

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

**15 – 16 December 2021**

Virtual Hearing

<b>Name of registrant:</b>	<b>Mr Alin-Stefan Popescu</b>
<b>NMC PIN:</b>	17C0020C
<b>Part(s) of the register:</b>	Registered Nurse – Adult
<b>Area of registered address:</b>	Surrey
<b>Panel members:</b>	Dale Simon (Chair, lay member) Dr Katharine Martyn (Registrant member) Colin Sturgeon (Lay member)
<b>Legal Assessor:</b>	Nigel Ingram
<b>Panel Secretary:</b>	Leigham Malcolm
<b>Nursing and Midwifery Council:</b>	Represented by Mr Matthew Cassells, NMC Case Presenter
<b>Mr Popescu:</b>	Present and represented by Ms Priya Kahnna, Counsel instructed by the Royal College of Nursing
<b>Sanction:</b>	Striking-off Order
<b>Interim Order:</b>	Interim Suspension Order (18 months)

## **Rule 19**

At the outset of the hearing, Ms Kahnna, on behalf of Mr Popescu, indicated that she would be raising matters related to his health and made an application for them to be considered in private. The application was made pursuant to Rule 19 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Cassells, on behalf of the Nursing and Midwifery Council (NMC), supported the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Having heard that matters involving Mr Popescu's will be raised the panel decided that those parts of the hearing should be held in private in accordance with Rule 19 of the Rules.

### **Application to adjourn**

Ms Kahnna made an application to adjourn until the morning of Thursday 16 December 2021.

Ms Kahnna informed the panel that she had met with Mr Popescu prior to the start of the hearing to discuss preliminary matters. However, she had subsequently received an email from Mr Popescu in which he stated... [private]. Further, Mr Popescu no longer wanted to participate in proceedings.

Ms Kahnna informed the panel that she had not yet taken full instructions from Mr Popescu and therefore was unable to represent him in his absence. She applied to adjourn the hearing until the morning of Thursday 16 December 2021 to allow time for

further information around... [private] to be obtained along with full instructions.

Mr Cassells supported the application in view of... [private].

The panel accepted the advice of the legal assessor.

Given the circumstances and... [private] the panel decided to allow the adjournment until the morning of 16 December 2021. [Private].

### **The hearing resumed on the morning of 16 December 2021**

Ms Kahna informed the panel that... [private]... you were now in attendance and ready to proceed.

### **Background**

At a hearing from 25-29 January 2021, a panel of the Fitness to Practise Committee considered and found proved (by admission or on the evidence) the following charges:

*That you, a registered nurse while working at the Frimley Health NHS Foundation Trust between April 2018 and February 2019:*

- 1) Conducted a cannulation procedure on one or more occasions when you had not been signed off as competent to do so.*
- 2) Conducted a venepuncture procedure on one or more occasions when you had not been signed off as competent to do so.*
- 3) Conducted a procedure in relation to the administration of an intravenous drug on one or more occasions when you had not been signed off as competent to do so.*

4) *Represented that you had been signed off as competent in relation to cannulation.*

5) *Represented that you had been signed off as competent in relation to venepuncture.*

6) *Represented that you had been signed off as competent in relation to the administration of an intravenous drug.*

7) *And your actions in relation to charge 4 and/or charge 5 and/or charge 6 were dishonest in that:*

*a) You were aware that you had not been signed off as competent in relation to cannulation*

*b) You were aware that you had not been signed off as competent in relation to venepuncture*

*c) You were aware that you had not been signed off as competent in relation to the administration of an intravenous drug*

*d) You intended to deceive colleagues into believing that you had been signed off as competent*

8) *On or about 6 February 2019 failed to carry out the instructions of a senior sister in that:*

*a) you did not conduct and/or record hourly observations of a patient (unknown) who was subject to cardiac monitoring, as instructed*

*b) ...*

*c) you attempted to reapply an oxygen mask to a patient (unknown) despite being told that the mask was no longer necessary*

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

Your fitness to practise was subsequently found to be impaired on the basis that you were liable to repeat your clinical errors and dishonesty in future and on the basis that there was 'no doubt' public confidence would be undermined if a finding of impairment were not made in the light of the seriousness of the charges found proved.

