

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

**Substantive Meeting  
Monday, 22 January 2024-  
Tuesday, 23 January 2024**

Virtual Meeting

**Name of Registrant:** Erdora Margareta Cuc

**NMC PIN** 12A0167C

**Part(s) of the register:** Nursing – Sub part 1 Registered Nurse – Adult  
(15 January 2020)

**Relevant Location:** Denbighshire

**Type of case:** Misconduct

**Panel members:** Anne Ng (Chair, lay member)  
Linda Pascall (Registrant member)  
Nicola Strother Smith (Lay member)

**Legal Assessor:** Graeme Sampson

**Hearings Coordinator:** Hazel Ahmet

**Facts proved:** Charges 1, 2, 3, 4, 5, 6, 7 and 8

**Facts not proved:** None

**Fitness to practise:** Impaired

**Sanction:** **Striking-off order**

**Interim order:** **Interim suspension order (18 months)**

## **Decision and reasons on service of Notice of Meeting**

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Ms Cuc's registered email address by secure email on 8 November 2023.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, date and the fact that this meeting was heard virtually.

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

The panel noted that the Rules do not require delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

## **Details of charge**

*'That you, a registered nurse, on the 2 May 2020:*

*1) Administered insulin to Resident A at 09:10 without a colleague being present to conduct a second check.*

*2) Recorded in Resident A's MAR chart and/or controlled drugs book and/or the insulin regime sheet a copy of Colleague A's signature to indicate she had been the second checker for the administration of the insulin when she had not been present.*

*3) Your conduct at charge 2 was dishonest in that you knew Colleague A had not been the second checker for your 09.10 administration of insulin to Resident A and you intended to mislead any subsequent reader of Resident A's MAR chart and/or controlled drugs book and/or the insulin regime sheet that she had been.*

- 4) *Failed to administer a Gabapentin 100mg capsule to Resident A at 09.00, as prescribed.*
- 5) *Inaccurately recorded on Resident A's MAR chart and/or controlled drugs book that Gabapentin 100mg had been administered at 09:00.*
- 6) *Recorded in Resident A's MAR chart and/or controlled drugs book a copy of Colleague A's signature to indicate she had been the second checker for the administration of the Gabentin 100mg capsule at 09:00 when she had not been present.*
- 7) *Your conduct at charge 5 and 6 was dishonest in that you knew you had not administered Gabapentin 100mg to Resident A at 09.00 and you intended to mislead any subsequent reader of Resident A's MAR chart that you had done so and that said administration had been second checked by Colleague A.*
- 8) *Inappropriately disposed of the Gabepentin 100mg capsule that should have been administered at 9:00 to Resident A by putting it in a bin instead of using the Doom kit.'*

## **Background**

The background taken from the initial referral for this case, is as follows:

*'Miss Cuc [had] been employed with Akari Care as a bank nurse from 25 April 2016 until 14 April 2017 and from 11 February 2019 until 20 May 2020 as a Nurse. The employer alleges that on 2 May 2020, Miss Cuc administered insulin without a second checker and then falsified the MAR sheet, CD book and BM chart. Miss Cuc also failed to administer Garbapentin, which became apparent during a drug count. Miss Cuc then disposed of the extra Garbapentin tablet inappropriately and didn't note in patient records that a tablet had been missed. Miss Cuc admitted the allegations against her and also that she had lied during the initial interview. An investigation was undertaken and Miss Cuc resigned with immediate effect on 20 May 2020 before a disciplinary hearing.'*

## **Decision and reasons on facts**

The panel examined carefully and took into consideration the witness and documentary material provided to it. It considered the evidence matrix relating to each charge, along with Ms Cuc's admissions in the response to charge form, and therefore, finds charges 1, 2, 3, 4, 5, 6, 7 and 8, proved in their entirety.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor.

## **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Ms Cuc's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage, and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Ms Cuc's fitness to practise is currently impaired as a result of that misconduct.

## **Representations on misconduct and impairment**

In coming to its decision, the panel had regard to the case of *Roylance v GMC (No. 2)* [2000] 1 AC 311 which defines misconduct as a ‘word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.’

The NMC invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of ‘The Code: Professional standards of practice and behaviour for nurses and midwives (2018) (“the Code”) in making its decision.

The NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. The panel has referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The NMC invited the panel to find Ms Cuc’s fitness to practise impaired on the grounds of both public protection and in the wider public interest.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin).

