**FAQs: Iowa Candor Law**

9/2/20

**WHAT IS CANDOR?**

Candor can be defined as “the quality of being open and honest.” This term has been adopted in health care to describe a framework for addressing adverse medical incidents in a way that preserves the provider-patient relationship, allows for open communication, and supports improvements in patient safety.

The focus on Candor emerged out of efforts by the Agency for Healthcare Research and Quality (AHRQ). AHRQ developed a toolkit that promoted a shift to an environment that encourages open, honest conversations with patients after adverse outcomes occur. The process is also designed to investigate and learn from what happened, to address the patients’ needs alongside providers’ needs, and to disseminate any lessons learned in order to improve future outcomes.

Since then, the Candor framework has been utilized in various health care systems and demonstrated positive results. In addition, Candor-related legislation has been passed in Massachusetts, Oregon, and Colorado.

**WHAT ARE THE ORIGINS OF THE IOWA CANDOR LAW?**

The Iowa Candor legislation was an initiative of the Iowa Medical Society working with the Iowa Association for Justice. The bill was passed unanimously by the Iowa General Assembly and was signed into law in 2015. The law was expanded in 2017 to allow more health care practitioners to use the Candor approach. It was again modified July 1, 2020, by extending the length of time a provider has to initiate the Candor process from 180 days to one year.

**WHAT TYPES OF INCIDENTS QUALIFY UNDER THE LAW?**

Adverse health care incidents arising from or related to patient care resulting in the physical injury or death of a patient.

**WHAT TYPES OF MEDICAL PROVIDERS AND FACILITIES CAN UTILIZE THE IOWA CANDOR LAW?**

Physicians, physician assistants, podiatrists, licensed practical and registered nurses, advanced registered nurse practitioners, pharmacists, and any other person who is licensed, certified, or otherwise authorized or permitted under Iowa law to administer health care in the ordinary course of business or in the practice of a profession.

In addition, hospitals, health care facilities, organized outpatient health facilities, outpatient surgical facilities, birthing centers, clinics, and community health centers are among the health facilities that can participate in Candor when an adverse health care incident occurs in the health facility.

**HOW DOES THE CANDOR PROCESS BENEFIT PATIENTS?**

Patients who have an adverse incident, and their families, are able to engage in open discussions with the provider(s) or health facility involved. This helps them understand why the incident occurred and what is being done to prevent similar issues in the future. Patients become a part of the process by helping to identify and implement procedures designed to improve patient safety. The Candor process is also designed to expedite the process of addressing an adverse outcome and offering patients compensation when warranted.

**HOW DOES THE CANDOR PROCESS BENEFIT PROVIDERS?**

As with patients, the open discussions allow for providers to address concerns, offer their perspective on what happened and why, and work together to preserve the provider-patient relationship. The Candor process is meant to be non-adversarial. It allows providers to participate in and learn from the process without creating undue burdens that take the provider away from patient care.

**HOW DOES THE CANDOR PROCESS START?**

The process is initiated by the health care provider involved in the incident. The provider, or the provider jointly with the health facility, needs to provide the patient with written notice of the desire to enter into an open discussion (under Iowa’s Candor law) with the patient. The notice must include specific details about the patient’s rights and the nature of the communications and discussions under the Iowa Candor law.

**WHAT SHOULD MEDICAL FACILITIES/HOSPITALS BE AWARE OF WITH THE CANDOR PROCESS?**

The Iowa Candor law does not change the process for health facilities to review systems issues, the facility’s quality improvement program, or the peer review of the professional services rendered by individual health care professionals. The law does not change any reporting requirements for adverse professional review actions or as otherwise required for health facilities.

**WHY ARE THE DISCUSSIONS CONFIDENTIAL AND PRIVILEGED?**

To facilitate open communication between providers and patients in a way that is not hindered by the threat of these communications being used against the provider or facility in subsequent litigation.

**CAN A PATIENT STILL FILE A LAWSUIT AFTER A CANDOR DISCUSSION?**

The Iowa Candor law does not limit a patient’s ability to use the legal system. Patients can choose to withdraw from the Candor process at any time. However, the discussions and communications that occurred during the Candor process, including any offers of compensation, remain privileged and confidential. Under the law, an offer of compensation does not constitute an admission of liability. In addition, if a patient chooses to accept an offer of compensation, a provider or facility may require a patient to sign a release of liability, so he or she cannot bring a subsequent lawsuit.

**WHAT REPORTING REQUIREMENTS APPLY TO THE IOWA CANDOR LAW?**

Because no payments are made as a result of a written complaint or claim demanding payment based on a practitioner’s provision of health care services, incidents handled through the Candor process are not required to be reported to the National Practitioner Data Bank. They don’t fall within a licensee’s obligation to report to the licensing board every adverse judgment in a professional or occupational malpractice action to which the licensee is a party, and every settlement of a claim against the licensee alleging malpractice. They are also not considered a claim for purposes of medical malpractice insurers reporting open and closed claims filed during the reporting period against Iowa insureds during the preceding calendar year.

Patients participating under the Iowa Candor law do not waive their right to file a complaint with the relevant licensing board or the Iowa Department of Inspections & Appeals, Health Facilities Division, which oversees health facilities. Where indicated, a health care professional’s actions can be addressed through a hospital’s or other health care entity’s peer review process. The Candor law does not change any reporting requirements for adverse professional review actions or as otherwise required for health facilities.