At the hearing in January 2021 the panel imposed a sanction which was not sufficient to protect the public and as a result the decision was appealed by the Professional Standards Authority ('PSA').

On 19 August 2021, the PSA's appeal was allowed by consent and it is on that basis that it now comes before this panel.

### **Submissions on sanction**

Mr Cassells, on behalf of the Nursing and Midwifery Council (NMC), provided the panel with written submissions.

Mr Cassells outlined the aggravating factors in your case, namely:

- Your misconduct occurred in a professional context and put vulnerable children at risk of serious harm;
- Your misconduct undermined the system of training and qualification which is fundamental to ensuring patient safety and maintain public confidence;

- Your misconduct was compounded by further lies and evasion when he was confronted about his dishonesty;
- the registrant's misconduct was done for personal gain in that:
  - it made the registrant more employable as a bank nurse;
  - it was done expressly to secure an advantage when applying for a permanent role.

Mr Cassells submitted that there were no mitigating features. He referenced the following aspects within the NMC's guidance said to indicate dishonesty which is most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register, and submitted that they are apparent in this case:

- a) deliberately breaching the professional duty of candour by covering up when things have gone wrong...
- b) vulnerable victims;
- c) personal financial gain from a breach of trust;
- d) direct risk to patients;
- e) premediated, systematic and longstanding deception.

Taking account of all of the relevant guidance, Mr Cassells submitted that the public would be deeply concerned by your dishonesty which was self-serving, placed patients at risk of serious harm and undermined that system of training and qualification which is integral to public trust and confidence. They would be even more concerned to note your initial attempts at obfuscation when first confronted and the absence of insight even after a number of years. In view of this, he submitted that the appropriate sanction in your case was that of a striking off order.

Ms Kahanna referred the panel to the transcript of the substantive hearing from 25 - 29 January 2021 and highlighted your oral evidence. She pointed out to the panel that at

the substantive hearing in January 2021 you accepted misconduct and impairment. Further, she told the panel that you are not denying impairment here today. Ms Kahnna noted Mr Cassell's submission that insight and mitigating factors are absent in your case. She submitted, however, that your acceptance of misconduct and impairment were indicative of some level of insight and could be considered mitigation.

Ms Kahnna further pointed out that the previous panel found that your misconduct was capable of remediation and considered that you needed to develop your insight. The significance of this, she stated, was that any risk was limited because of the presence of insight, which could be developed, and that your misconduct could be remediated. She reminded the panel that any sanction imposed should not be intended to punish.

Ms Kahnna informed the panel that due to the conditions of practice order imposed at the substantive hearing in January 2021 you have been unable to find employment as a nurse. Potential employers are put off employing you because of the nature of the issues in your case and because of this you now recognise the practical implications of your actions. She submitted that you now see yourself through the eyes of patients and colleagues.

Ms Kahnna submitted that your misconduct was not pre-mediated or long-standing, as suggested by the NMC. Further, you conceded misconduct and impairment, which is not indicative of someone with a deep-seated attitude problem. She referred the panel to a testimonial dated 11 December 2021 and highlighted that there has been no repetition of any of the incidents.

Ms Kahnna submitted that not every case involving dishonesty results in a striking off order and submitted to the panel that this has been a salutary experience for you. She acknowledged that you have not provided any evidence of further development but submitted that you will work in accordance with the rules and not repeat your past misconduct.

The panel accepted the advice of the legal assessor.

## **Decision and reasons on sanction**

The panel took account of all of the evidence before it including the submissions of both Mr Cassells and Ms Kahnna, alongside the testimonial provided by you and dated 11 December 2021. While the panel would have been further assisted by you giving oral evidence, it accepted that you have chosen on advice not to take that course. Nonetheless, it noted Ms Kahnna's submission that the appropriate sanction in your case was either a suspension or strike-off. However, the decision on sanction is a matter for the panel independently exercising its own judgement.

