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 Chartered Society of Physiotherapy – SNSL(Org) 07 / Tystiolaeth gan Cymdeithas Siartredig Ffisiotherapi – SNSL(Org) 07

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Dear Committee Members

Re: Safe Nurse Staffing Levels (Wales) Bill – Written Evidence from the Chartered Society of Physiotherapy

Introduction

The Chartered Society of Physiotherapy (CSP) welcomes the opportunity to provide written evidence to the committee. As far as possible we have attempted to answer the questions the committee has posed.

As highlighted in our response to the member in charge of the Bill, the CSP and our members are wholly committed to supporting the drive to improve the quality of care and outcomes for patients, and understand the spirit of the proposed Bill. However, we cannot support an approach to legislation that does not address staffing in a multidisciplinary way, does not focus on quality outcomes for patients, and risks a focus on numbers of nurses in isolation from the plethora of other factors that impact on patient outcomes and benefit.

Response to the consultation questions

1. General

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

The Chartered Society of Physiotherapy (CSP) is highly committed to ensuring the delivery of high-quality patient care and supporting, leading and contributing to initiatives focused on improving service delivery and ensuring patients receive safe, compassionate, person-centred care that is accessible, timely and effective. Delivery of care has to respond to the needs of an ageing population and increasing numbers of patients with long-term and multiple conditions, while achieving a stronger shift to health promotion, illness prevention and patient self-management. This commitment underpins our feedback to this consultation. All our points should therefore be seen and taken within this context.

In terms of proposed legislation on nurse staffing levels, we are concerned that this is not a solution to ensuring the delivery of high-quality, compassionate care and that it will not achieve its intended aims. We have concerns for a number of reasons (which we expand on in our response to subsequent questions). These are broadly as follows:

- The legislation risks diverting attention away from achieving quality of outcomes for patients (including long-term benefits, the fulfilment of personal treatment goals, and the promotion of self-management) and focusing narrowly on specific service input and delivery issues (rather than on initiatives designed to achieve service improvements within a context of financial constraint)

- It risks nurse staffing numbers becoming a focus that is addressed in isolation from the many other factors that affect quality outcomes and experience for patients (relating to broader factors to do with staffing – including skill mix and the contribution of the whole multi-disciplinary team; patient need, including in relation to acuity and dependency; and service delivery models, context and improvements)

- It risks creating unintended consequences that will impact negatively on the quality of patient care, thereby having the opposite effect from its intended purpose (please see our response to 1.4).

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

As indicated above, we have concerns about whether the proposed legislation and the proposed provisions within the Bill can form an effective way of achieving their

intended purpose. In line with our response to 1.1, our concerns centre on the following:

- The lack of the provisions' focus on the quality of patient experience and outcomes

- Confusion in the definition and use of terminology within the draft legislation, which creates ambiguity in its intended meaning and raises questions about how it is likely to be interpreted and implemented (for example, 'safe', 'sufficient' and 'minimum' are all used as descriptors in relation to staffing levels, apparently inter-changeably and without clarity on their intended distinctions)

- The practicalities of Government Ministers producing guidance on the detail of the legislation's implementation (including in ways that are sensitive to factors relating to patient need, staffing and service delivery context and that can be sufficiently premised on available evidence and established tools and resources; (see http://www.nice.org.uk/guidance/sg1/chapter/3-gaps-in-the-evidence)

- The risks and likely unintended consequences of the legislation, including through its focus on one type of setting for the delivery of care to one (if broad) group of patients and the planned formulation and potential uniform application of a minimum recommended nurse: patient ratio that would apply regardless of patient dependency and need.

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

In line with our response above, we see the following as potential barriers to the effective implementation of the legislation and its achieving its intended aims and purpose:

- Lack of clarity about the intended focus of the provisions; in particular, this relates to our points about ambiguities in the terminology used and an apparent conflation of issues and approaches to staffing levels as being the same as those to do with workforce planning

- Significant questions about the practicalities of implementing the provisions, including due to the conflation of issues and the assumptions that underpin them; for example, it is misplaced to assume that recommended minimum staffing levels would necessarily reduce a reliance on temporary and agency nursing staff

- The unintended consequences of the provisions that could detract from achieving their intended purpose, including through undermining the overall quality and outcomes of patient care; in particular, this could arise through the legislation leading to a depletion of staffing resource and capacity among the professions,

staff groups, patient groups and care delivery settings that are not covered by the proposed legislation - aside from undermining quality of care and service improvements, this could have a negative impact on the working conditions of other staff groups, when one of the express purposes of the proposed legislation is to improve working conditions for nurses.

