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Jail nurses and managers who neglect patients, review urges

By Laura Donnelly, Health Correspondent

NURSES, doctors and hospital managers could be prosecuted for "reckless or wilful" neglect or mistreatment of patients, under NHS plans.

A review after the Mid Staffs scandal led by Prof Don Berwick, who advised US President Barack Obama on health-care reform, has called for a new criminal offence to be created, so that those who deliberately or carelessly inflict patient harm could be punished.

The sanctions could be used to punish nurses who leave patients desperately thirsty or in urine-soaked beds, and could also apply to senior managers who enforce cuts that leave wards dangerously short-staffed.

Penalties could include a jail sentence of up to five years or fines.

The report was ordered by the Prime Minister and calls for sweeping changes in the running of the health service.

Prof Berwick also said guidance on safe staffing levels should be drawn up. He said every NHS ward should ensure that its staffing levels at least matched those calculated to be safe for the type of patients being treated.

Until then, hospitals should observe research that suggests a caseload of more than eight patients per nurse "may increase safety risks substantially".

Last year, a study found that almost half of England's hospitals have more than eight patients per nurse during the day, while the average ward had 11 patients per nurse at night.

A review of 14 trusts also found clear links between staff shortages and high death rates.

Separate research has found that the quarter of hospitals with the highest number of patients per nurse have 26 per cent more deaths than the quarter with the lowest caseload. Prof Berwick said

criminal offences should be created that could apply to individuals who were reckless or wilful in their neglect or mistreatment of patients or simply "if such actions created a risk of death or severe harm".

Sanctions would be modelled on the Mental Health Capacity Act, which protects vulnerable people against abuse, and carries prison sentences of up to five years or fines for those found guilty.

Ministers will respond to the recommendations in the autumn. If the proposals go ahead, the test of the criminal offence would come in the courts, and in how far individuals were found to have direct control of failings in patient care.

Organisations that withhold or obstruct relevant information could also be charged under the plans.

Prof Berwick said the use of criminal sanctions should be "extremely rare" and staff should not be punished for genuine errors.

He did not call for a duty of candour to be enshrined in law, requiring NHS staff to report their versions of serious incidents, as he said that this was already included in professional codes of conduct and in staff contracts.

The report said the current system of regulation was "bewildering in its complexity" and a plethora of organisations that monitor NHS hospitals should be forced to work together or merged.

Jeremy Hunt, the Health Secretary, said the report was a "strong endorsement" of changes already introduced by the Government, including efforts to ban gagging orders, and to place a duty of candour on organisations to ensure they act more transparently.

Andy Burnham, Labour's shadow health secretary, said the Government needed to "get a grip" on staffing levels, with almost 5,000 nursing posts lost since the election, according to official figures.