

Y Gymdeithas Feddygol Brydeinig  
Pumed Llawr  
2 Pentir Caspian  
Ffordd Caspian  
Bae Caerdydd  
Caerdydd  
CF10 4DQ

British Medical Association  
Fifth Floor  
2 Caspian Point  
Caspian Way  
Cardiff Bay  
Cardiff  
CF10 4DQ

# BMA

Cymru Wales

Ffôn/Tel [REDACTED]  
Ffacs/Fax [REDACTED]  
Ebost/Email [REDACTED]

## **National Assembly for Wales / Cynulliad Cenedlaethol Cymru Health and Social Care Committee / Y Pwyllgor Iechyd a Gofal Cymdeithasol**

### **Safe Nurse Staffing Levels (Wales) Bill / Bil Lefelau Diogel Staff Nyrsio (Cymru)**

### **Evidence from BMA Cymru Wales – SNSL(Org) 04 / Tystiolaeth gan BMA Cymru – SNSL(Org) 04**

#### **GENERAL PRINCIPLES OF THE SAFE NURSE STAFFING LEVELS (WALES) BILL**

#### **Consultation by the National Assembly for Wales' Health and Social Care Committee**

#### **Response from BMA Cymru Wales**

14 January 2015

#### **INTRODUCTION**

BMA Cymru Wales is pleased to provide a response to the consultation by the National Assembly for Wales' Health and Social Care Committee on the general principles of the Safe Nurse Staffing Levels (Wales) Bill.

The British Medical Association represents doctors from all branches of medicine all over the UK; and has a total membership of over 150,000 including more than 3,000 members overseas and over 19,000 medical student members.

The BMA is the largest voluntary professional association of doctors in the UK, which speaks for doctors at home and abroad. It is also an independent trade union.

BMA Cymru Wales represents some 7,000 members in Wales from every branch of the medical profession.

#### **RESPONSE**

##### **Ysgrifennydd Cymreig/Welsh secretary:**

Dr Richard JP Lewis, CSTJ DL MB ChB MRCPG MFFLM Dip IMC RCS(Ed) PGDip FLM

##### **Prif weithredwr/Chief executive:**

Keith Ward

Cofrestrwyd yn Gwmni Cyfyngedig trwy Warant. Rhif Cofrestredig: 8848 Lloegr

Swyddfa gofrestredig: BMA House, Tavistock Square, Llundain, WC1H 9JP.

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BMA Cymru Wales offers the following responses to the specific questions posed by the Committee upon which we have a view:

**Is there a need for legislation to make provision about safe nurse staffing levels?**

In line with the comments provided in response to the two previous consultations, BMA Cymru Wales continues to express its support for the need for this legislation. The requirement for adequate staffing levels, particularly in acute hospital wards has been frequently underlined – such as in a recent study published in *The Lancet*<sup>1</sup> which highlighted the link between nurse staffing levels and patient outcomes, and the recent report by Professor June Andrews and Mark Butler<sup>2</sup> which outlined inadequacies in the care of older patients at the Princess of Wales and Neath Port Talbot Hospitals. We consider that until appropriate safeguards are implemented, such as those which would be put in place by this Bill, then local health boards in Wales will continue to deplete ward nursing establishments and run wards with unsafe nurse staffing levels.

**Are the provisions in the Bill the best way of achieving the Bill's overall purpose (set out in Section 1 of the Bill)?**

We would support the provisions of the Bill in the manner they have been set out in Section 1 of the Bill as it has been introduced. However, we have some concerns as to how these provisions are then further taken forward within Section 2.

Specifically we have concerns that in securing appropriate staffing levels in adult inpatient wards in acute hospitals, the legislation as currently drafted might lead to nursing levels inadvertently being depleted in other inpatient settings such as in community hospitals.

We feel that additional safeguards may therefore need to be added in to this this legislation to ensure that a minimum nurse staffing level is delivered in all inpatient settings. This might be achieved, for instance, by requiring that there should be at least two qualified nurses present on an inpatient ward at all times – with sufficient cover from a third nurse also being provided in cases where there would otherwise only be two nurses present, in order for them to be able to take breaks.

**What, if any, are the potential barriers to implementing the provisions of the Bill? Does the Bill take sufficient account of them?**

We envisage that health boards might cite potential difficulties in being able to recruit sufficient nurses, including qualified nurses, and may state that they already experience difficulties in many instances in even recruiting agency nurses to fill gaps in rotas. Our members note that many nursing staff may regularly undertake additional shifts to ensure adequate staffing cover can be provided. There may, however, also have to be an acceptance from more senior nurses in managerial roles that they may at times also have to assist with direct patient care to ensure the provisions of this Bill can be fulfilled.

**Are there any unintended consequences arising from the Bill?**

We would reiterate our concern that requiring minimum ratios in specific defined inpatient settings could inadvertently lead to a depletion of nurse staffing levels in other inpatient settings. Amendments to the Bill may therefore be required to ensure this could not be the case.