1.4 Are there any unintended consequences arising from the Bill?

As indicated elsewhere, we see a range of unintended consequences arising from the Bill. These include the legislation producing the following risks and issues:

- Its creating a narrow focus on numbers of staff within nursing (registered and non-registered) to the detriment of looking at all the factors that contribute to ensuring patient safety through the delivery of timely, high-quality care
- Its leading to a diversion of resources to ensure the fulfilment of minimum patient: nursing staff ratios at the expense of sufficient, safe and effective staff resourcing within other service delivery areas and within other staff groups (and not necessarily in ways that would ensure sustainable service delivery models or adherence to good employment practice)
- Related to the above, its conferring a pre-eminence to ensuring time and support are factored into nursing capacity and resources for clinical leadership, continuing professional development (CPD) and student supervision when these elements are equally important for sustainable, high-quality care across all staff groups
- Its creating a distracting, bureaucratic focus on fulfilling and demonstrating fulfilment of minimum requirements at the expense of ensuring a focus on achieving and maintaining high-quality care, experience and outcomes for all patients (across all population and patient groups and all service delivery settings)
- Its leading to a focus on and adherence to a minimum nurse:patient ratio, regardless of assertions that this is not the intention.

2 <u>Provisions in the Bill</u>

What is the CSP's view on:

2.1 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?

The CSP believes that health service bodies should be accountable to the Welsh Government for ensuring safe and effective staffing across all staff groups. How this accountability is implemented needs careful consideration. We question the value and appropriateness of a prescriptive, legislative approach to one staff group that encourages a focus on nurse:patient ratios in isolation from all the other factors affecting the quality of patient care. This risks forming a distraction from enacting a meaningful approach to strengthened accountability. We believe that there are other ways of achieving this that take a genuinely holistic approach, are appropriately inclusive of all factors and variables, and encourage a focus on outcomes for patients.

2.2 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 worker ratios, which will apply initially in adult inpatient wards in acute hospitals?

There would need to be detail and definition as to what is considered to be 'all reasonable steps'. A process would be needed to develop guidance on what those reasonable steps should be, with detailed consideration given to the development of appropriate mechanisms for organisations to use to demonstrate compliance with the legislation. Protocols and clear arrangements would also need to be in place to track, monitor and deal with failures to meet the duties under the legislation (as highlighted in our answer to 2.6).

In line with our broader concerns, we have reservations about the value of processes that would need to be in place and the risks that these would detract from broader initiatives to improve services and optimise the quality of patient care (including face-to-face contacts with patients).

2.3 The fact that, in the first instance, the duty applies to adult inpatient wards in acute hospitals only?

As indicated above, we have concerns about the proposal that the legislation will only apply to adult in-patient wards in acute hospitals. While we have fundamental concerns about legislating for safe staffing levels as an approach, we have specific concerns that this limitation will have unintended consequences in terms of impacting negatively on staffing levels for other patient groups, in other care settings and for other staff groups through resources being diverted to meet legislative requirements for this specific care environment and this specific staff group.
The ultimate result of the legislation could therefore be that the overall quality of patient care, experience and outcomes will be reduced as a result, in direct opposition to its intended purpose.

