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25 April 2017

Dr Dai Lloyd AM
National Assembly for Wales
Ty Hywel
Cardiff CF99 1NA

Dear Dr Dai Lloyd

Re: Nurse Staffing levels (Wales) Act 2016 statutory guidance consultation

I am writing to share some concerns the Royal College of Nursing has with the draft statutory guidance on the Nurse Staffing Levels Act. We have of course responded to the consultation, and a copy of our response is enclosed. This letter summarises our concerns.

As you know, the Royal College of Nursing campaigned passionately for the introduction of this landmark legislation, and we did so in the name of saving lives and improving patient care. Research shows that poor nurse staffing levels increase mortality rates compared to better staffed wards. It is our belief that the statutory guidance as drafted will not ensure that sufficient staffing levels are maintained nor that patient care is improved.

As a Royal College we worked extremely hard to see the Nurse Staffing Levels Act become reality and we are immensely grateful for support the legislation received from the Welsh Government and from all the political parties involved in shaping it.

The statutory guidance that sits alongside the Act will be key to its successful and effective implementation, and I am sure you will understand therefore our concern. The Royal College of Nursing have been closely involved throughout the development of this guidance, and have played an active part in the stakeholder engagement events. We are disappointed the consensus of those events have not

been reflected in the draft guidance. Outlined below are the key areas which we need significant strengthening in the guidance.

Staffing ratio

RCN Wales have maintained consistently that the Nurse Staffing Principles, published by the Chief Nursing Officer in 2012, should be explicitly reflected in the statutory guidance. This includes the principle that “the number of patients per Registered Nurse should not exceed 7 by day”. There is no reference to a 7:1 patient to nurse ratio in the draft guidance.

We understand that the recommended ratio is subject to changes in academic research, and it is for that reason that we agreed not to put the ratio on the face of the Bill. This principle is central to the ethos of the Act however, which is to ensure that there are appropriate nurse staffing levels to provide appropriate care for patients, and it is therefore essential that the ratio is included in the guidance. The guidance can then be updated and reissued as necessary if the recommended ratio changes.

Supernumerary role of Ward Sister

Equally important is that the Ward Sister or Charge Nurse should not be included in the numbers when calculating the number of patients per Registered Nurse. Ward Sisters are central to the running of a ward; as well as being key to ensuring high standards of patient care, they also play a key part in providing staff learning and development opportunities, HR management, recruitment, sickness and absence management, appraisals and disciplinary procedures.

The Wards Sister’s ability to manage these multiple demands can determine the morale of the team and therefore the quality of care provided in hospitals. It is vital therefore that they are not included in the calculations of nurse to patient ratio so that they have sufficient time to fulfil these vital duties. It is also important that this requirement is mentioned explicitly in the guidance. We do not feel it is appropriate for statutory guidance to rely on any implicit or shared understanding.

Student nurse mentorship

Some nurses on a ward will be acting as mentors for nursing students. The role as a mentor is critical in helping to facilitate the development of future generations of nurses. Some of the duties involved in mentoring student nurses include: assessing, evaluating and giving constructive feedback; observing students practising skills under the appropriate level of supervision; providing time for reflection, feedback and monitoring; and documenting a student’s progress. As is the case with the Ward Sister/Charge Nurse, this is an important role which is ultimately about protecting the public. We do not feel this has been adequately reflected in the guidance.

Nurse mentors must be afforded sufficient time to perform the role properly (for the benefit of students and patients), and this must be taken into account when calculating the nurse staffing levels. It is also important that this requirement is

mentioned explicitly in the guidance. We do not feel it is appropriate for statutory guidance to rely on any implicit or shared understanding.

Reporting and accountability for the Health Boards

Another fundamental issue is that of reporting and monitoring. Whilst we understand that there is no requirement for the Welsh Government to issue statutory guidance under section 25E of the Act, the Royal College would maintain that it is essential that guidance in some form, statutory or non-statutory, is issued to Health Boards in order to assist them in collecting and reporting this data. Consistency between Health Boards in their approach to collecting and reporting the data will be crucial to workforce planning and public scrutiny. This will also assist with improving public confidence and trust in the healthcare system.

