DISCLOSURE of ADVERSE EVENTS
South Texas Veterans Health Care System June 2007

SECTION I

Directive on Disclosure of Adverse Events

The Veterans Health Administration (VHA) published the Directive "Disclosure of Adverse Events to Patients" in April 2005, which states:

> **All VHA facilities and individual VHA providers have an obligation to disclose adverse events sustained by patients in the course of their care, including cases where the adverse event may not be obvious or severe, or where the harm may only be reasonably anticipated to occur, even if only evident in the future.**

Definition of Disclosure of Adverse Events

The phrase "Disclosure of Adverse Events" refers to the discussion of clinically significant facts between providers and/or other VHA personnel and patients or their representatives about the occurrence of an adverse event that could reasonably be anticipated to result in harm in the foreseeable future.

Definition of Adverse Events

An Adverse Event is an incident, directly associated with health care provided within the jurisdiction of a VHA medical center, outpatient clinic, or other VHA facility, in which unintended harm resulted to a patient or could reasonably be anticipated to result in unintended harm to a patient in the foreseeable future.

Where can an adverse event occur?

- Audie L. Murphy Division
- Kerrville Division
- Any clinic in our Satellite Division
- Any Community Based Outpatient Clinic (CBOC) in our system

Type of Disclosures in the VA

- Clinical Disclosure
- Institutional Disclosure

- Multi-site or Large scale Disclosure

Clinical Disclosure

- Is an informal process
- Is conducted by the patient's Attending physician
- Must occur within 24 hours of a practitioner's discovery of the adverse event
- Is required to be documented in a **progress note**:

    a. with date/time/name of those present in discussion

    b. discussion points of the adverse event

    c. offer of assistance to correct injury

    d. questions from the patient in the discussion

    e. expected future communication of the incident

Institutional Disclosure

- Is a formal process to discuss a case of a serious injury, death, potential legal liability and/or sentinel event
- Must be conducted within 24 hours and no later than 72 hours
- The patient and/or family members meet with designated staff to conduct institutional disclosure
- An apology is made
- Questions on Tort Claims, 1151 Benefits and compensation are deferred to the Risk Manager
- The Attending physician documents discussion in CPRS disclosure template
- STVHCS Chief of Staff has assigned the Risk Manager to coordinate a team of professionals to conduct this disclosure
- The attending or senior practitioner with a Chaplain, Patient Advocate, or Social Worker will be asked to attend
- The Risk Manager will discuss the Tort Claim process and 1151 Benefits

Multi-site or Large scale Disclosure

Collaboration with VACO is required for evaluation and planning to conduct this disclosure. Decisions regarding multi-site or large scale adverse event disclosures will be made by the VHA Principal Deputy Under Secretary for Health.

Section II

How to Conduct Institutional Disclosure

Patient Rights

A patient has the right to receive equitable and humane treatment at all times and under all circumstances.

FY07 Bylaws and Rules of the Medical Staff of the STVHCS, revised 2/15/07, Page 31

Ethical Right to Disclosure

> **"It is a fundamental ethical requirement that a physician should at all times deal honestly and openly with patients. Patients have a right to know their past and present medical status and to be free of any mistaken beliefs concerning their conditions. Situations occasionally occur in which a patient suffers significant medical complications that may have resulted from the physician's mistake or judgment. In these situations, the physician is ethically required to inform the patient of all facts necessary to ensure understanding of what has occurred. Only through full disclosure is a patient able to make informed decisions regarding future medical care. Ethical Responsibility includes informing patients of changes in their diagnoses resulting from retrospective review of test results or any other information. This obligation holds even though the patient's medical treatment or therapeutic options may not be altered by the new information. Concern regarding legal liability which might result following truthful disclosure should not affect the physician's honesty with a patient."**
>
> AMA Code of Ethics, Current Opinion E-8.12 Patient Information, Issued March 1981; Updated June 1994.

Reasons for failure to disclose

- Not knowing what to say
- Afraid discussion may lead to lawsuit
- Shame of admitting error

The Disclosure

- Be honest and truthful
- Explain the error slowly
- Do not use technical language
- Pause, allow ample time for questions
- If appropriate, discuss corrective action

The Apology

Apology is a key component of civil behavior making apology a critical skill: (Woods 2007)

- If it was a system failure or no obvious fault, say "*I am sorry that this occurred*."
- If it is a case of personal responsibility, state "*I am sorry that I did this*."

The Risk Manager will:

- Arrange a date, time and place with attending physician to conduct the disclosure
- Notify the patient and/or family representative a disclosure is to take place
- Ask the family if their schedule allows them to attend on the date and time specified
- Assist the attending physician with documenting the discussion in the CPRS disclosure template

How to conduct a disclosure at STVHCS

- RM introduces all attendees
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- RM states regret an adverse event occurred
- The attending physician provides the course of events, using non-technical language, and follows with an apology
- The risk manager explains Tort Claim process and 1151 Benefits for Disability
- The physician asks for questions or concerns and provides answers

VA Contacts

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Information

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The Disclosure of Adverse Events
MASTERY TEST

1. DVA, JCAHO, OIG and STVHCS Director mandate disclosure of adverse events to patients.

☐ **True** ☐ **False**

2. There are only two types of disclosure: a. Clinical, b. Multi-site and Large scale.

☐ **True** ☐ **False**

3. Clinical Disclosure between the physician and patient/family must be done within 24 hours.

☐ **True** ☐ **False**

4. Institutional disclosure must be completed no later than 72 hours to be in compliance with the national and current policies.

☐ **True** ☐ **False**

5. The contact person at STVHCS for disclosures is Teresa Mejia at (210) 617-5300 extension 14043.

☐ **True** ☐ **False**

Name:

Last 4:

Program:

Academic Year: AY 07/08

Complete test, save as a word document, email to: marleen.mueller@va.gov