

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

**Substantive Order Review Hearing
Tuesday, 20 June 2023**

Virtual Hearing

Name of Registrant:	Florin Silaghi
NMC PIN	15J0623C
Part(s) of the register:	Registered Nurse – Sub Part 1
Relevant Location:	Surrey
Type of case:	Lack of knowledge of English
Panel members:	Geraldine O'Hare (Chair, lay member) Ian Dawes (Lay member) Richard Lyne (Registrant member)
Legal Assessor:	Graeme Sampson
Hearings Coordinator:	Abbey Cornwell
Nursing and Midwifery Council:	Represented by Giedrius Kabasinskas, Case Presenter
Mr Silaghi:	Present and unrepresented at this hearing
Order being reviewed:	Suspension order (12 months)
Fitness to practise:	Impaired
Outcome:	Suspension order (12 months) to come into effect on 29 July 2023 in accordance with Article 30 (1)

Decision and reasons on review of the substantive order

The panel decided to confirm the current suspension order.

This order will come into effect at the end of 29 July 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the tenth review of a substantive suspension originally imposed for a period of 12 months by a panel of the Conduct and Competence Committee on 24 February 2017. This was reviewed on 16 February 2018 by a panel of the Fitness to Practise Committee and a further suspension order was imposed for 12 months. A further review took place on 22 February 2019 and, due to logistical issues at the hearing, the order was extended for one month. An early review subsequently took place on 28 March 2019 at the request of the NMC, where this order was confirmed. On 2 April 2019, this order was reviewed by a Fitness to Practise Committee and a further suspension order was imposed for six months. A further review hearing was scheduled on 16 September 2019. This hearing was postponed by the reviewing panel as the results of Mr Silaghi's most recent IELTS test were not available until 20 September 2019. A review took place on 23 September 2019 after Mr Silaghi's results were made available and the reviewing panel imposed a suspension order for a further nine months. On 17 June 2020, a reviewing panel imposed a suspension order for 12 months. On 22 June 2021 the panel imposed a suspension order for 12 months. At the last review hearing on 20 June 2022 the panel imposed a suspension order for 12 months.

The current order is due to expire at the end of 29 July 2023.

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. *Do not have the necessary knowledge of the English language 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 reviewing panel on 20 June 2022 determined the following with regard to impairment:

'The panel was of the view that you have shown excellent insight regarding the NMC's role to protect the public. The panel noted your engagement with the NMC and the efforts you have taken to show your English competence through your coursework and your role as a Senior Health Care Assistant. The panel also noted that you have no intention of taking the IELTS as a way of meeting the requirements. The panel was of the view that, although you are very close to meeting the guidance set out in the second evidence type, it had no evidence that your BSc Health and Social Care Honours course from the London Metropolitan University met the 50 percent clinical interaction requirement. The panel noted that the NMC has recognised that successful completion the BSc Honours Nursing [Adult] programme you are enrolled in at the East London University would satisfy the evidence required. You have stated that you are due to complete this course in September 2023.

The panel was also of the view that although you have been working in a health care role for six years as a Senior Health Care Assistant, this role is not comparable to a Nursing Associate and therefore does not meet the third evidence type of recent practice for one year in a majority English-speaking country.

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 your fitness to practise remains impaired.

The reviewing on 20 June 2022 panel determined the following with regard to sanction:

'Having found your 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 not be appropriate in view of the public protection issues identified. No further action would neither protect the public, nor address the public interest concerns in this case as you would be allowed to practise unrestricted. The panel decided that a caution order would be inappropriate for the same reasons.

The panel then considered the imposition of a conditions of practice order. It was of the view that despite your level of engagement and commitment to practise as a nurse, workable conditions could not be formulated given that you have not yet met the required standard of English to practise as a registered nurse in the UK, as this permeates all aspects of nursing care.

The panel considered the imposition of a further period of suspension. The panel understood that you did not intend to take the IELTS exam again but intended to comply with the NMC's English language requirement by successfully completing the course of study in the BSc Honours Nursing [Adult] program at the University of East London. The panel determined therefore that a suspension order would be the only proportionate and appropriate sanction. In the panel's judgement, this would continue to protect the public and to satisfy the wider public interest.

The panel was mindful that you were due to complete this course in September 2023 and though it would be useful to review your case after this time, but the panel may only extend a suspension order for a maximum 12 months. The panel concluded that a further 12 month suspension order would afford you as much time as possible to satisfy the NMC's requirements for proof of English language competency.

The panel determined that a striking-off order would be neither be proportionate nor appropriate given your continued engagement, improvement of English, and stated commitment to continuing your BSc Honours Nursing [Adult] program at the University of East London to meet the evidence of English language competence required by the NMC.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 29 July 2022 in accordance with Article 30(1).'

