

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

**Substantive Order Review Meeting  
Tuesday 5 April 2022**

Virtual Meeting

**Name of registrant:** Mihaela Timofte

**NMC PIN:** 13E0245C

**Part(s) of the register:** Nursing – Sub part 1  
RN1: Registered Nurse – Adult (May 2013)

**Area of registered address:** Romania

**Type of case:** Misconduct

**Panel members:** David Lancaster (Chair, Lay member)  
Pamela Campbell (Registrant member)  
Georgina Wilkinson (Lay member)

**Legal Assessor:** Douglas Hogg QC

**Hearings Coordinator:** Anya Sharma

**Order being reviewed:** Suspension order (12 months)

**Fitness to practise:** Impaired

**Outcome:** **Strike off to come into effect on 11 May 2022  
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 Mrs Timofte's email address on 25 February 2022 and Mrs Timofte had not responded to the notice of the meeting with any contribution.

The panel accepted the advice of the legal assessor.

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

In the light of all of the information available, the panel was satisfied that Mrs Timofte 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 substantive order**

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect at the end of 11 May 2022 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a suspension order, originally imposed by a Fitness to Practise panel on 11 October 2019 for a period of six months. This was reviewed on 25 March 2020 and on 22 March 2021 where the suspension order was confirmed and extended for 12 months on both occasions.

The current order is due to expire on 11 May 2022.

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 working as a registered nurse:*

1. *On or around 1 September 2016, wrote over the top of an entry in Patient A's daily record chart for the 1 September 2016.*
2. *[Charge not proved]*
3. *Incorrectly dated an entry in Patient B's observations sheet as 4 October 2016, when this should have been recorded as 3 October 2016.*
4. *[Charge not proved]*
5. *Signed a controlled drug register to indicate that you had witnessed the administration of Oramorph on 15 December 2016, when you had not.*
6. *Your actions as described in Charge 5 above were dishonest, in that you signed the controlled drugs register to indicate that you had witnessed the administration of Oramorph, when you knew you had not.*

*And in light of the above, your fitness to practise is impaired by reason of your misconduct.'*

The second reviewing panel determined the following with regard to impairment:

*'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 Timofte's fitness to practise remains impaired. It concluded that there had been no material change of circumstances since the order was last reviewed. There is no information to suggest that Mrs Timofte has engaged with the NMC since the last review on 25 March 2020, except for the e-mail from her dated 05 December 2020, which states:*

*'Thank you very much for keeping me informed! I left England because after suspension I could not work anymore and I came in România! I CAN NOT PROVIDE ANY training but I can tell you how much I suffered because of that! Singning as a second witnessed without beeing there is a mistake but not a crime! My future was dramatically changed! The decision was unfortunatly too much! I have paid RCN, for what?'*

*Whilst the panel noted that Mrs Timofte had not been able to work as a nurse while suspended, it concluded that she could have provided a reflective piece, undertaken some form of relevant training or obtained references from any place at which she worked.*

*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 Mrs Timofte's fitness to practise remains impaired.'*

The second 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 fact that Mrs Timofte had shown no attempt at remediating the concerns or showing competence in the areas of her practice which were found insufficient. 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 Mrs Timofte'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 Mrs Timofte’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 carefully considered whether conditions of practice on Mrs Timofte’s registration would be a sufficient and appropriate response. It considered that the charges found proved appeared to be an isolated incident, and that the nature of the charges does not preclude suitable and workable conditions being made. However, the panel decided that the lack of engagement from Mrs Timofte in relation to this and the previous hearing, and a lack of information about any reflection or remediation made conditions unworkable. The panel noted Mrs Timofte’s email dated 05 December 2020, quoted above, and concluded that she is not in the United Kingdom currently, and does not wish to engage with her regulator. For those reasons, it did not consider a conditions of practice order workable in this case.*

*The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mrs Timofte further time to fully reflect on her previous failings, and consider her future intentions regarding her registration. The panel concluded that a further 12 months suspension order would be the appropriate and proportionate response and would afford Mrs Timofte adequate time to further develop her insight and remediation. It would also give Mrs Timofte an opportunity, in light of delays caused by the COVID-19 pandemic, to return to the UK, to submit evidence of reflection, access appropriate training and provide references.*

*The panel did not have a striking-off order available as a sanction, as this is a misconduct case and Mrs Timofte has not yet been subject to a suspension order for two years. The current panel felt that it would currently be disproportionate in the*

*circumstances of this case, but noted that the next reviewing panel will have a striking-off order as an option available to it.*

*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. It considered this to be the most appropriate and proportionate sanction available.'*

## **Decision and reasons on current impairment**

The panel has considered carefully whether Mrs Timofte's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the Nursing and Midwifery Council (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 Mrs Timofte's fitness to practise remains impaired. The panel had sight of the decision of the last reviewing panel and concluded that the position remains the same, given that there has been no material change in the circumstances of the case since the order was last reviewed. There is no information before the panel to suggest that Mrs Timofte has engaged with the NMC since the last review of this order on 22 March 2021.

The panel noted that whilst Mrs Timofte has not been able to work as a nurse while suspended and is currently residing in Romania, she has not engaged with the NMC or

provided the NMC with any reflective piece or evidence of up to date training or references, as requested by the last reviewing panel of this order.

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 Mrs Timofte's fitness to practise remains impaired.

### **Decision and reasons on sanction**

Having found Mrs Timofte'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 Mrs Timofte'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 Mrs Timofte'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 Mrs Timofte'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 considered that the nature of the charges found proved do not preclude suitable and workable conditions being made. However, the panel concluded that it was not able to formulate workable conditions of practice given Mrs Timofte's continued lack of engagement with the NMC since the last review in March 2021.

The panel next considered imposing a further suspension order. The panel noted that Mrs Timofte has not complied with any of the suggestions made by the reviewing panel in March 2021. There has not been any substantive engagement with the NMC since the commencement of these proceedings. There is no evidence of remediation or insight. There is no information as to what Mrs Timofte is presently doing or her plans for the future. In these circumstances the panel have concluded that a further suspension order would serve no purpose. It has further concluded that only a striking off order would protect the public and address the public interest. Accordingly, the panel is making a striking off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 11 May 2022 in accordance with Article 30(1).

This decision will be confirmed to Mrs Timofte in writing.

That concludes this determination.