

## BC Provincial Guidelines for Policy Related to Disclosure of Adverse Events

### 1. PURPOSE OF GUIDELINES

Accidents, injuries or complications occur in all health care settings. Disclosing these incidents stems from principles focused on the right of Clients to the facts about their care and treatment, and the concurrent ethical, moral and legal responsibility of health care workers to inform affected individuals.

The purpose of these guidelines is to assist publicly funded health care facilities in the Province of British Columbia in developing policy regarding the disclosure of adverse events to Clients or their representatives.

### 2. DEFINITIONS

**Adverse Event**<sup>1</sup>: An unexpected and undesired incident which results in injury (also referred to as harm or complication) and is directly associated with the care or services provided to the Client rather than the Client's underlying medical condition.

**Client**: An individual who receives care or services from a health care agency within a Health Authority in BC. This includes patients, residents or clients in their respective acute, residential or community settings. This may include their families and, where appropriate, substitute decision makers.

**Disclosure**: the imparting of information to a Client pertaining to an Adverse Event affecting (or liable to affect) the Client's interests.

**Most Responsible Physician**: The physician with day-to-day responsibility for the Client's health.<sup>2</sup>

**Near Miss**: An event or circumstance which may or may not have reached the Client and where no harm has been caused but the potential for harm exists.

**Senior Administrator**: A person in a senior management position within the facility, such as a senior risk manager, medical director or site administrator.<sup>3</sup>



Interior Health



<sup>1</sup> Guidance Note: Definitions may be adapted to suit a facility's experience and practice.

<sup>2</sup> This definition may be modified to accord with existing MRP policy.

<sup>3</sup> As the type of person in this position can vary greatly depending on the size and nature of a facility, this definition should be tailored accordingly.

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### 3. POLICY STATEMENT GUIDELINES

As Clients are entitled to the facts about their care and treatment, physicians, managers and health care providers have an ethical obligation to be honest with their Clients. Honestly discussing the difficult truth with a Client when an Adverse Event has occurred demonstrates respect for the Client, professionalism, and a commitment to improving care.

Publicly funded health care facilities will have policies in place that will assist health care providers in disclosing Adverse Events to Clients and their representatives. Any Adverse Event where there is harm, injury or complication due to health care service delivery should be disclosed to the Client. Exceptions may exist where there is serious risk of significant harm to a Client as a result of disclosure, but a decision not to disclose must be made within a structured process and must involve more than one individual (e.g., the disclosure team or an ethics review process).

Disclosure of Near Misses is a matter of clinical and professional judgment. If it could assist the client in the future to know that a mistake was nearly made, it should be disclosed. Certainly, the broader health care team should be made aware of Near Misses in order to learn and prevent future Adverse Events.

The information that is communicated in a discussion about an Adverse Event must come from the information already recorded in a Client's hospital record and/or from those involved in the event itself and must be factual, not speculative.

Disclosure of Adverse Events and the reporting of Adverse Events or critical incidents are separate requirements. Critical incident reporting should continue to be done according to each health authority's existing reporting policies, and, where applicable, in a manner consistent with the requirements for protection from disclosure under section 51 of the *Evidence Act* of British Columbia, which protects quality assurance documents. Quality assurance records **may not** be used as the source of information communicated to a Client or their representative when disclosing an Adverse Event.

Health care providers and administrators must work together to ensure that appropriate disclosure to Clients or their representatives is a routine part of the response to an Adverse Event. More broadly, information about preventable Adverse Events or Near Misses should be shared between facilities and health authorities (on an anonymized basis) in order to increase patient safety throughout the health care system.

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### 4. PROCEDURE

A facility's policy should set out the responsibilities of staff and the procedures to be followed.

It is suggested the initial disclosure discussion include the following:

**IDENTIFY** – Identify to the Client or their representative all of the individuals who will be present during the discussion. This places the patient at ease and creates an open and honest environment. Generally, the Most Responsible Physician and/or a Senior Administrator with experience in risk management should participate in the discussion. At least two persons should be present from the facility.

**FACTS** – Stick to the facts during an explanation of the Adverse Event. The nature of the Adverse Event, the level of severity and outcomes if known can be discussed. Do not speculate on any details surrounding the Adverse Event or attribute blame to any individual. Do not express personal opinions about fault.

**EXPRESS REGRET** – Empathize with the patient and express appropriate regret about their circumstances.

**TAKE RESPONSIBILITY** – The team should communicate ownership of the Adverse Event to the Client. This is separate and distinct from an assumption of liability. The Client must feel confident that the team takes responsibility for determining the causes of the Adverse Event, ensuring the Client's care is managed and any future complications are communicated.

**CLARIFY** – If the Adverse Event was clearly not due to an error, or the cause is unclear, make sure the Client understands the injury is not the result of a failure of care, but an inherent risk. If the cause of the Adverse Event or the connection of an error to the Adverse Event is unclear, this should also be explained in a factual statement.

**LISTEN** – Allow the Client or representative the opportunity to absorb the information they have just heard. Listen carefully to any questions they may have and clarify their understanding. Respect should be given to a Client's educational level, cultural background and disabilities.

**FOLLOW-UP** – Let the Client know the steps being taken to deal with the Adverse Event. If there are particular questions or issues which are unable to be dealt with at the time, let the Client know they will be followed up. Designate a person within the disclosure team that the Client can contact if further questions arise so that there is a central line of communication. Do not promise to provide the Client or representative with any quality assurance report or review that is protected under section 51 of the *Evidence Act*. Do not provide any information about disciplinary steps taken regarding staff.

**SUPPORT** – Support in the form of counseling, spiritual services, or other forms of support should be offered to the Client or family regardless of whether they make the request. Should the Client request more detailed long-term support, information must be provided on how to facilitate this request. Support should also be offered to the staff involved in the Adverse Event where appropriate.

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**DOCUMENT** – Record a complete, accurate and factual account of the disclosure discussion in the Client's medical record including the following: objective details of the Adverse Event, the Client's condition immediately before and after the time of the Adverse Event, medical intervention and patient response, and notification of the physician(s). The Most Responsible Physician or Senior Administrator should be responsible for documentation. This is not an incident report, which should be dealt with in a separate policy.

When disclosing information to anyone other than the Client or the Client's legally authorized representative, physicians, managers and health care providers must also be mindful of their obligations to protect personal information with respect to a Client and staff as set out in the *Freedom of Information and Protection of Privacy Act*.