Decision and reasons on current impairment

The panel has considered carefully whether your 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 documentation you have submitted of your confirmation of enrolment at the University of East London onto the BSc Honours Adult Nursing course and the submissions you made under oath today. It has also taken account of the submissions made by Mr Kabasinkas on behalf of the NMC.

Mr Kabasinkas provided the panel with a background summary of the case.

Mr Kabasinskas submitted that you gave limited written evidence for today's hearing and referred the panel to the On-Table document dated 8 May 2023 that you submitted to the NMC that shows confirmation of your enrolment onto the BSc Honours Adult Nursing course. Mr Kabasinskas submitted that this document only demonstrates your enrolment onto the course and not your completion.

Mr Kabasinskas submitted that there has been no new information to suggest that your practise has changed and that you are no longer impaired or pose a risk to the public, and therefore he submitted that there has been no change in circumstances for today's hearing.

Mr Kabasinskas submitted that the NMC has a neutral position on what sanction the panel should impose today and it is therefore a decision for the panel.

The panel heard evidence from you under oath.

In panel questioning you said that your BSc Honours Adult Nursing degree involves you interacting with the public, colleagues, and patients with wide-ranging health conditions. You said that the ward you work on is different each placement such as cardiology or orthopaedics and that you must complete 1700 practise hours and you have 500 hours remaining to complete your degree.

In panel questioning you said that you only work in one hospital which is the hospital the University of East London has assigned you to.

In panel questioning you said that when you are working on the wards at the placement hospital that you are directly supervised by your mentor at all times.

In panel questioning you said that under supervision you are documenting in patients records and taking the lead in multidisciplinary team handovers.

In panel questioning you said that you are currently passing all of your university exams with good scores. You said that the pass mark is 40% and you have been getting average scores of above 50%.

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 your fitness to practise remains impaired.

The panel considered whether your insight into the areas identified by the previous panel, concerning your lack of knowledge of English, has developed. The panel noted that the last reviewing panel found that you had shown developing insight in the efforts you had taken to show your English language competence.

At this hearing, the panel commended your continued development into your insight regarding the NMC's role to protect the public. The panel noted that you demonstrated during your oral submissions that you are progressing well in your university degree based on the submissions you gave under oath at today's hearing and that you are continuing to engage with the NMC.

The panel noted however that there was no new information before it to suggest that there has been a material change of circumstances in this case. The panel noted that you have submitted documentation for today's hearing that shows your enrolment at the University of East London onto the BSc Honours Adult Nursing course but that you have not supplied any other information for the panel to consider that demonstrates your progress and development of your insight in this matter including testimonials or references.

The panel whilst encouraged by your continued efforts to make progress in relation to your command of the English language, have not been provided with the necessary qualifications to demonstrate that your achievements have currently reached the appropriate level as required by the NMC.

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 your fitness to practise remains impaired.

Decision and reasons on sanction

Having found your 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 public protection issues identified. The panel decided that a caution order would be inappropriate for the same reasons. 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 your 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 then considered the imposition of a conditions of practice order. It was of the view that despite your level of engagement and commitment to practise as a nurse, workable conditions could not be formulated given that you have not yet met the required standard of English to practise as a registered nurse in the UK, as this permeates all aspects of nursing care.

The panel considered the imposition of a further period of suspension. The panel understood that you are due to complete your BSc Honours Adult Nursing degree in the next 12 months at the University of East London to comply with the NMC's English language requirement. The panel determined therefore that a suspension order would be

the only proportionate and appropriate sanction. In the panel's judgement, this would continue to protect the public and to satisfy the wider public interest.

The panel was of the view that as you are due to complete the BSc Honours Adult Nursing degree within the next 12 months that a further 12 month suspension order would afford you as much time as possible to complete your degree to satisfy the NMC's requirements of proof of English language competency. It would also allow you to time to gather evidence of your completion of the course and provide the next panel with reports and testimonials to support your English language competency.

The panel determined that a striking-off order would be neither be proportionate nor appropriate given your continued engagement, improvement of English, and your commitment to continuing your BSc Honours Adult Nursing degree at the University of East London to meet the evidence of English language competence required by the NMC.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 29 July 2023 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.

At any time, you or the NMC may ask for the suspension order to be reviewed by a panel if any relevant new information becomes available.

Any future panel reviewing this case would be assisted by:

- Evidence of completion of the BSc Honours Adult Nursing degree at the University of East London
- Any testimonials and references from colleagues you work with in a clinical setting concerning your English language competency
- Your attendance at any future NMC review

This will be confirmed to you in writing.

That concludes this determination.