Comments/Feedback on DRAFT National Policy on Open Disclosure April 2013: Communicating with Patients and their Families following Adverse Events in healthcare.

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Name of Commentator (please state your name here): Irish Medical Organisation (IMO)……..

Role: The IMO is the Representative Body for all Doctors in Ireland and in its mission statement is committed to the development of a caring, efficient and effective Health Service ……

Date feedback provided:26th April 2013……

Open Disclosure is defined as "an open, consistent approach to communicating with patients when things go wrong in healthcare. This includes expressing regret for what has happened, keeping the patient informed, providing feedback on investigations and the steps taken to prevent a recurrence of the adverse event."[1]

Standard 3.5 under Theme 3 of the National Standards for Safer Better Healthcare 2012: "Safe Care and Support" states a requirement that *"service providers fully and openly inform service users as soon as possible after an adverse event affecting them has occurred, or becomes known, and continue to provide information and support as needed*".

(Please Note: The national policy document is accompanied by a national guideline document to support the effective implementation of the open disclosure policy.

Please return your feedback to angela.tysall@hse.ie using the table below. Closing date for feedback is Friday 26th April 2013.

Question	Response
1. Does the policy adequately address the requirements of the national standard as outlined above and the requirements of the open disclosure process as defined above?	The IMO is of the view that the document falls short in areas of • Doctor-Patient Confidentiality • Detailed Supports for staff • Clarity in relation to responsibility and authority • Legislative Change required to support Open Disclosure
2. Have we omitted any important points which you feel should be incorporated into the **policy** document?	*Confidentiality is a fundamental principle of medical ethics and is central to the trust between patients and doctors* (Medical Council, 2009) There are a number of references within the policy document and the guidelines to communication and open disclosure to third parties including families, carers and health service managers, with no reference to patient confidentiality. A statement is required as to what a practitioner should do in cases where a patient has refused permission to discuss their care with their family or carer. Also the document assumes that non-medical managers have an automatic right to review patient records without first seeking the patient's permission. This goes against the fundamental principle of doctor-patient confidentiality
3. Do you have any further suggestions for improving this document generally?	The IMO recommends that a risk assessment is carried out to minimise the risk of further adverse events and the negative impact on waiting lists resulting from a) the time required and removed from clinical duties for all health care staff to read and acquaint themselves with the Policy and Guidelines and to complete formal training requirements b) the time required and removed from clinical duties to report each incident.

If you wish to comments on specific sections of the document please use the table below to do so.

Additional comments

Please highlight both positive and negative feedback on the sections reviewed.

Page	Section	Par	Comment
3 And 5	**1. Policy** **2. Purpose**	**b)** **2.7.5**	Both the policy document and the guidelines are vague on the necessary supports that should be provided to staff in reporting and following on from an adverse event and there is no reporting procedure or recourse outlined for health staff who do not feel supported.
3	**1. Policy**	**e)**	This paragraph reads "*If a clinician refuses to disclose information to a patient and the organisation deems open disclosure to be the correct response, it is the ethical responsibility of the health service manager to ensure that it occurs despite the objections of the clinician."* The reverse should also apply where the clinician deems open disclosure to be the correct response but the organisation or the health service manager does not then it is the clinician's ethical responsibility to ensure open disclosure occurs. It is important that clinical independence is guaranteed. There may be cases where a clinician's legal representative or indemnity insurer is of the view that information should not be disclosed. Guidance in these cases should also be included. Registered Practitioners in Ireland are required to comply with the Medical Council's code of Professional Conduct and Ethics which states that *Patients and their families are entitled to honest, open and prompt communication with them about adverse events that may have caused them harm*. The IMO are unaware of an ethical code which applies to health service managers and suggest this paragraph should be worded differently.
5	**2. Purpose**	**2.7.7**	In relation to full disclosure, there needs to be clarity around responsibility and authority. Assuming the adverse event involves a clinical matter, then responsibility must rest within the clinical team. Those who are speaking to patients must be fully informed as must the other members of the healthcare team.
6	**3. Scope**		This policy and the related Open Disclosure Guidelines apply to all staff working in the HSE and in any services funded by the HSE, however clarification is required as to whether or how the policy applies to General practitioners as independent contractors.
6	**4. Legislation and other related PPPG's**	**4.1**	The document makes reference to the long anticipated Health Information Bill which is to provide protection to a health professional from admitting liability when apologising. In addition the guidelines recognise the fear of litigation as a barrier to reporting. The enactment of this Bill will be a major step towards promoting open disclosure and changing the culture of adversarial litigation following adverse events. The IMO believe the enactment of the Bill is a necessary support to the HSE policy on Open Disclosure.

Please return your feedback to angela.tysall@hse.ie

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