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National Open Disclosure Standard

Q. What does Open Disclosure mean? Does it mean saying sorry?

A. Open Disclosure refers to open communication when things go wrong in health care. The elements include:

- an expression of regret;
- a factual explanation of what happened;
- consequences of the event; and
- steps being taken to manage the event and prevent a recurrence.

Q. What is the National Open Disclosure Standard?

A. The open disclosure standard was developed by the Australian Council for Safety and Quality in Health Care with input from a range of health care professionals, consumers, and health and community organisations from across the country. The standard promotes a clear and consistent approach by Australian hospitals to open communication with patients and their nominated support person following an adverse event¹. It includes guidelines for discussion about what has happened, why it happened, and what is being done to prevent it happening again.

Q. Why is this standard necessary?

A. Currently, there is often a great deal of uncertainty and confusion on the part of health care professionals and health care providers about disclosing information following an adverse event. The active management of adverse events through the exchange of timely and appropriate information is vital to drive and support improvements in the safety and quality of our health care system. A key step in this process is encouraging greater openness in response to adverse events.

Consumers and consumer organisations support open and honest communication following an adverse event. Patients and their carers want to know and understand what happened, they want to feel there is genuine regret that the event occurred, and they want to know that steps will be taken to minimise the risk of similar events occurring again.

This standard aims to encourage greater openness with regards to adverse events, to ensure that action is taken to uncover the causes of the event, and to put in place systems to prevent similar events from occurring again.

Q. What are my legal obligations under the standard?

A. The standard has no legal standing and exists purely as a resource for organisations seeking to implement open disclosure.

Q. Is Open Disclosure an admission of liability?

A. Open disclosure encourages health care workers to acknowledge that an adverse event has happened and express regret for what has occurred.

This is not an admission of liability. There is a need to be aware of the risk of making an admission of liability during the open disclosure process. The Standard provides guidance on what to say and what not to say to patients and their families when implementing open disclosure; and highlights related potential legal concerns with regard to Freedom of Information, Privacy, Defamation, and Qualified Privilege.

Q. Will implementing open disclosure lead to an increase in medico-legal liability?

- A.** Adhering to the principles of the Open Disclosure Standard may result in an increase in legal claims. We know, however, that many health care errors do not become the subject of litigation and, unless the harm suffered by the patient is serious, legal action is unlikely to be taken.

It is possible that open disclosure may assist patients who have suffered an adverse event to make a claim by providing them with the necessary information and understanding on which to base a claim. However, evidence suggests that following the principles of open disclosure may actually reduce a patient's desire to pursue legal action.

Q. Is this standard being implemented by health care organisations?

- A.** This standard was endorsed by all Australian Health Ministers in July 2003. Since that time, the Council has been raising awareness of this standard. Some facilities have adopted the standard and are implementing it locally.

The Council has also started a pilot implementation process to ensure that health care facilities in all Australian states and territories participate in the implementation of the National Open Disclosure Standard.

Q. Who is responsible for implementing this standard?

- A.** With support from the Council, it is the responsibility of the individual health care organisations to implement the standard.

Q. Are there any mechanisms to assist with the implementation of this standard?

- A.** The Council has also developed an education and support package to assist with the implementation of this standard. The package includes a range of resource materials for health care organisations, such as handbooks, interactive CD-Roms, a video, posters, brochures, and checklists.

Q. How can I obtain a copy of this standard?

- A.** Copies of the open disclosure standard and the education and support package can be obtained by visiting the Council's website at www.safetyandquality.org, or by contacting the:

Office of the Safety and Quality Council
MDP 46, GPO Box 9848, Canberra ACT 2601
TEL 02 6289 4244, FAX 02 6289 8470
EMAIL safetyandquality@health.gov.au

* An adverse event is defined by the Council as an incident in which unintended harm resulted to a person receiving health care.