**AGENDA ITEM 4.5**

**Board Report**

**NURSE STAFFING LEVELS (WALES) ACT 2016**

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**Purpose of the Board Report**

The purpose of this report is to provide an update to the Board on the commencement schedule for the duties contained within the Nurse Staffing Levels (Wales) Act and sets out the considerations for Cwm Taf University Health Board in preparation for commencement.

**Governance**

**Link to Health Board Strategic Objective(s)**

The Board’s overarching role is to ensure its Strategy outlined within ‘Cwm Taf Cares’ 3 Year Integrated Medium Term Plan 2015-2018 and the related organisational objectives aligned with the Institute of Healthcare Improvement’s (IHI) ‘Triple Aim’ are being progressed, these in summary are:

- To **improve** quality, safety and patient experience.
- To **protect** and **improve** population health.
- To **ensure** that the services provided are accessible and sustainable into the future.
- To **provide** strong governance and assurance.
- To **ensure** good value based care and treatment for our patients in line with the resources made available to the Health Board.

This report focuses mainly on

- To **improve** quality, safety and patient experience.
- To **ensure** that the services provided are accessible and sustainable into the future.
- To **provide** strong governance.

**Supporting evidence**

Nurse Staffing Levels (Wales) Act 2016

More Nurses Wales Bill
Engagement – Who has been involved in this work?

Chief Nursing Officer for Wales; Welsh Government Policy Leads; Director of Nursing across NHS Wales; Royal College of Nursing; Assembly Members

Board Resolution (insert √) To;

<table>
<thead>
<tr>
<th>APPROVE</th>
<th>ENDORSE</th>
<th>DISCUSS</th>
<th>NOTE</th>
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<tbody>
<tr>
<td>Recommendation</td>
<td>The Board is asked to:</td>
<td></td>
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<td></td>
<td>• <strong>NOTE</strong> the content of the report and the implications of the new Act; including the establishment of a local implementation group to develop the organisational approach; and the development and subsequent use of the all Wales reporting mechanism.</td>
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Summarise the Impact of the Health Board Report

<table>
<thead>
<tr>
<th>Equality and diversity</th>
<th>There are no specific equality and diversity issues within this report</th>
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<tbody>
<tr>
<td>Legal implications</td>
<td>There are a number of duties and obligations set out in the Act for the UHB listed in the body of the report</td>
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<tr>
<td>Population Health</td>
<td>The Nurse Staffing Levels (Wales) Act 2016 has no impact on population health</td>
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<tr>
<td>Quality, Safety &amp; Patient Experience</td>
<td>CTUHB are committed to delivering high quality, safe and effective care and to ensure a good patient experience across all services</td>
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<tr>
<td>Resources</td>
<td>This report details the work required to identify the resources to implement the Act.</td>
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<td>Risks and Assurance</td>
<td>The Nurse Staffing Levels (Wales) Act 2016 will provide scrutiny and assurance for the UHB, although this needs to be guided by the relevant guidance that supports implementation.</td>
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<td>Health &amp; Care Standards</td>
<td>The 22 Health &amp; Care Standards for NHS Wales are mapped into the 7 Quality Themes: Staying Healthy; Safe Care; Effective Care; Dignified Care; Timely Care; Individual Care; Staff &amp; Resources</td>
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<td></td>
<td>The work reported in this summary takes into account many of the related quality themes.</td>
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<tr>
<td>Workforce</td>
<td>There will be a requirement to support the Act going forward, which will have implications on the workforce. However, this needs to be quantified.</td>
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<td>Freedom of information status</td>
<td>Open</td>
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NURSE STAFFING LEVELS (WALES) ACT 2016

1. **SITUATION / PURPOSE OF REPORT**

The Nurse Staffing Levels (Wales) Act 2016 requires Health Board and Trusts to fulfil a number of duties with regard to nurse staffing levels in commissioned and provided services.


2. **BACKGROUND / INTRODUCTION**

The Nurse Staffing Levels (Wales) Bill was amended substantially during the legislative process to align it with Government policy. The Act received Royal assent on the 21 March 2016.


The duties in the Act are set out in Section 25 within five areas namely:

- **25A**: Places an overarching duty on local health boards and NHS Trusts when considering how many nurses are necessary to meet all reasonable requirements to have regard to providing sufficient nurses to allow nurses to care for patients sensitively.
- **25B**: Places a duty on LHB’s and NHS Trusts to calculate and take steps to maintain nurse staffing levels in specified settings, which are currently adult acute medical and surgical inpatient wards. The section also contains a regulation making power which allows the Welsh Ministers to extend the setting to which the duty applies.
- **25C**: Provides the method for these calculations.
- **25D**: Places a duty on Welsh Ministers to consult upon and issue guidance about the duties under Sections 25B and 25C.
- **25E**: Places a duty on LHB’s and NHS Trusts (to which the duty to calculate nurse staffing levels under section 25B applies) to report on nurse staffing levels. The section also places a duty upon Welsh Ministers to lay all reports submitted to them before the National Assembly for Wales and to prepare and publish a summary of the reports that are submitted.

