3. Alleged theft of medication – employer can manage the concerns locally while investigating

Last Updated: 02/02/2021

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Background

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Nurse A has been employed by their current employer for nine years. Throughout that time, there haven't been any concerns about the nurse's clinical practice or conduct.

However, three of Nurse A's colleagues have recently reported that they suspect Nurse A stole a pack of fentanyl tablets from the ward. They allege that at the end of the shift, Nurse A was behaving strangely. They said they were all talking in the staff room but Nurse A turned away, and they saw Nurse A take the pack of medication out of their pocket and 'slip it' into their bag.

Over the past month the employer has had concerns that some medication has been going missing. A quick audit of medication showed that there was some fentanyl missing from the ward where Nurse A was allegedly seen with it.

Nurse A's manager has also reported that Nurse A hasn't been their 'normal self' over the past few weeks, coming in slightly late for shifts and leaving slightly early.

What the employer did

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

- They undertook preliminary enquiries, including discussions with the three members of staff to clarify the details of what they saw.
- They spoke with Nurse A, who denied stealing medication. Nurse A said, over the past few weeks, they'd been visiting a sick friend before their shift and discovered that the friend had been prescribed fentanyl tablets but was taking too many. Concerned for the friend's welfare, Nurse A said they took the tablets away with the intention of returning them after work.
- Based on their internal procedures, they decided a more detailed investigation was required to consider the recent medication discrepancies and also the allegations against Nurse A.
- They met with Nurse A to confirm an investigation would be carried out by someone from another ward. They explained that a clear timescale would be set and terms of reference agreed, including interviews with relevant witnesses
- They provided Nurse A with regular progress updates and support through Occupational Health.

What happened next

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The employer in this case made an immediate referral to the NMC before completing their local investigation.

At the point of making the referral, the employer didn't have evidence that Nurse A had stolen any medication so there was no need for us to take immediate action to restrict Nurse A's practice. The employer was suitably managing the concerns, so the referral was put on hold until the conclusion of their investigation.

The employer later confirmed that they had carried out a thorough investigation which found that Nurse A's account was true, and the concerns weren't upheld.

We closed the case at the screening stage as there weren't any concerns for us to consider. This referral could have been avoided if the employer had completed the local investigation before making a referral to us.

What should the employer have considered?

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1. What's the risk?

The allegation of medication theft and dishonesty is very serious and calls into question Nurse A's integrity, professionalism and trustworthiness. If found to be true, this is a serious concern that would be difficult to put right.

The employer would also need to consider whether Nurse A stole the medication for their own use, indicating an underlying health condition. This could give rise to an additional concern about patient safety.

However, until the employer's investigation has concluded, there's no suggestion Nurse A poses any current risk of harm to patients or the public.

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 nurse, [nursing associate] or midwife's practice, unless the risk to patients or the public is so serious that we need to take immediate action."

Based on the facts of this case, there are no clinical concerns regarding Nurse A's practice, and no suggestion that actions have in any way put patients at risk of harm.

Our approach to fitness to practise also says:

> "In cases that aren't about clinical practice, taking action to maintain public confidence and uphold standards is only likely to be needed if the concerns raise fundamental questions about the trustworthiness of a registrant as a professional".

The allegation of dishonesty, if proven through the employer's investigation, may require the NMC to take action to promote public trust and confidence in the profession.

However, this concern is not so serious that we need to take immediate restrictive regulatory action. There's no suggestion that there are any wider concerns in relation to Nurse A's practice and Nurse A is not working elsewhere.

At this stage any risk is being effectively managed by the employer with the cooperation of Nurse A during the local investigation.

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

Nurse A engaged well with the employer throughout.

It's important that employers approach investigations in a fair and objective manner. Nurse A's initial denial of the allegations shouldn't be taken to be a lack of insight, particularly as there was no credible evidence to suggest that the allegations were substantiated.