## **Decision and reasons on misconduct**

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Ms Cuc’s actions did fall significantly short of the standards expected of a registered nurse, and that Ms Cuc’s actions amounted to a breach of the Code. Specifically:

*[‘The Code’ Professional standards of practice and behaviour for nurses, midwives and nursing associates]*

**1.2** *make sure you deliver the fundamentals of care effectively*

**1.4** *make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay*

**8.2** *maintain effective communication with colleagues*

**8.3** *keep colleagues informed when you are sharing the care of individuals with other health and care professionals and staff*

**8.5** *work with colleagues to preserve the safety of those receiving care*

**8.6** *share information to identify and reduce risk*

**10.1** *complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event*

**10.2** *identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need*

**10.3** *complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements*

**19.1** *take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place*

**20.1** *keep to and uphold the standards and values set out in the Code*

**20.2** *act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment*

The panel further took into consideration the NMC's Statement of Case in relation to the misconduct in Ms Cuc's case:

*'We consider the misconduct serious. Honesty and integrity are the cornerstones of the nursing profession and the falsification of patient records by signing off her colleague's signature as a second checker is a significant departure from the standards expected of a registered nurse. Her conduct could have resulted in harm to the Resident. Mrs Cuc deliberately disregarded the safeguards put in place to protect patients and colleagues and her own training. Furthermore, Mrs Cuc's actions impacted negatively upon her colleagues by putting them in a position where they were questioned.'*

*A registrant failing to give a resident medication and then incorrectly recording that they had, puts patients at serious risk of harm. This goes against basic nursing principles and is a failure to put patient needs first and minimizing the risk to them. Her actions also reflects badly on the nursing home and the nursing profession. Mrs Cuc's behaviour raises grave concerns about her integrity as a registered professional. Therefore, restrictive action may be necessary to protect the public and maintain public confidence in the profession.'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that the facts found proved in this case, do amount to misconduct.

The panel found that Ms Cuc's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to serious misconduct.

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

The panel next went on to decide if as a result of the misconduct, Ms Cuc's fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

*'The question that will help decide whether a professional's fitness to practise is impaired is:*

*"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"*

*If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'*

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

*'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'*

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

*'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/their fitness to practise is impaired in the sense that S/He/They:*



- a) *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel determined that all four limbs in the “test” of Grant were engaged, and that the risk of harm in this case was real and had the potential to cause pain for patients. The panel determined that patients were put at risk and there was potential to cause physical and emotional harm as a result of Ms Cuc’s misconduct. Ms Cuc’s misconduct also placed her colleagues in a distressing position, as she abused her position of trust by falsifying a colleague’s signature. Her conduct had breached the fundamental tenets of the nursing profession and therefore brought the profession into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

Regarding insight, the panel considered that Ms Cuc has not effectively demonstrated an understanding of how her actions put the patients at a risk of harm, or how her misconduct negatively impacted her colleagues, and the reputation of the nursing profession. Ms Cuc has not apologised to the patients, or her colleagues, for her misconduct, nor has she demonstrated how she would handle the situation differently in the future.

The panel was satisfied that the clinical concern in this case is capable of being addressed. However, it acknowledged that the dishonesty in this case is attitudinal and difficult to address. The panel considered the evidence before it in determining whether or not Ms Cuc has taken steps to strengthen her practice. The panel took into account the fact that Ms Cuc has not been practising as a registered nurse, and therefore has not had the opportunity to improve her practice.

The panel is of the view that there is a risk of repetition based on Ms Cuc's lack of insight, remorse, and the lack of strengthening of her practice. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required because a well-informed member of the public would expect a nurse facing such allegations to have a restriction placed on their practice.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Ms Cuc's fitness to practise impaired on the grounds of public interest.

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

## **Sanction**

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Ms Cuc off the register. The effect of this order is that the NMC register will show that Ms Cuc has been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

## **Representations on sanction**

The panel noted that in the Notice of Meeting, dated 8 November 2023, the NMC had advised Ms Cuc that it would seek the imposition of a striking-off order if it found Ms Cuc's fitness to practise currently impaired.

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

Having found Ms Cuc's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel 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 had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel determined that the aggravating features in this case, were as follows:

- *Ms Cuc put a colleague at risk of harm by abusing her position of trust and falsifying records, this was a breach of the fundamental tenets of the nursing profession, in that Ms Cuc did not act with honesty and integrity;*
- *Ms Cuc placed patients at risks of suffering harm;*
- *Ms Cuc had an initial lack of insight into her failings.*

In relation to mitigating factors, the panel did consider Ms Cuc's [PRIVATE], and the way in which she had claimed this to have impacted her ability to practise, however, the panel determined that there is little evidence to support this as a mitigating factor.

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 Cuc'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 Cuc's 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 Ms Cuc's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated to address the dishonesty in this case. The misconduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Ms Cuc's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

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 Ms Cuc's actions is fundamentally incompatible with Ms Cuc remaining on the register. The panel took into account the attitudinal concerns, and the seriousness of the dishonesty in this case, further highlighting the lack of insight or remorse from Ms Cuc, and her lack of communication or engagement with the NMC. The panel was not satisfied that Ms Cuc had provided insight and considered that her action posed a significant risk of repetition and harm. Therefore, a suspension order would not be a sufficient, appropriate, or proportionate sanction.

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?*

Ms Cuc's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Ms Cuc's actions amounted to serious misconduct, and to allow her 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 matters it identified, in particular the effect of Ms Cuc's actions in the potential harm caused to patients and 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 a striking-off order 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.

### **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 Ms Cuc's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

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

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.

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

That concludes this determination.

This will be confirmed to Ms Cuc in writing.