The panel had careful regard to the Sanctions Guidance (SG) and has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences.

The panel accepted the following aggravating features, as put forwards by the NMC:

- Your misconduct occurred in a professional context and put vulnerable children at risk of serious harm;
- Your misconduct undermined the system of training and qualification which is fundamental to ensuring patient safety and maintain public confidence;
- Your misconduct was compounded by further lies and evasion when he was confronted about his dishonesty;

The panel noted that you received some financial advantage from your deception, but concluded that financial gain may not have been your primary motive.

In terms of mitigation, the panel noted that at the time of these incidents some limited aspects of your performance were satisfactory and that the testimonial dated 11 December 2021 which addressed your current performance as a Covid Testing Practitioner/On Call Nurse provided some evidence of effective clinical performance.



The panel were seriously concerned that at the time of the incidents in question you were practising knowingly outside your sphere of competence whilst dealing with vulnerable patients. The panel took account of the witness statement of Ms 1 which stated:

*“We discussed what he felt he was confident to do. This discussion was prompted by Mr Popescu drawing up IV medication, I was confident in his ability to do this as he declared that he was IV competent and it is part of the NMC Code only to do what you are competent and signed off on.*

*However, I was impressed with his confidence and I asked him if he was IV trained and happy to administer IV medication to children. This was because it is very different administering IV medication to children than it is to adults. I was thinking that as it was so unusual to have a confident bank nurse, he would have been a good long term addition to the team.*

*He replied by saying that he had completed the IV course and had been officially signed off as competent. He added that he was happy to administer IV medication to children. I was impressed as a lot of Bank nurses that complete shifts on the Ward are IV trained but are not happy to do this procedure on children.”*

The panel considered that during your conversation with Ms 1 you had every opportunity to disclose that you were not qualified and competent to administer IV medication, you chose not to do so. The panel noted that you were not put under pressure to perform the task or claim that you were competent when you were not.

The panel also considered your dishonesty and false representation as a nurse competent in IV cannulation and the administration of IV medication to children demonstrated absolute disregard for nursing education, training and standards in place to protect patients.

There is a clear risk of harm to patients by a nurse performing a task that they are not qualified or competent to carry out. The panel was of the view that your response, indicating that you were competent, was indicative of a lack of awareness and appreciation of the risk you posed to patients. There was evidence before the panel that the patients on the ward in question were seriously ill and vulnerable and their treatment required specific skills, which you did not possess.

The panel also considered your subsequent dishonesty to compound the seriousness of your misconduct. It reached the view that your disregard for process, systems, and authority was indicative of a harmful deep-seated attitudinal problem.

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 issue of dishonesty, the seriousness of the case, and the public protection issues identified, an order that does not restrict your 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 your misconduct 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 be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel concurred with Ms Kahnna that a conditions of practice order would not be practicable in your case as it would not effectively address the dishonesty. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The panel concluded that the evidence in this case suggested that you have deep-seated attitudinal problems, that this was not a single incident of misconduct, and you failed to demonstrate sufficient insight into the effect of your misconduct on patients, colleagues and the reputation of the nursing profession. Therefore, there was a significant risk of repetition, consequently a suspension order was not appropriate.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by your actions is fundamentally incompatible with you remaining on the register.

Finally, in considering a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Your actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with you remaining on the register. You put young and vulnerable patients at direct risk of harm, and compounded your misconduct with further dishonesty. The panel considered your actions to be at the higher end of the spectrum of dishonesty and it was not satisfied that you have fully developed insight into the risk you posed to patients. It considered your insight at present to be self-centred.

The charges found proved raise serious concerns about your professionalism and the panel was of the view that to allow you to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to you in writing.

### **Decision and reasons on interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interest until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

The panel took account of the submissions made by the NMC and Ms Khanna.

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months due to allow for any potential appeal period.

If no appeal is made, then the interim suspension order will be replaced by the striking off order 28 days after you are sent the decision of this hearing in writing.

That concludes this determination.