



## Frequently asked questions about open disclosure

[What does the Open Disclosure Standard mean? Does it mean saying sorry?](#)

Open disclosure refers to open communication when things go wrong in health care. The elements of open disclosure 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.

[What is the Open Disclosure Standard?](#)

The Open Disclosure Standard was developed in 2003 by the former 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 Open Disclosure Standard promotes a clear and consistent approach by health services to open communication with patients and their nominated support person following an adverse event. It includes guidelines for discussion about what has happened, why it happened, and what is being done to prevent it happening again.

[Why is the Open Disclosure Standard necessary?](#)

There has often been 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 care. 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. The Open Disclosure 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.

## What are my legal obligations under the Open Disclosure Standard ?

The standard has no legal standing. It is a resource for organisations seeking to improve patient care by implementing open disclosure.

## Is open disclosure an admission of liability?

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 legal issues which should be considered, such as freedom of information, privacy, defamation, and qualified privilege.

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

Adhering to the principles of the open disclosure could potentially 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.

## Is the Open Disclosure Standard being implemented by health care organisations?

The Open Disclosure Standard has been endorsed by all Australian Health Ministers. In April 2008, Australian Health Ministers agreed to work towards implementation of the standard in all health care facilities. Many states and facilities have adopted the standard and are implementing it locally.

## How is the Australian Commission on Safety and Quality in Health Care assisting with implementation of the Open Disclosure Standard?

The Commission is supporting jurisdictions and facilities to implement the National Open Disclosure Standard, with the aim of ensuring that open disclosure is undertaken in ways that are most effective for patients.

The initiatives include:

- The 100 patient stories project
- Overcoming legal variation surrounding open disclosure

More information on these projects is available at <http://www.safetyandquality.gov.au/internet/safety/publishing.nsf/Content/PriorityProgram-02>

## How can I obtain more information about open disclosure?

Further information about these projects and the Open Disclosure Standard is available from:

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