**Do you have a view on the duty on health service bodies to have regard to the importance of ensuring an appropriate level of nurse staffing wherever NHS nursing care is provided?**

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<sup>1</sup> L H Aitken et al (2014) *Nurse staffing and education and hospital mortality in nine European countries: a retrospective observational study*. The Lancet. Available at:

[http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(13\)62631-8/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(13)62631-8/fulltext)

<sup>2</sup> <http://wales.gov.uk/topics/health/publications/health/reports/care/?lang=en>

We support this duty, subject to the concerns we have raised above being addressed regarding the need to mitigate against the possibility of inadvertent adverse impacts on nurse staffing levels in other inpatient settings. However, we would note that the key to the success of this proposed duty may be derived from any accompanying powers that may be required to ensure that it is in fact fulfilled by health boards. We would hope that a statutory duty would in itself provide greater leverage to ensure that health boards do meet such obligations in relation to providing safe nurse staffing levels, whilst noting that current non-statutory obligations are often ineffective. We would therefore seek assurance that either having a statutory duty in itself will provide sufficient incentive to ensure safe nurse staffing levels are delivered, or else that sufficient additional measures and/or sanctions are also agreed to ensure that this will be the case.

An alternative approach that some of our members have suggested, might be to empower sisters and charge nurses to close wards down in cases where they feel they have a nurse staffing level that is inadequate for them to safely care for the patients in their charge. This might be a more effective approach than simply placing the duty to comply with this legislation on health boards themselves.

The Bill could also give consideration to how individual members of staff, and not specifically just nurses, would be able to raise concerns regarding unsafe nurse staffing levels without any fear of reprisal. In our view, it is vitally important that all staff can be fully protected in raising such concerns – and indeed the system in place should ensure they are actively encouraged to do so when they perceive safe nurse staffing levels are not in place, in order to maximise the effectiveness of this legislation.

**Do you have a view on the duty on health service bodies to take all reasonable steps to maintain minimum registered nurse to patient ratios and minimum registered nurse to healthcare support workers ratios, which will apply initially in adult inpatient wards in acute hospitals?**

The view of BMA Cymru Wales is that what would be regarded as ‘reasonable’ may require clearer definition, as it leaves it open to interpretation what steps might be seen as reasonable and what steps might therefore be seen as unreasonable. We feel it may be preferable for this duty to instead require all ‘possible’ steps, as we consider this might be more likely to lead to the intentions of the Bill being delivered.

**Do you have a view on the fact that, in the first instance, the duty applies to adult inpatient wards in acute hospitals only?**

We would again reiterate the concerns we have already expressed that this may lead to inadvertent adverse impacts on nurse staffing levels in other inpatient settings, such as in community hospitals. The Bill may therefore require to be amended to ensure such a concern is mitigated against.

**Do you have a view on the requirement for the Welsh Government to issue guidance in respect of the duty set out in section 10A(1)(b) inserted by section 2(1) of the Bill which:**

- **sets out methods which NHS organisations should use to ensure there is an appropriate level of nurse staffing (including methods set out in section 10A(6) inserted by section 2(1) of the Bill)?**

We consider that the guidance which will be required to define what particular minimum ratios should be in place in different specific circumstances must clearly define what is meant by a safe staffing level in a way that also takes into account the provision of an appropriate skill mix (e.g. between nurses and healthcare workers) in order for this to be achieved.

This guidance should recognise that the individual needs of patients may have to be taken into account in order to determine what the appropriate minimum ratio might be in a particular situation. For instance, some patients on acute psychiatric wards may require a designated member of staff to sit with them continually. The needs of individual patients within a ward may therefore need to be taken into account

in determining what the appropriate minimum ratio might be at a specific time on a specific ward, and not just the type of ward and the number of patients currently present.

We feel it could be helpful for what is described as ‘additional settings’ to which the provisions of the Bill could also apply to be defined so that it is clearer what might be intended.

- **includes provision to ensure that the minimum ratios are not applied as an upper limit?**

Whilst we accept this might happen in circumstances where there is insufficient funding available, or where there are particular challenges in recruiting nursing staff, we also believe that the benefits of such a requirement in preventing wards from being run with unsafe nurse staffing levels would significantly outweigh the disadvantages of this potentially being the case.

- **includes protections for certain activities and particular roles when staffing levels are being determined?**

We consider this is important if we want to ensure that excellent care is delivered to patients by motivated staff.

**Do you have a view on the requirement for each health service body to publish an annual report?**

This would appear to us to be an appropriate requirement. We would suggest that an appropriate standardised format is developed for these annual reports which also includes explicit requirements to provide detailed information concerning breaches of the provisions of this Bill, as well as of any action plans being implemented to prevent such breaches from reoccurring.

**Do you have a view on the requirement for Welsh Ministers to review the operation and effectiveness of the Act as set out in section 3?**

We support this requirement. Whilst it would be hoped that this legislation would be effective in achieving its aims from the date of its implementation, it would seem only sensible to include a provision for Welsh Ministers to subsequently review its operation and effectiveness in the way that has been outlined.

**Do you have a view on the effectiveness and impact of the existing guidance?**

In the experience of our members, current guidance does not appear to have had a noticeable effect in preventing what they would perceive as unsafe nurse staffing levels. As such, we would reiterate our support for this Bill.