2.4 The requirement of 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 levels of nursing staffing (including methods set out in section !0A(6) inserted by section 2(1) of the Bill?**
- **Includes provision to ensure that the minimum ratios are not applied as an upper limit?**
- **Sets out a process for the publication to patients of information on the numbers and roles of nursing staff on duty?**
- **Includes protections for certain activities and particular roles when staffing levels are being determined?**

We have concerns about the planned requirement for the Welsh Government to issue guidance. This is for a range of reasons, in line with the points we raise above, centred on the following:

- We question the appropriateness and feasibility of the Welsh Government mandating specific methods and implementation of the legislation to the level of detail implied

- We question the extent of the resources, tools and evidence on which the Welsh Government could draw to produce such detailed guidance (see http://www.nice.org.uk/guidance/sg1/chapter/3-gaps-in-the-evidence)

- We are concerned that the current ambiguities in the draft legislation create risks for how detailed guidance could be produced in a meaningful way

- We are concerned about the appropriateness and feasibility of producing guidance that risks increasing prescription on issues that require a sensitivity to a wide range of local variables and factors (to do with patient need, staffing and service environment)

- We are concerned about the unintended consequences of producing detailed guidance in this way; for example, a particular focus on protecting 'certain activities and particular roles' would risk other activities and roles that sit outside the planned legislation being unprotected, with depletion in resourcing occurring as a result – in turn, this would be likely to impact negatively on patients' quality of care, experience and outcomes.

2.5 The requirement for Welsh Ministers to consult before issuing guidance?

For all the reasons outlined, we would see it as imperative that Welsh Ministers would consult before issuing guidance. This consultation process should be wide-ranging and inclusive, ensuring a full and robust scrutiny of the potential implications, risks and unintended consequences of the guidance and its potential interpretation and implementation.

2.6 The monitoring requirements set out in the Bill?

We would see the development of a process for comprehensive monitoring as an important component. Clear guidance would be required from the Welsh Government and monitoring may well require gaining data that is not collected currently. This would need to be considered and identified within costing for implementing the Bill.

We would want to be assured that the monitoring process was wide enough in its focus to consider and evaluate issues impacting on the quality of patients' experience and outcomes, as well as effective and efficient service delivery (including in relation to hospital admissions, readmissions and discharge; increased attendance at A&E departments; delays in the formulation of care packages for patients at home; and impact on social service costs). As part of this, the process should also capture information on issues affecting other professions and staff groups, not just nursing. This would be essential for ensuring that due account is taken of the kinds of unintended consequences identified elsewhere in our response.

2.7 The requirement for each health service body to publish an annual report?

We would see the production of regular reviews of the adherence and impact of the planned legislation as an important component. However, we would be concerned that annual reporting requirements achieved a balance in the following areas:

- Were sufficiently streamlined to avoid creating an unnecessary and counter-productive administrative burden on service providers
- Were sufficiently inclusive and wide-ranging to ensure a focus on the quality of patient care, experience and outcomes, including the potential for the legislation to have unintended consequences (for example, a negative impact on patient care, a diversion of staffing resource, and a depletion of capacity from other areas of care and service delivery in order to ensure legislative requirements can be met)
- Were sufficiently searching in terms of evaluative feedback on the challenges of implementing the legislation and its real value and impact in fulfilling its intended purpose.

2.8 The requirement for Welsh Ministers to review the operation and effectiveness of the Act as set out in section 3?

We would see the requirement for review by Welsh Ministers of the operation and effectiveness of the Act as an important component. However, we would want to ensure that the Welsh Government also addresses the potential for the legislation to have unintended consequences. It would be important that full consideration was given to the relevance of factors and variables across different services, and the significance of these for the effectiveness of the Act. Indicators of success should also include a focus on the positive aspects of quality care and patient outcomes, and not just the prevalence of the negative measures identified in the legislation that point to failures in care.

3 Impact of existing guidance

Guidance exists in England and Wales that aims to ensure safe staffing levels. This includes the 'All Wales Nurse Staffing Principles Guidance' issued by the Chief Nursing Officer in 2012 and the 2014 NICE safe staffing guidelines for 'Adult in-patient wards in acute hospitals in England.

3.1 Does the CSP have a view on the effectiveness and impact of the existing guidance?

The CSP considers that the 'All Wales Nurse Staffing Principles Guidance' issued by the Chief Nursing Officer in 2012 has been an important tool within the NHS in Wales, but notes that adherence to its recommendation has not appeared within tier 1 of the NHS performance management framework. Rather than resorting to the use of legislation, work is required to determine the reasons why the guidance has not been adhered to in the ways intended. It would also be helpful for NHS Wales to consider safe, effective and appropriate staffing across the whole workforce to ensure quality outcomes for patients.

