

## 5. Concerns about clinical competence – local investigation should conclude before referral

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### Background

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Nurse A has been employed by the current employer for the past two years. During that time there have been ongoing concerns about their ability to administer medication safely.

On three separate occasions last year, Nurse A either administered or prepared to administer medication via the wrong route. Nurse A also administered intravenous medication without properly carrying out the necessary second checks.

When the concerns were identified, Nurse A recognised the risk to patients and was willing to do anything necessary to improve their practice. The employer managed the concerns by putting an action plan in place.

Nurse A completed a reflective piece, further training and a period of supervised practice. After making good progress, Nurse A was signed off as competent. But a few months later, the employer discovered that Nurse A had again administered medication via the wrong route, more than once.

### What the employer did

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In response to the concerns, Nurse A's employer took a number of steps.

- They put in place another, more robust action plan. Two senior nurses separately supervised Nurse A during drug rounds. They both said they had to intervene a few times to stop Nurse A from making mistakes. They also said Nurse A didn't keep proper records and left the drugs trolley unattended. They didn't feel they could sign Nurse A off and had serious concerns about Nurse A's competence.
- They met with Nurse A, who wasn't able to explain why these mistakes kept happening.
- They asked Nurse A to write another reflective piece which didn't really provide reassurance that Nurse A knew what the problem was or how to improve.
- In accordance with their local procedures, they decided to undertake an investigation which looked at whether there were any contextual factors that might have contributed to the issues. Contextual factors might have included staffing shortages, pressures and poor systems. They didn't find anything of concern so the concerns about Nurse A's lack of competency in medicine administration were substantiated.
- They referred Nurse A to Occupational Health, but no concerns were identified.
- They held a full disciplinary hearing which resulted in Nurse A being dismissed due to concerns that despite ongoing support, Nurse A wasn't able to make the necessary improvements to their practice to keep members of the public safe.

## What happened next

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The employer in this case made a referral to us as soon as they'd concluded the disciplinary process and dismissed Nurse A. At this point, local management action could no longer effectively manage the ongoing risk to patients.

The employer's referral at the conclusion of its internal process meant that the referral was supported with all of the detailed documentation about the steps taken to support Nurse A, their engagement throughout the process, the impact on patient safety, witness accounts and investigation reports.

With that information, we were quickly able to understand the concerns and to assess the risk that Nurse A might pose to patients if allowed to practice without any restrictions.

We imposed an interim conditions of practice order which meant Nurse A could continue to practice but with clear conditions to ensure patient safety.

## What should the employer have considered?

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### 1. What's the risk?

Despite being given support over a two year period, Nurse A hasn't been able to demonstrate appropriate skills and knowledge to correctly and appropriately administer medication without supervision on a long-term basis.

There is a risk that Nurse A lacks competence and isn't capable of safe and effective practice. This was a risk that the employer suitably managed during the course of the improvement plans that were in place to support Nurse A and to give them the opportunity to put things right.

Nurse A has now been dismissed and will no doubt be seeking alternative employment. As Nurse A hasn't successfully completed the last action plan, they are currently not deemed competent to administer medication without support. It doesn't appear that Nurse A fully recognises the limits of their competence or what they might need to do to make the necessary improvements to their practice.

Based on what we know, there is a high risk that Nurse A will make further medication errors if not fully supervised by a future employer. As Nurse A appears to lack insight into the problems, we can't be sure that they will declare these concerns. The overall risk to patient safety is significant.

### 2. Can you effectively manage the risk to ensure patient safety?

Our [approach to fitness to practise](#) says:

“Employers should act first to deal with concerns about a registrant's fitness to practice, unless the risk to patients or the public is so serious that we need to take immediate action.”

The employer in this case took suitable steps to try to manage the concern and to support Nurse A to make improvements to their practice over a long period of time. Recognising patients were put at risk of harm following the initial medication errors, the employer appropriately assessed the risk and put an action plan in place which Nurse A successfully completed. This suggested Nurse A had made the necessary improvements to their practice, with support, and the risk of repetition at that time was low.

When the employer then found the concerns had re-emerged, they took appropriate steps again to provide support to Nurse A while keeping patients safe. This meant that there was no need for a referral at that time. Nurse A wasn't working for another employer and any patient safety risks were being effectively managed through the employer's local management action.

We say that except in the most serious cases, your investigation should be completed before you make a referral to us.

But our approach to fitness to practise also says:

“we always take regulatory action when there is a risk to patient safety that is not being effectively managed by an employer.”

When the employer reached the point that no further support could be provided, and took the decision to dismiss Nurse A, it was appropriate for a referral to be made as the employer was then no longer able to effectively manage the concerns.

### 3. Has the nurse/midwife/nursing associate shown insight and willingness to put the concerns right?

Nurse A initially demonstrated insight into the concerns and a willingness to put things right. The employer recognised that and rightly took steps to provide support to help bring about improvements.

It initially seemed that had been successful. Unfortunately, despite support, Nurse A wasn't able to sustain the improvements to their practice.

This was unfortunate as Nurse A appeared to understand the concerns, but wasn't able to make and sustain essential improvements to ensure patient safety. This meant Nurse A hadn't been able to put the concerns right, despite having insight and a willingness to do so.