Vaughan Gething, as Cabinet Secretary, has rightly insisted that any extension of the Nurse Staffing Levels Act to other areas of nursing care is dependent on having the evidence to demonstrate the effectiveness of the existing Act. Without clear guidance for Health Boards on how to show compliance with the legislation and on monitoring their progress towards meeting the required staffing levels, demonstrating the Act's success will be impossible.

Welsh language

The status of the Welsh language as equal to English means that patients should have access to care in their preferred language, and this should be expressly conveyed in the guidance. We welcome that the guidance states that consideration must be given to supporting patients and families whose first language is not English or Welsh, and yet this highlights even more starkly the fact that the specific needs of Welsh language speakers have been completely omitted from the guidance as drafted. Given the current Welsh Government strategy More Than Just Words and the context of the forthcoming NHS Wales Standards, it is surprising that the Welsh language is given no specific reference, apart from in relation to Informing Patients.

I would be very happy to discuss this with you further if you require, and please do contact my office if you or your officials require any further information in the meantime.

Kind regards

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tina Donnelly', written in a cursive style.

**TINA DONNELLY, CBE, TD, DL
DIRECTOR, RCN WALES**

Consultation on statutory guidance required by Section 25D of the Nurse Staffing Levels (Wales) Act 2016

Consultation Response Form

Your name: Lisa Turnbull (this name to be used for queries only, please ascribe authorship to the organisation)

Organisation (if applicable): Royal College of Nursing Wales

email / telephone number: 02920 680 738

Your address: Royal College of Nursing Wales, Ty Maeth, King George V Drive East, Cardiff, CF14 4XZ

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| I am a/an <i>(please select one from the following)</i> | Patient / Family member or carer of a patient | |
| | Member of the public | |
| | Member of NHS staff | |
| | Local Health Board / NHS Trust | |
| | Organisation with an interest in the health service | ✓ |
| | Voluntary sector representative (community group, volunteer group, self-help group, cooperative, enterprise, religious group, not-for-profit organisation) | |
| | Other group not listed above | |

1) On a scale of 1 to 5, where 1 is not helpful at all and 5 is very helpful; how helpful did you find the following parts of the guidance? (Please tick one option for each part)

| Part | 1 | 2 | 3 | 4 | 5 | Don't Know |
|--------------------------------------|---|---|---|---|---|------------|
| Overall approach | | ✓ | | | | |
| Section 25B | | | | | | |
| Designated person | | ✓ | | | | |
| Reasonable Requirements | | ✓ | | | | |
| Nurse staffing level | ✓ | | | | | |
| Reasonable steps | | | ✓ | | | |
| Informing patients | | ✓ | | | | |
| Situations where section 25B applies | | | ✓ | | | |

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2) If you feel part of the guidance could be improved, please tell us about it below. You may wish to consider whether anything could be added or removed from the guidance, or whether wording could be changed to improve clarity.

| Part | Improvement |
|------------------|---|
| Overall approach | <p>The Royal College of Nursing Wales has serious concerns regarding the draft guidance and cannot support the document in its current form. The intention of the Act was to improve patient safety and care provided to patients during care administered by Registered Nurses and Support staff. We know from research that patient mortality rates are significantly higher with low registered nurse staffing levels and all other outcomes for patients are also significantly lower with low nurse staffing levels. Introducing statutory guidance that is weaker and extremely vague and also less than the current non-statutory guidance will result in poorer care for patients and a likely increase in patient mortality and morbidity.</p> <p>We have consistently maintained that the CNO's Principles should be reflected explicitly in the guidance, and that this must include the principle that "the number of patients per Registered Nurse should not exceed 7 by day". There is no reference to a 7:1 patient to nurse ratio in the draft guidance. We do not accept that this will be too prescriptive and restrictive, and indeed because it is in guidance can over a period of time be subjected to review provided this is accepted as guidance and not excluded completely.</p> <p>We also believe that when the CNO principles were issued there was a requirement for health boards to implement the principles, the change in behaviour to this implementation we believe has been in a direct response to the legislation and without it is simply relates to the act having no power in terms of protecting the principles.</p> <p>There is also no recognition of the supernumerary role of the Ward Sister/ Charge Nurse. The level of responsibility and multi-faceted demands of this role mean that they should not be included in calculations of nurse to patient ratio. It is essential they are afforded sufficient time to fulfil their duties to the highest possible standard. The role of this professional in multi – faceted and does require an overall ability to seek to work with patients when demand requires as an additional resource to complement existing provision by the primary Registered Nurse who will requires expertise from the ward sister, if they are included in the numbers this would be in addition to all other elements of the role and if included in the overall numbers would result in lack of time to provide care requirements to those in need.</p> <p>Additionally, the guidance does not adequately reflect the fact that many nurses on acute wards will be as part of</p> |

