

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

**Substantive Order Review Meeting
Wednesday 7 October 2020**

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

Name of registrant: Raluca Manuela Bulgariu

NMC PIN: 16F0923C

Part(s) of the register: RN1: Adult Nurse, level 1 29 June 2016

Area of registered address: Madrid

Type of case: Lack of knowledge of English

Panel members: Caroline Healy (Chair, registrant member)
Susan Greenwood (Registrant member)
Jan Bilton (Lay member)

Legal Assessor: Nigel Ingram

Panel Secretary: Catherine Acevedo

Order being reviewed: Conditions of practice order (28 months)

Fitness to practise: Impaired

Outcome: Striking-off order to come into effect at the end of 20 November 2020 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 Ms Bulgariu was not in attendance and that the Notice of Meeting had been sent to Ms Bulgariu's registered email address 28 August 2020.

The panel took into account that the Notice of Meeting provided details of the substantive order being reviewed, the time, date and venue of the meeting.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Bulgariu 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).

In the light of all of the information available, the panel was satisfied that Ms Bulgariu has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on review of the substantive order

The panel decided to replace the current conditions of practice order with a striking off order.

This order will come into effect at the end of 20 November 2020 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 28 months by a Fitness to Practise Committee panel on 21 June 2018.

The current order is due to expire at the end of 20 November 2020.

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

The charge found proved which resulted in the imposition of the substantive order was as follows:

“That you, a registered nurse:

- 1. Do not have the necessary knowledge of English to practise safely and effectively.*

And in light of the above, your fitness to practise is impaired by reason of your lack of knowledge of English”.

The original panel determined the following with regard to impairment:

“The panel was satisfied that Ms Bulgariu’s lack of the necessary knowledge of English could place the public at risk of harm, for example – poor handover of essential information; record keeping errors; serious failures to give appropriate care and drug errors.

Regarding insight, the panel concluded that the terms of the various e mails from Ms Bulgariu show that she has failed to understand why it is essential that a Registered Nurse has the necessary knowledge of English or the potential consequences for patients, colleagues and the reputation of the profession if a Registered Nurse does not have such knowledge. The panel concluded that Ms Bulgariu has demonstrated minimal insight and that there was no evidence before it of any remediation.

Given Ms Bulgariu’s lack of the necessary knowledge of English, minimal insight and no remediation the panel was satisfied there exists a real risk of patient harm.

The panel therefore concluded that a finding of impairment is necessary on the ground of public protection.

The panel bore 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 the proper standards and behaviour.

The panel was also satisfied that members of the public would be concerned if a Registered Nurse was allowed to practise without having the necessary knowledge of English to practice safely and effectively. The panel determined that public confidence in the profession and its effective regulation would be undermined if a finding of impairment were not to be made in these particular circumstances. Accordingly, the panel determined that, a finding of impairment is also necessary on public interest grounds.

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

The original 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 not be proportionate and would neither adequately protect the public nor be in the public interest to take no further action.

The panel next considered whether to impose a caution order. In considering whether a caution order would be appropriate in the circumstances, the panel took into account the SG which 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 Ms Bulgariu's impaired fitness to practice was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would not be proportionate and would neither adequately protect the public nor be in the public interest to impose caution order.

The panel next considered whether placing conditions of practice on Ms Bulgariu'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 Sanctions Guidance, in particular:

'Conditions may be appropriate when some or all of the following factors are apparent (this list is not exhaustive):

- 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*
- the nurse or midwife has insight into any health problems and is prepared to agree to abide by conditions on*
- medical condition, treatment and supervision*
- patients will not be put in danger either directly or indirectly as a result of conditional registration*
- the conditions will protect patients during the period they are in force*
- it is possible to formulate conditions and to make provision as to how conditions will be monitored '*

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 had regard to the fact that no criticism had been made of Ms Bulgariu's clinical skills. Ms 1 stated that 'I would like to highlight that I do not question her [Ms Bulgariu] nursing skills as clinically I cannot fault her.' The panel considered that there was an identifiable area that required assessment – namely Ms Bulgariu's knowledge of the English language. It further considered that patients would not be put in danger either directly or indirectly as a result of conditional registration and that conditions would protect patients during the period they are in force.

Balancing all of these factors and after having taken into account both the aggravating and mitigating features of this case, the panel determined that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG indicates that the key considerations for a suspension order are:

- does the seriousness of the case require temporary removal from the register?*
- will a period of suspension be sufficient to protect patients and the public interest?*

The panel concluded that this case is not sufficiently serious to require temporary removal from the register and that to do so would be disproportionate.

Balancing all of these factors, the panel has determined that a suspension order would not be an appropriate or proportionate sanction.

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 profession, and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions are appropriate and proportionate in this case:

- 1. You must not practise as a registered nurse in the United Kingdom until you have undertaken an International English Language Testing System assessment and provided evidence to the NMC of a minimum score of 7.0 in each components of that assessment.*

The period of this order is for 28 months.

Before the end of the period of the order, a panel will hold a review hearing to see how well Ms Bulgariu has 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 with another order.

Any future panel reviewing this case would be assisted by:

Ms Bulgariu's engagement with the review process".

Decision and reasons on current impairment

The panel has considered carefully whether Ms Bulgariu'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, including 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 Ms Bulgariu fitness to practise remains impaired.

The panel noted that the original panel found that Ms Bulgariu had limited insight. At this review, the panel took into account Ms Bulgariu's lack of engagement with these proceedings. The panel had no information for this review to demonstrate that Ms Bulgariu has developed an understanding as to why it is essential that a Registered Nurse has the

necessary knowledge of English or the potential consequences for patients, colleagues and the reputation of the profession if a Registered Nurse does not have such knowledge. The panel concluded that there is no evidence of Ms Bulgariu's developed insight or remediation since the substantive hearing.

Given Ms Bulgariu's lack of the necessary knowledge of English, lack of insight and remediation the panel was satisfied there remains a real risk of patient harm. The panel therefore concluded that a finding of impairment is necessary on the grounds of public protection.

The panel bore 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 the proper standards and behaviour.

The panel was also satisfied that members of the public would be concerned if a Registered Nurse was allowed to practise without having the necessary knowledge of English to practice safely and effectively. The panel determined that public confidence in the profession and its effective regulation would be undermined if a finding of impairment were not to be made in these particular circumstances. Accordingly, the panel determined that, a finding of impairment is also necessary on public interest grounds.

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

Decision and reasons on sanction

Having found Ms Bulgariu'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 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 Ms Bulgariu'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 Ms Bulgariu's impaired fitness to practise 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 neither adequately protect the public nor be in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Ms Bulgariu's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel has received information that Ms Bulgariu is currently living in Spain and appears to have no intention of undertaking an International English Language Testing System assessment. The panel also took into account that Ms Bulgariu has been subject to a conditions of practice order for 28 months and has not demonstrated that she has complied with them. The panel considered that any conditions of practice order would not be workable and would serve no useful purpose.

The panel next considered imposing a suspension order. The panel noted that Ms Bulgariu has not provided evidence of her further insight, any remediation or her intentions for the future. She has not engaged at all with these proceedings since the substantive order was imposed. In these circumstances, the panel determined that a period of suspension would not serve any useful purpose. The panel determined that it was necessary to take action to prevent Ms Bulgariu from practising in the future and 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 Ms Bulgariu's name off the register.

This striking-off order will take effect upon the expiry of the current conditions of practice order, namely the end of 20 November 2020 in accordance with Article 30(1)

This decision will be confirmed to Ms Bulgariu in writing.

That concludes this determination.