



ISSUE

Improving patient safety through open and honest communication

MMA Position

The MMA supports legislation that: 1) protects from discovery communications and documents that are created for purposes of resolving an adverse event with a patient and 2) improves patient safety by encouraging open and honest communication with a patient and their family after an adverse event.

Background

CANDOR (Communication and Optimal Resolution) is a process used by healthcare facilities and healthcare professionals to respond to and resolve adverse events. It involves immediate disclosure of an adverse event to a patient and/or their family and includes communication with the patient throughout the entire investigation and resolution. The CANDOR process has been shown to improve patient safety,¹ better support the healthcare team members involved in the event, and decrease malpractice claims.²

For many patients who experience an adverse event, the inability to get answers is frustrating and compounds the harm they experience. Many healthcare facilities and providers are hesitant to enter into frank conversations with the patient and/or their family due to fear of liability.

Even in situations in which a case may not rise to the level of a lawsuit, patients still deserve answers and could enter into CANDOR conversations with the care team. The CANDOR process can provide closure for a patient who otherwise may not have received it.

In states that have implemented CANDOR legislation, the time from adverse event to final resolution has been reduced from five years to one – four fewer years of emotional stress during legal discovery period for a patient and their clinician.

Legislation is needed in Minnesota to protect resolution conversations from discovery in any subsequent lawsuit.

This will encourage open and honest communication with a patient and their family.

Talking Points

- CANDOR can improve patient safety by promoting a change of culture. Legislation is needed to protect those conversations from discovery in a lawsuit. With CANDOR, clinicians can have candid communications with all persons involved, including the patient, so that the events that led to the incident can be retraced and the knowledge collected can be used to prevent the same scenario from happening to future patients.
- A common complaint from patients who have experienced an adverse event is that they rarely are given an explanation about what happened.
- Legislation does not mandate use of the CANDOR process; a patient can elect to proceed with traditional litigation if they are not satisfied with the CANDOR process.
- A CANDOR law will not remove oversight of physicians. A hospital will still review incidents through a standard peer review process and patients always have the right to file a complaint with the Board of Medical Practice.
- Other states that have passed CANDOR laws have experienced faster resolution for injured parties and fewer lawsuits.

1 Statistically significant increase in the reporting of near misses, unsafe conditions, and unexpected harm events to patients and staff; Significant reduction in serious safety events. Lambert BL, Centomani NM, Smith KM, et al. The "Seven Pillars" Response to Patient Safety Incidents: Effects on Medical Liability Processes and Outcomes. *Health Serv Res.* 2016; 51 Suppl 3:2491-2515; Modern Healthcare <http://www.modernhealthcare.com/article/20160813/MAGAZINE/308139997>.

2 Kachalia A, Kaufman SR, Boothman R, et al. Liability claims and costs before and after implementation of a medical error disclosure program. *Ann Intern Med.* 153(4):213-221.