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| | <p>their role and part of the Nursing and Midwifery Council requirements (NMC Professional regulator - non devolved to Wales role ie required to meet UK standard of regulation) will be mentoring student nurses, and therefore have additional demands on their time. This must be explicitly mentioned as a factor when calculating nurse staffing levels.</p> <p>The reporting and accountability processes of Health Boards is another area which the Royal College of Nursing is very concerned about.</p> <p>Whilst we understand that there is no requirement for the Welsh Government to issue Statutory Guidance under section 25E of the Act, the Royal College would maintain that it is essential that guidance is issued, and that whilst it might not be included as statutory guidance it may be issued as non-statutory guidance and that this must be issued to Health Boards in order to assist them in collecting and reporting this data.</p> <p>Consistency between Health Boards in their approach to collecting and reporting the data will be crucial to workforce planning and public scrutiny. This is not a process currently that is robust and we believe does not therefore relate to accurate staffing criteria being implemented.</p> |
| Designated person | <p>The wording “sufficient seniority” in point 7 is open to interpretation. It may be helpful to consider whether grading or banding should be specified. This will enable staff of relevant experience and seniority to use high levels of professional experience and therefore enable a more accurate assessment of need.</p> |

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| <p>Reasonable Requirements</p> | <p>It is important that patient's nursing needs are accurately and expertly assessed. At point 9, the "ward nursing team" should therefore include a specified level of seniority to ensure that the assessment of patient need is made by a nurse with an appropriate level of experience and training. We are very concerned to ensure that we require the recording of a Registered Nurse as being on the Highest level of registration and not Nursing Associate level should the NMC confirm registration of the Associate level.</p> |
| <p>Nurse staffing level</p> | <p>In the table at point 10 specifying the required establishment, the final sentence states "This includes a resource to cover all staff absences and other functions that reduce their time to care for patients." It is here that there must be explicit reference to the mentoring of student nurses, any Continuous Professional Development (CPD) any further training requirements, in addition to the supernumerary role of the Ward Sister/Charge Nurse. All of these demands will reduce the amount of time that registered nurses are able to spend caring for patients and subsequently meeting the required standards for providing safe care and preventing patients being put at risk. These should be explicitly listed so as to ensure that they are always factored in when making the staffing calculations.</p> <p>We would also question the requirement to undertake the calculation every six months and whether or not this is sufficient, given how frequently the make-up of a ward can change (often on a daily or even hourly basis). As outlined in points 23 to 26 in the Introduction to Section 25C, there are a number of factors which the designated person must be mindful of when making the calculation, all of which are very changeable.</p> <p>The important thing is that the designated person is alerted to any changes which may result in the need to recalculate the required nurse staffing level, and that the guidance allows for enough flexibility for an informed judgement to be made. We are concerned that it is too prescriptive to state "every six months" and that this will result in external factors which may affect the required staffing level not being taken into account. A more regular review would be monthly with quarterly reporting but stating exception reports when clear issues of concern are raised this is reported directly, and these times are also recorded for review.</p> |

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| Reasonable steps | Important that there is parity between the different professional portfolios in terms of how their professional opinions are taken into account. |
| Informing patients | More detail is required in this section to advise Health Boards of how they might present this information i.e. where and in what format. This would not be designed to be too prescriptive, but rather provide suggestions as to how patients could be informed of the staff level. One suggestion for instance might be a sticker or poster similar to a food hygiene rating which could be displayed on the doors to the ward, or notice board in the ward. We do also feel that this should be available to patients as part of their admission pack clearly engaging with patients and advising them that the Board take their care and safety seriously. |
| Situations where section 25B applies | Content with this section. |

