



OPEN DISCLOSURE POLICY:

Subject:	Open Disclosure Policy
Scope of Policy:	To define the hospitals standard of Open disclosure into all operational areas where a patient or their significant other requires any communication in regard to their episode of stay or clinical continuum.
Responsible for Review:	Hospital Executive
Approved by:	Hospital Executive
Distribution:	Hospital-Wide
Location:	IPHoA – The Malvern Private Hospital - Organisational Governance
National Standards:	Standard 1- Governance

References

Australian Council for Safety and Quality in Health Care, Commonwealth of Australia reprinted April 2008. *Open Disclosure Standard: A national standard for open communication in public and private hospitals, following an adverse event in healthcare.* Publication number 3320.

Australian Council for Safety and Quality in Health Care, Commonwealth of Australia. 2013. *Australian Open Disclosure Framework: Better communication, a better way to care.* ACSQHC Sydney.

State Government of Victoria. Department of Human Services 2008. *Open Disclosure for Victorian health services. A Guidebook.*



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Wilson, Runicman, Gibberd (1995) *Quality in Health Care Study*, Medical Journal of Australia 163 (9): 458-471

POLICY STATEMENT

The Open Disclosure Standard as defined by the Australian Council for Safety and Quality in Health Care was predominantly developed to provide a framework for communication with patients and their significant others following an adverse event.

The Malvern Private Hospital has extended the standard into all operational areas where a patient or their significant other requires any communication in regard to their episode of stay or clinical continuum.

In accordance with the Victorian Charter of Human Rights and Responsibilities 2006, section 15 of the legislation outlines the fundamental right to freedom of expression including the right to receive information.

Supporting this policy is the Privacy Charter and release of medical information as outlined in the Governing Body and Medical Record Manual (Compliance to AS4269-1995; Complaints Handling) and rights on access to their medical records.

The Malvern Private Hospital has taken into account and is aware of legal implications in regard to compliance to open disclosure standard principles, both Commonwealth and State in general law principles.

Open Disclosure Concepts and Practice Policies Adverse event and perception of harm

The patient's perspective on whether he or she has suffered "harm" may differ from the view of the health care provider.

The patient's view should trigger the open disclosure process, regardless of whether an initial assessment suggests a recognised complication, adverse event, operational or service issue.

The Open disclosure process should be performed when a patient has suffered a moderate to a severe event.

GENERAL PRINCIPLES OF OPEN DISCLOSURE

THIS DOCUMENT IS CONTROLLED



- **Openness and timeliness of communication-** Providing the patient and family member/support person with information about the event/occurrence in an open and honest manner – ensuring communication occurs within the clients framework of communication, as documented on admission.
- **Acknowledgement-** Open disclosure processes should be initiated and acknowledgement of the even should be made to the patient as soon as possible
- **Expression of regret-** An expression of regret should be given as soon as possible to the patient and support person
- **Recognition of reasonable expectations of patients and their support person-** Dignity, respect, empathy and support should be provided accordingly to the patients needs and expectations
 - **Staff support-** The open disclosure process within the organisation must support and encourage the reporting and recognition of adverse events and adopt the “no blame approach”
 - **Integrated risk management and systems improvement-** Appropriate risk management investigations and analysis should be performed on adverse events and outcomes focused on improvement and preventative measures
 - **Good governance-** The necessary changes are implemented from executive level to ensure quality improvement, action and prevention of the adverse event from future occurrence.
 - **Confidentiality-** Full consideration must be given to the patient’s, family and support person and staff’s privacy and confidentiality in accordance to state and federal law, to be reinforced by organisational policies and procedures.
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Reference: NQSHS Australian Open disclosure Framework: Better communication, a better way to care

Disciplinary Processes in relation to Open Disclosure

Open disclosure investigations, which may identify and include staff disciplinary processes, which do not differ from routine operational disciplinary practices at the hospital. We also recognize that staff and visiting medical officers may also require emotional support and advice.

Where a patient has died as a result of an adverse event, subject to the requirements of the coroner and legislation, policies and practices should ensure that the support person is provided with known information, care and support. The significant other should also be referred to the coroner for more detailed information.



Advocacy and Support

Patients and their significant other may need considerable help and support after experiencing an adverse event. Support is provided to families, by other support persons, e.g. social workers, religious representatives. Where a patient needs more detailed longterm emotional support, expert service provision is provided by referral e.g. consultant psychiatrist.

Consideration needs to be made in the event of the patient to whom the adverse event happened to was a person suffering mental illness, has cognitive impairment, language barriers and cultural or religious diversity.

Definitions

- **Adverse event** – An incident in which unintended harm resulted to a person receiving health care.
- **Expression of regret** – An expression of sorrow for the harm experienced by the patient.
- **Individual responsible for clinical risk** – Health care organisations need to designate responsibility for the management of risks associated with the delivery of clinical care.

The person responsible needs to be of sufficient seniority to have credibility and be able to drive change to effect improvements. He or she will oversee the implementation of the open disclosure process within the organisation. The Malvern Private Hospital has an appointed Hospital Director.

- **Significant Other** – Information about an adverse event will be given to a patients nominated “significant other” in appropriate circumstances, taking account of the patient’s wishes, confidentiality and privacy requirements and the policies at The Malvern Private Hospital.

The nominated significant other/s may be any individual, identified by the patient as a nominated recipient of information regarding their care. This may include family, friend, partner or those who care for the patient. In cases of a dispute between, say, family, partners or friends about who should receive information, the patients wishes, expressed on the admission form, should paramount.

In addition, some people have legal relationship which entitles them to receive information (for example, in some cases, a parent, legal guardian or an executor). Given the complexities, references in this Standard to “significant other” should be read with the words “where appropriate”.



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However, it is highly recommended that nominated support persons involved in the open disclosure process from the outset so as to be able to give appropriate support and care to the patient.

Case Manager to facilitate care, including contact, mediation, documentation and follow up is the Hospital Director.

Open Communication

The Malvern Private Hospital advocates open and effective communication.

Patient information is available in the waiting room at reception on Open Disclosure that was developed by the ACSQHS.

The Malvern Private Hospital endeavours to ensure that;

- Identification of a patient's significant others is included in the patient's clinical record.
- Identification of any need for interpreter services occurs as part of the nursing admission assessment
- Circumstances are considered and managed by the case manager in regard to mental health issues, patients that are deceased, patients with cognitive impairment and patients who do not agree with information provided.
- The nursing admission process provides verbal reference to open disclosure as a matter of course

Admission of Liability

Health care professionals need to be aware of the risk of making an admission of liability during the open disclosure process. In any discussion with the patient and their support person during the open disclosure process, the health care professional should take care not to:

- State or agree that they are liable for the harm caused to the patient;
- State or agree that another health care professional is liable for the harm caused to the patient; or



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- State or agree that the health care organisation is liable for the harm caused to the patient.

Documentation

Background details of the adverse event should be well documented at the time of the incident, and facts of the event clarified and confirmed with the appropriate personnel.

Factual information on what was discussed with the patient should be documented including apology, explanations of what has occurred and what is being done to manage and prevent future events similar in nature.

It should also be documented who is present during conversations of disclosure including family and support people.

Legal Protection and Disclosure of Documents

Communications and documents (including emails) produced in response to an adverse event may have to be disclosed late in any legal proceedings or in response to a freedom of information application. It is therefore important that care is taken in all communications and documents, to state as fact, only what is known to be correct.

At The Private Hospital it may be necessary to undertake the open disclosure processes so as to appropriately utilise

- a) Legal professional privilege; or
- b) Qualified privilege legislation