

Legal aspects in Nurse Prescribing

Mark Gagan RN LLM RNT

NMC statistics

NMC Annual Report 2016-2017 states that there are 690,773 nurses and midwives on the register (as of March 31st 2017)

There were 5,476 reported concerns to NMC leading to 1,513 hearings
126 cases referred were concerned with prescribing and medicines management.

344 nurses were struck off the register (23% of cases referred)

Pharmacist and Medical practitioners

- 1,889 pharmacists were referred to the regulatory authority ,the General Pharmaceutical Council, in 2016/17 period.
- GMC 2016 239 Doctors were referred to fitness to practise, 72 struck off.

Number of prescriptions dispensed

- 1.1 billion prescriptions were dispensed in 2012
- An average of 1,900 prescriptions a minute.
- 1.8% prescribed by Nurses and other Non medical practitioners (18 million)
- This was a 10% increase over 2011 (hscic 2013)

Notable cases

- Duty of care owed by Healthcare professionals
- *FB V Princess Alexandra Hospital NHS Trust* [2017] EWCA Civ 334
- The legal standard expected from newly qualified (or not so newly qualified) healthcare professionals.
- *Nettleship v Weston* [1971] QB 691 being inexperienced is no defence

Standard of care

- Bolam v Friern Hospital Management Committee [1957] 1 WLR exercising the care and skill of a reasonably competent member of the profession
- Wilsher v Essex AHA [1987] 1 QB 730 the standard of skill required is equal to the role being performed regardless of the grade of the person performing that task

Standard of care

- In FB the doctor failed to take a proper history and assessment of the child which if done properly may have reduced the risk that eventuated.
- There are certain basic skills which healthcare practitioners must display in order to deliver safe competent care, when they fail to show these skills they run the risk of not meeting the expected standard of care and liable in tort for damages.

Consent

- Montgomery v Lanarkshire Health Board [2015] UKSC 11
- Reinforces the patient's right to autonomy
- Healthcare professional's duty to advise and the patient's right to decide.

Some cases

- Registered Nurse working as a Health visitor was also running her own aesthetic and cosmetic business
- She submitted six false prescriptions, for Botox, totaling £3,300
- Forged a doctor's signature by photocopying a blank, signed prescription
- 8 month prison sentence suspended for 18 months, 200 hours service
- Struck off NMC register, indefinitely, in April 2017 for “endangering patient's lives”

Some cases

- A consultant Cardiac care specialist Nurse claimed she had achieved her Nurse Prescribing qualification at a university who had no record of her being registered with them
- Nurses working with her became suspicious when she was unable to discuss medication regimes for patients in the cardiac unit
- She had attended two study days about prescribing medications
- She was struck off the NMC register indefinitely

In conclusion

- Remember to be aware of your limitations when taking on roles
- Your competence will be measured against the reasonable expectations of that job role
- The role of the healthcare professional is to advise, the role of the patient is to decide

References

- General Medical Council 2016 Annual statistics for fitness to practice 2015 [online] https://www.gmc.org/DC9491_07_Fitness_to_Practise_Annual_Statistics_Report_2015
- HSCIC 2013 Prescriptions Dispensed in the Community: England 2002-12 HSCIC publications.
- NMC 2016 Annual reports [https:// www.nmc.org](https://www.nmc.org)

Cases

- Bolam v Friern Hospital Management Committee [1957] 1 WLR
- FB v Princess Alexandra Hospital NHS Trust [2017] EWCA Civ 334
- Montgomery v Lanarkshire Health Board [2015] UKSC 11
- Wilsher v Essex AHA [1987] 1QB 730