3) On a scale of 1 to 5, where 1 is not helpful at all and 5 is very helpful; how helpful did you find the following parts of the guidance? (Please tick one option for each part)

| Part | 1 | 2 | 3 | 4 | 5 | Don't Know |
|---|---|---|---|---|---|------------|
| Section 25C | | | | | | |
| Introduction to section 25C | | ✓ | | | | |
| Professional Judgement | ✓ | | | | | |
| Evidence Based workforce planning tool | | | ✓ | | | |
| Patient wellbeing is particularly sensitive to care provided by a nurse | | ✓ | | | | |

4) If you feel part of the guidance could be improved, please tell us about it below. You may wish to consider whether anything could be added or removed from the guidance, or whether wording could be changed to improve clarity.

| Part | Improvement |
|-----------------------------|-------------|
| Introduction to section 25C | |

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| Professional Judgement | <p>Point 27 should state “each calculation must include all of the following”, rather than “can include all or any of the following”. Each one of the considerations listed is imperative to making an informed professional judgement and should not therefore be treated as an either/or list.</p> <p>The 5th bullet point relating to qualifications, competencies, skills and experience needs further elaboration and clarification.</p> <p>Student nurses should be included in the listing “health professionals or other staff” as Registered Nurses who are mentoring these student nurses will be required to delegate tasks and supervise where appropriate and also assess competency and record this for the student record as part of the regulatory requirements.</p> <p>Further detail could also be included on the final bullet point relating to administrative functions. This is a very broad term and it would be helpful to specify that this could include the following:</p> <ul style="list-style-type: none">- Patient discharge (often a complex and lengthy administrative process)- Documenting progress of student nurses and providing written feedback- HR management such as sickness and absence management, appraisals and disciplinary procedures (particularly relevant for Ward sisters)- Ward rotas and rostering- Responding to Inspectorate documentation and visits- Ward stocks and refurbishment and equipment documentation- Compliance to Health and Safety requirements etc |

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| Evidence Based workforce planning tool | Content with this section |
| Patient wellbeing is particularly sensitive to care provided by a nurse | <p>It would be useful at point 36 to include a list of example such as dementia, mental health issues, complex diabetic needs, learning disabilities etc.</p> <p>The NICE guidance on safe staffing for nursing in adult inpatient wards in acute hospitals recommends that factors to determine nurse staffing requirements include a need for a:</p> <p><i>“holistic assessment of each patient’s nursing needs and take account of specific nursing requirements and disabilities, as well as other patient factors that may increase nursing staff requirements, such as:</i></p> <ul style="list-style-type: none"> - <i>difficulties with cognition or confusion (such as those associated with learning difficulties, mental health problems or dementia)</i> - <i>end-of-life care</i> - <i>increased risk of clinical deterioration</i> - <i>need for the continuous presence of a member of the nursing team (often referred to as 'specialing' care).”</i> <p>We would recommend that the statutory guidance includes a specification of requirements such as this.</p> |

5) We would like to know your views on the effects that the guidance would have on the Welsh language, specifically on:

- i) opportunities for people to use Welsh; and**
- ii) treating the Welsh language no less favourably than English.**

Given the current Welsh language strategy More Than Just Words and the context of the forthcoming NHS Wales Standards, it is surprising that the Welsh Language is given no specific reference, apart from in relation to Informing Patients. We welcome that the guidance states that consideration must be given to supporting patients and families whose first language is not English or Welsh, and yet this makes even shows even more starkly the fact that the needs of Welsh language speakers have been completely omitted.

6) Please also explain how you believe the guidance could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language; and**
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

In addition to the bullet point under point 27 relating to the Welsh language, the Welsh Government strategy More than Words states there must be an “active offer” of services available in the Welsh language. This must be made to all patients. Moreover the guidance should be compatible with the forthcoming NHS Welsh Language Standards. Therefore, the guidance should state that designated person must consider the recruitment and deployment of Welsh speaking staff.

7) Would further statutory guidance on workforce planning on this specific issue be beneficial? If yes, please give details.

This question is unclear in its meaning.

Further guidance on workforce planning would certainly be beneficial, and we would strongly advocate for additional guidance relating to the accounting and reporting mechanisms for Health Boards. The intent at the Bill stage was clear – a key enforcement of this legislation was intended to be through increased public transparency.

8) What sort of information would be beneficial in any additional workforce planning guidance, that is not already in existence elsewhere?

