the expiry of the existing suspension order, namely 29 December 2018.

The panel considers that a future reviewing panel would be assisted by:

- Mr Ticala making it clear whether he actually intends to return to nursing in the UK*
- Mr Ticala's attendance at and engagement with these proceedings*
- A reflective piece demonstrating insight into his actions, and their impact upon patients, colleagues and the wider nursing profession*
- Evidence of any training that he has undertaken and/or how he has managed to keep his knowledge and skills up to date*
- Recent testimonials from his employer*

Decision on current fitness to practise

The panel has considered carefully whether Mr Ticala'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.

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.

This panel noted that at the substantive hearing, that panel determined that Mr Ticala had provided no evidence of insight or remediation and that there was, therefore, a real risk that he would repeat the medicine administration errors that had brought him before his Regulator. At the review hearing on 23 November 2018, that reviewing panel noted that he had not complied with the conditions of practice order or heeded the suggestions of the original panel. It therefore decided there was still no evidence of insight, remorse or remediation and a risk of repetition remained.

The first review panel suggested that a reviewing panel would be assisted by:

- Mr Ticala making it clear whether he actually intends to return to nursing in the UK
- Mr Ticala's attendance at and engagement with these proceedings
- A reflective piece demonstrating insight into his actions, and their impact upon patients, colleagues and the wider nursing profession
- Evidence of any training that he has undertaken and/or how he has managed to keep his knowledge and skills up to date

- Recent testimonials from his employer

This panel noted that Mr Ticala has not engaged with the NMC since the date of the last review. It considered that Mr Ticala has not complied with the recommendations of the substantive panel or the first reviewing panel.

This panel considered that Mr Ticala has not indicated whether he intends to return to nursing. He has not provided any evidence of insight, remediation, or remorse. In these circumstances, the panel considered that the previous panel's concerns had not been addressed and accordingly, the risk of repetition of the conduct found proved remains. The panel considered that Mr Ticala's errors were serious, and that patients would be put at an unwarranted risk of harm if Mr Ticala was permitted to practice without restriction. The panel therefore finds that Mr Ticala's fitness to practice remains impaired on public protection grounds.

The panel went on to ask itself whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment of fitness to practise were not made in the current circumstances. The panel concluded that it would in light of the serious errors made. It therefore concluded that a finding of impairment on public interest grounds is required.

The panel therefore finds that Mr Ticala's fitness to practice remains impaired on public protection and public interest grounds.

Determination on sanction

Having found Mr Ticala'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(1) 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 the 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 be inappropriate in view of the risk of repetition identified and the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered the imposition of a conditions of practice order. However, in light of Mr Ticala's lack of engagement with NMC, the panel considered that conditions of practice would serve no useful purpose. The panel noted that whilst the errors made are of a kind that could be remedied, a conditions of practice order requires the active engagement of the registrant concerned in order to ensure that he reaches a stage where he is fit to practise safely. Since Mr Ticala has not engaged and has not complied with the recommendations of previous panels, it is not possible to devise conditions of practice that would be workable.

The panel next considered imposing a further suspension order. The panel noted that Mr Ticala has not demonstrated any insight into his previous failings. The panel was of the view that considerable evidence would be required to show that Mr Ticala no longer posed a risk to the public. This panel noted that the previous reviewing panel imposed a suspension order for a period of 12 months to allow Mr Ticala the opportunity to return to the UK, and to nursing, by demonstrating his willingness to do so. This panel considered that Mr Ticala has not engaged with the NMC during the 12 month period of his suspension order.

The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances. The panel considered that an order should not be permitted to continue indefinitely without any evidence of engagement or remediation. The panel determined that it was necessary to take action to prevent Mr Ticala from practising in the future and concluded that the only sanction that would now adequately protect the public and serve the public interest was a striking-off order.

This decision will be confirmed to Mr Ticala in writing.

That concludes this determination.