

IMPROVEMENT ESSENTIALS

How to Disclose Medical Errors & Unanticipated Outcomes

Timely and clear disclosure builds trust with patients and families and reduces the risk of litigation. Follow this practical strategy to guide your conversation, provided by an interdisciplinary team of providers and risk managers.

WHAT IS DISCLOSURE?

Disclosure is the act of revealing information to a patient or family. It is a process, not an isolated occurrence—especially after serious events.

Whether the patient suffers an unanticipated outcome without clear fault or a true [medical error](#), the process can include multiple cycles of response, disclosure, investigation, and analysis before ultimately achieving resolution.

WHEN TO DISCLOSE

The initial disclosure conversation should be held as soon as possible and will set the tone for subsequent investigation and follow-up.

HOW TO DISCLOSE

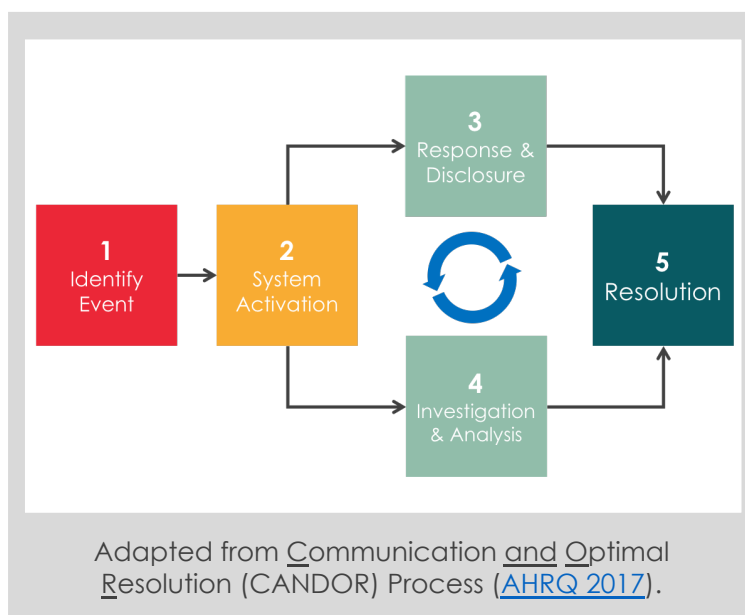
First, be aware of the unique challenges

There are general strategies to help [deliver bad news](#) that should be followed, but disclosure of medical errors presents some unique additional challenges. Providers may be embarrassed, unsure of what to say, or nervous about legal liability.² As a result, disclosure of medical errors may be perceived as incomplete (“partial disclosure”) or may never happen.³ This not only fails to fulfill our responsibility for clear and consistent communication, but often leads to the very lawsuits providers hope to avoid.⁴

Many states, including Utah, have implemented “apology laws” to protect providers who express sympathy or condolences after a medical error or unanticipated outcome. While protections vary state-to-state, and providers should be careful not to admit or assign fault prematurely or inappropriately, these protections help providers better meet patient communication needs.

Beyond legal protections, multiple organizations have also found that efforts to reform their disclosure practice increase transparency and reduce litigation costs.⁵ The [disclosure process at University of Utah Health](#) aligns with [recommendations from the Agency for Healthcare Research and Quality](#) and helps individuals and the organization respond to patients and families in a timely, thorough, and just way.

Second, follow the process – Five Steps to Successful Disclosure (next two pages)



Five Steps to Successful Disclosure

The following Five Steps to Successful Disclosure are recommended for the initial disclosure meeting after a medical error or unanticipated outcome:

1. **SET UP the conversation**
2. **LISTEN and assess understanding**
3. **APOLOGIZE sincerely**
4. **DISCUSS next steps**
5. **SUPPORT for patient/family, you and your team**

1. SET UP the conversation

- **Ask for and host a conversation.** Don't wait! Do this as soon as possible after the event is discovered. Gather as much information as possible for the patient and family. Consider which members of the patient's personal support system should be present. Identify which members of the health care team should take part in the disclosure with you. The attending provider should be present if possible, but you may not be able to wait. Set the stage: Find a private and quiet place to meet. Know and use the patient's name. Introduce yourself and any other individuals in attendance. Sit down. Minimize distractions.
- **Prepare the patient/family for serious conversation.** Make an opening statement. Start from the beginning and prepare the patient/family with a shot across the bow: *"There has been an unanticipated event in your care and I am here to tell you everything I can."* Share the information you know. Explain objectively what occurred: *"You did not receive the antibiotics we intended to give you last night."* Make factual conclusions and resist the urge to speculate on what may have happened.

2. LISTEN and assess understanding

- **Invite questions and listen openly.** Listen – allow silence, explore emotion. After sharing a sentence or two about the event, ask if they are ready to hear more details. Allow time for a response. Throughout this conversation, there may be comments or behaviors reflecting grief responses such as anger or disbelief. Assess understanding. Depending on the situation, patients and families may misinterpret or not hear information discussed. Be ready to repeat information or give information in another way if needed. Encourage patients and families to ask questions so they gain understanding. Anticipate varied responses from different people. Be prepared to listen and offer support.

3. APOLOGIZE sincerely

- **Allow yourself to be vulnerable.** Vulnerability is sincerity—it's okay to feel uncomfortable. You should offer words of apology and condolences such as, "I am sorry this happened." Apologize more than once. When appropriate, use phrases of reassurance such as, "We are going to take care of you." Avoid blame. Be careful not to prematurely assign blame with phrases like "we screwed up," or "this is ____'s fault." Subsequent conversations after additional investigation will better address this.

Six Steps to Successful Disclosure (cont.)

4. DISCUSS next steps

- **Discuss the next steps in caring for the patient.** You can reassure patients they will receive the ongoing medical care they need. *"We will monitor you closely and provide any further care you need."*
- **Discuss the next steps for investigation and prevention of recurrence.** If certain details remain unclear, explain that further investigation will take place. You can assure the patient that results of this investigation will be shared with them and inform specific actions to prevent a similar event from happening again.
- **Discuss who will speak to the patient/family next and when.** Identify a contact for patients and families who will manage follow-up communication to discuss the situation. Be as specific as possible.

5. SUPPORT the patient/family, yourself, and your team

For Patients and Families

- **Offer support services to the patient/family.** Consider inviting a behavioral health provider or [clergy](#) to the meeting. Otherwise, offer to facilitate services afterwards. If finances are raised as a concern, acknowledge that as a legitimate concern and explain that this will be addressed by the organization. [The patient and family will receive specific and separate follow up about finances.](#)
- **Navigate a patient death.** If a patient dies unexpectedly, be sure to use the word "dead", "died", or "death" to be clear about what you are saying. Use the patient's name. Death of a patient is a significant event and will result in numerous coordinated actions from members of the healthcare team. [Familiarize yourself with the process](#), leverage support services, and take your time to walk family through the next steps.

For Providers and Teams

- **Seek support for you and your team.** Recognize the impact medical errors, especially those resulting in death, will have on you and your team. Health care providers can become the ["second victim" of medical error](#). Be proactive about seeking support from local resources like the [Resiliency Center](#). Contact [Risk Management](#) for any general assistance with disclosure or after any serious unanticipated outcome.

Contacts

Support Services:

U of U Health Resiliency Center
(801) 213-3403
resiliencycenter@hsc.utah.edu

Disclosure Services:

U of U Health Risk Management
(801) 581-2031
risk-management@hsc.utah.edu

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