The Act applies to nurse staffing levels in both provided and commissioned services. The overarching duty set out in 25A applies to all nursing services in all clinical areas and the duties in 25B & C apply initially to adult acute medical and surgical in patient wards.
3. **ASSESSMENT / GOVERNANCE AND RISK ISSUES**

The commencement order, agreed on 3 August 2016, commenced with immediate effect, the section placing a duty on Welsh Ministers to consult upon and issue guidance. The dates on which other new sections will be inserted into the National Health Service (Wales) Act 2006 are set out in the table below.

<table>
<thead>
<tr>
<th>Date</th>
<th>Section</th>
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<tr>
<td>3rd August 2016</td>
<td>Commencement of section 25D</td>
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<tr>
<td>6th April 2017</td>
<td>Commencement of section 25A</td>
</tr>
<tr>
<td>6th April 2018</td>
<td>Commencement of sections 25B, C &amp; E</td>
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Guidance is currently being developed by Government officials to support the implementation of the Act. The guidance relates to sections 25B & C of the Act, the duty to calculate and maintain nurse staffing levels and the method to be used to for these calculations. The guidance will provide further detail as to the terminology used within the Act and set out Government expectations on how the Act will be implemented. This guidance will be directed both to designated persons in their application of the Act, and to Chief Executive Officers and Boards of local health boards and NHS Trusts, with whom overall responsibility for compliance with the Act will fall.

In order to maximise the usefulness of the public consultation on the guidance, a National reference group will be established to provide advice on the content of the guidance ahead of publication. Membership of this group is currently under consideration, but is likely to include representation from Directors of Nursing, the All Wales Nurse Staffing Group, ward sisters, Cyngor, RCN & Unison. A draft version of the guidance will be shared with the advisory group, with comments and advice sought through the facilitation of workshop sessions. The advisory group will be established over summer 2016.

In autumn 2016, following consideration of the guidance by the reference group, a public consultation will be issued which will seek views on the guidance required under section 25D. In line with expectations for statutory guidance, this will be a full consultation process held over a twelve week period and will seek to receive as wide a range of views as possible.

Following the analysis of responses to the consultation, a consultation summary report will be published, and the statutory guidance will be issued in 2017.

**Commencement of sections 25A, B, C & E**

Section 25A will be commenced on 6 April 2017. This duty applies when they are providing nursing services themselves and when they are securing the provision of nursing services from a third party. There is no statutory guidance relating to sections 25A & E.
As a result of existing commissioning frameworks, it is anticipated that the duty under section 25A will already be met through quality assurance systems. The April commencement will allow any adjustments to be incorporated into the 2016/17 Integrated Medium Term Planning cycle.

Commencement of section 25A ahead of sections B, C & E is intended to provide LHBs and NHS Trusts with the opportunity to build towards compliance with the legislation in a phased manner. This is in recognition of a number of factors, including the global difficulties in nurse recruitment which are currently being experienced.

Sections 25B, C & E will be commenced on 6 April 2018. This will allow implementation to be aligned with the 2017/18 Integrated Medium Term Planning cycle.

Under the duty to report in section 25E, LHBs and NHS Trusts will submit nurse staffing levels reports to the Welsh Ministers. Every three years the Welsh Ministers will prepare and publish a document summarising the content of these reports. In accordance with the commencement scheduled, the first summary report will be issued by the Welsh Ministers in 2021.

**Extension of the Nurse Staffing Levels (Wales) Act to other Clinical Settings**

The Welsh Government has committed in this term to ensure “there are more nurses, in more settings, through an extended nurse staffing levels law”. However, the commitment to extend the Act to cover other clinical areas is predicated on there being a robust evidence base which shows there are workforce planning tools, which are fit for use in a Welsh context in these clinical areas.

Section 25B provides Welsh Ministers with the regulation making power to extend the duty contained within 25B to other clinical settings. The affirmative procedure would apply to these regulations.

There is currently work ongoing to develop these evidence based workforce planning tools. However, this is an iterative process, with several cycles of testing needed before the tools are ready to be implemented.

Areas where there is work ongoing to develop nurse staffing principles and evidence based workforce planning tools include: mental health in-patient settings, community services, health visiting, paediatric in-patient settings and care homes.
It is difficult to anticipate when the workforce planning tools for these settings will be ready for use in a Welsh context, as this is reliant on the development of a robust evidence base which supports their use. However, the current status of these projects indicates that a tool for use in mental health services is closest to readiness for implementation. The tool could be ready for use within the triangulation methodology set out in section 25C by summer 2018.

The Welsh Government will continue to monitor the development of these workforce planning tools.

**Key tasks for the Director of Nursing, Midwifery and Patient Services are**

To continue to work with the All Wales Professional Nurse Staffing Group (AWPNSG) to influence the work at a national level including the development of indications and measures as well as definitions for the reporting of non compliance with agreed organisational establishments.

A local implementation group has been set up and currently working to develop a work plan to meet timescales required.

4. **RECOMMENDATION**

The Board is asked to:

- **NOTE** the content of the report and the implications of the new Act; including the establishment of a local implementation group to develop the organisational approach; and the development and subsequent use of the all Wales reporting mechanism.

| Freedom of information status | Open |