4 Powers to make subordinate legislation and guidance

The Bill contains one provision which enables subordinate legislation to be made (section 10A(3) inserted by section 2(1)). This provision would confer powers on Welsh Ministers to amend the settings to which minimum staffing ratios will apply to extend it to settings other than adult inpatients wards in acute hospitals.

4.1 Does the CSP have a view on the balance between what is included on the face of the Bill and what is left to subordinate legislation and guidance?

We have concerns about the proposed legislation being premised on one health care setting, with the prospect of detail and the future coverage of other areas being progressed through subordinate legislation and guidance. These are linked strongly

to our concerns about how the legislation is framed, including its narrow focus and current ambiguities in terminology.

5 Financial implications

5.1 Does the CSP have a view on the financial implications of the Bill as set out in part 2 of the Explanatory Memorandum?

We have concerns that the consideration of the financial implications of the Bill does not take sufficient account of the unintended consequences of its implementation. In particular, we have concerns that a focus on nurse staffing levels for one health care setting/patient group will lead to resources being diverted away from other staff groups and patient needs/service delivery areas in order that compliance with legislative requirements is affordable.

Aside from compromising the quality of patient care and working conditions, this risks a false impression being gained of the Bill's financial implications. It also risks decisions being made about how resources are deployed that are not necessarily in line with patients' best interests, optimising the scope for innovations in service design and delivery, or managing the development and provision of affordable services within a context of financial constraint.

6 Other comments

6.1 Does the CSP have any other comments to make about the Bill or specific sections within it?

We are currently undertaking project work, funded by the CSP Charitable Trust, to develop a robust approach to formulating safe and effective staffing levels (SESL) for UK physiotherapy. The profession is fully committed to being part of the solution to assure the safety, experience and quality outcomes for service users across the health and social care landscape.

The approach in development will have applicability across the UK, taking account of each country's health and social care structures and policies, and aims to reflect the breadth of specialisms/patient pathways, settings, sectors and service delivery models in and through which physiotherapy is provided.

The project outputs will be an online tool with supporting guidance. The approach will be founded on the available evidence base and will be focused on achieving and upholding high-quality compassionate care for patients within affordable service delivery models.

Through our SESL project, we are seeking to achieve the following outcomes:

- Strengthened support to our members in identifying and articulating the physiotherapy staffing resources required to deliver a particular service to uphold and enhance the quality of patient care, while demonstrating cost-effectiveness

- An evidence-based approach to formulating and articulating SESL, grounded in available research literature and current and projected policy (across the UK)

- An approach that upholds and enhances quality in patient care, both in terms of patient experience and outcomes and achieving short- and long-term benefits

- A strengthened CSP contribution to national policy-making and implementation on a key issue relating to the quality of patient care and service design and delivery within increasingly constrained resources and rising expectation.

Concluding comments

In conclusion, whilst supporting attention to enhance the quality of care and outcomes for patients, the CSP considers a more rounded and multi-factorial method is necessary to achieve safe and effective care delivered by appropriate staffing. The Society continues to hold the view that a number or ratio is not an indicator of good quality care delivered with compassion.

The CSP is content for this evidence to be made available publicly.

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About the CSP and Physiotherapy

The Chartered Society of Physiotherapy is the professional, educational and trade union body for the UK's 52,000 chartered physiotherapists, physiotherapy students and support workers. The CSP represents 2,300 members in Wales.

Physiotherapists use manual therapy, therapeutic exercise and rehabilitative approaches to restore, maintain and improve movement and activity. Physiotherapists and their teams work with a wide range of population groups (including children, those of working age and older people); across sectors; and in hospital, community and workplace settings. Physiotherapists facilitate early intervention, support self-management and promote independence, helping to prevent episodes of ill health and disability developing into chronic conditions.

Physiotherapy delivers high quality, innovative services in accessible, responsive and timely ways. It is founded on an increasingly strong evidence base, an evolving

scope of practice, clinical leadership and person centred professionalism. As an adaptable, engaged workforce, physiotherapy teams have the skills to address healthcare priorities, meet individual needs and to develop and deliver services in clinically and cost effective ways. With a focus on quality and productivity, physiotherapy puts meeting patient and population needs, optimising clinical outcomes and the patient experience at the centre of all it does.