The CNO’s principles must be incorporated explicitly in the guidance. Without this incorporation the 2012 document will undoubtedly be deemed superseded and patient care and safety will not be central to workforce planning.

9) We have asked a number of specific questions. If you have any related issues that we have not specifically addressed, please raise them here.

The Royal College of Nursing campaigned passionately for the introduction of this landmark legislation, and we did so in the name of saving lives and improving patient care.

Section 25 D this section places a duty on Welsh Ministers to consult upon the issue of guidance we are disappointed that whilst participating in two consultative periods none of the results of those meetings were incorporated in this current consultation which challenges why the two meetings took place and why our opinions and those of other were not taken into account

Research shows that poor nurse staffing levels increase mortality rates compared to better staffed wards. It is our belief that the statutory guidance as drafted will not ensure that sufficient staffing levels are maintained and that patient care is improved.

The introduction of the California law on staffing levels (with an explicit ratio) reduced 30 day mortality rates by between 10 and 13%. We cannot see that such similar benefits will be achieved in Wales without similar safeguards.

The Royal College of Nursing have been closely involved throughout the development of this guidance, and have played an active part in the stakeholder engagement events. We are disappointed therefore that a number of our key recommendations have not been included in the draft guidance. As a result, the Royal College of Nursing cannot support the guidance as currently drafted. The key areas which we need significant strengthening in the guidance, much of which has been covered in our response above, are outlined below:

Staffing ratio

The Royal College of Nursing Wales have maintained consistently that the Nurse Staffing Principles, published by the Chief Nursing Officer in 2012, should be explicitly reflected in the statutory guidance. This includes the principle that “the number of patients per Registered Nurse should not exceed 7 by day”. There is no reference to a 7:1 patient to nurse ratio in the draft guidance.

Supernumerary role of Ward Sister

Equally important is that the Ward Sister or Charge Nurse should not be included in the numbers when calculating patients per Registered Nurse. Ward Sisters are central to the running of a ward; as well as being key to ensuring high standards of patient care, they also play a key part in providing staff learning and development opportunities, HR management, recruitment, sickness and absence management, appraisals and disciplinary procedures. Their ability to manage these multiple demands can determine the morale of the team and therefore the quality of care provided in hospitals. It is vital therefore that they are not included in the calculations of nurse to patient ratio so that they have sufficient time to fulfil these vital duties.

Student nurse mentorship

Some nurses on a ward will be acting as mentors for nursing students. The role as a mentor is critical in helping to facilitate the development of future generations of nurses. Some of the duties involved in mentoring student nurses includes: assessing, evaluating and giving constructive feedback; observing students practising skills under the appropriate level of supervision; providing time for reflection, feedback and monitoring; and documenting the student's progress. As is the case with the Ward Sister/Charge Nurse, this is an important role which is ultimately about protecting the public. We do not feel this has been adequately reflected in the guidance. Nurse mentors must be afforded sufficient time to perform the role properly (for the benefit of students and patients), and this must be taken into account when calculating the nurse staffing levels.

Reporting and accountability for the Health Boards

Another fundamental issue is that of reporting and monitoring. Whilst we understand that there is no requirement for the Welsh Government to issue statutory guidance under section 25E of the Act, the Royal College would maintain that it is essential that guidance in some form, statutory or non-statutory, is issued to Health Boards in order to assist them in collecting and reporting this data. Consistency between Health Boards in their approach to collecting and reporting the data will be crucial to workforce planning and public scrutiny. Without clear guidance for Health Boards on how to show compliance with the legislation and on monitoring their progress towards meeting the required staffing levels, demonstrating the Act's success will be impossible.

As a Royal College we worked extremely hard to see this the Nurse Staffing Levels Act become reality and we are immensely grateful for support the legislation received from the Welsh Government and from all the political parties involved in shaping it.

The statutory guidance that sits alongside the Act will be key to its successful and effective implementation. Unfortunately it is our belief that the statutory guidance as drafted will not ensure that sufficient staffing levels are maintained and that patient care is improved. This consultation is an opportunity for the Welsh Government to strengthen this guidance and in doing so ensure that the benefits of the Nurse Staffing Levels (Wales) Act are fully realised and that the good intentions and hopes of the legislators who passed the Act are achieved.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: