**MINNESOTA CANDOR ACT-PATIENT FAQs AND PROGRAM OVERVIEW**

**WHAT IS THE MINNESOTA CANDOR ACT?**

The Minnesota Candor Act, passed during the 2023 state legislative session, establishes a voluntary

framework for health care providers and facilities to offer compassionate and timely responses to patients who experience a health care adverse incident. It is designed to benefit patients, their families, clinicians, and health care systems by formalizing a process where there can be open communication. Under certain circumstances, the process may include an offer of compensation.

The Candor framework is based on a decade of research and programs that have demonstrated positive results as well as improvements in patient safety. It also supports transparency in a way that reinforces trust between patients and providers, and allows for education to help improve safe and effective care for future patients.

**WHAT ARE “OPEN DISCUSSIONS” UNDER THE MINNESOTA CANDOR ACT?**

Whenever an unanticipated injury or adverse outcome occurs related to patient care, it can be difficult for a patient and health care provider to openly, honestly, and thoroughly discuss what happened. The Act uses the term “open discussions” to promote confidential conversations that are not focused on blame or fear, but rather, a better understanding about what happened and what steps, if any, might be taken to prevent similar outcomes in the future.

**HOW DOES THE CANDOR PROCESS WORK?**

The Candor process is completely voluntary for health care providers, health facilities, and patients. It is initiated by the health care provider and/or health facility by providing the patient or legal representative with a “Notice for Candor Open Discussion” form. Ideally, the Candor process should start shortly after an unanticipated outcome but, in no event, can the process be initiated later than 365 days after the provider or health facility knew or reasonably should have known of the health care adverse incident. If the patient chooses to participate in the Candor process, then the patient must sign a written “Patient Consent to Participate in Candor Open Discussion” form.

Upon receiving a signed “Patient Consent to Participate in Candor Open Discussion,” your health care provider will meet with you (along with others who have signed a Participation Agreement; these may include family members, legal representatives, or other participants in your care) to discuss your recent care and the unexpected outcome.

**CAN I HAVE MY FAMILY OR OTHER PERSONS PRESENT AT THE CANDOR OPEN DISCUSSIONS?**

Yes, you can have your family or other individuals present during the open discussions. You can also have an attorney present, if you wish. However, anyone you want to attend must sign a “Participation Agreement in Candor Open Discussion” form to ensure that the Candor discussions and communications among all participants remain privileged and confidential.

**CAN I TELL ANYONE ELSE ABOUT MY CANDOR DISCUSSIONS WITH MY HEALTH CARE PROVIDER?**

The confidentiality for Candor discussions does not prevent a patient from discussing the health care they received from the provider or facility, including any information documented in the medical record. However, anything said by you or other participants, including the health care provider(s), as part of a Candor open discussion should not be discussed outside the Candor process. This confidentiality is designed to create an environment where health care providers can speak openly and honestly with patients and their families about what happened, without the fear that their words will be used against them if there is a subsequent legal proceeding.

The Minnesota Candor Act says that all communications and materials, oral and in writing, that are a part of the Candor open discussions process (including all Candor forms) are confidential and privileged and cannot be disclosed outside the Candor process. In addition, Candor communications and documents aren’t subject to legal requirements for release (such as a discovery request or subpoena). They can’t be used as evidence in any court proceeding, administrative proceeding, or arbitration proceeding arising directly out of the health care adverse incident. However, a statement made during the open discussion may not be protected in a subsequent proceeding if the court or other decision-maker finds that statement contradicts a statement made in the later proceeding and is material to the claims made in the subsequent proceeding.

Documents and communications that weren’t prepared specifically for use in a Candor open discussion aren’t confidential under the Minnesota Candor Act, but other protections may apply. Your medical records, for example, must be protected by your health care providers under federal and state privacy laws, but you may choose to discuss your medical condition with your family and friends. The Minnesota Candor Act doesn’t change that.

**CAN I GET A COPY OF MY MEDICAL RECORDS BEFORE ANY DISCUSSIONS?**

Yes. You have the right to request and receive a copy of your medical records in accordance with state and federal law. You also have a right to sign a HIPAA compliant authorization to release your medical records to a third party.

**CAN I TERMINATE MY PARTICIPATION IN THE CANDOR PROCESS?**

Yes. If, after you sign the “Patient Consent to Participate in Candor Open Discussion” form you decide you no longer wish to participate in the Candor process, you must provide a written, signed notice of termination to the individual who provided you the original notice. The termination notice must be dated.

**DO I HAVE TO SIGN A RELEASE OF LEGAL LIABILITY IF I CHOOSE TO PARTICIPATE IN THE CANDOR PROCESS?**

No. The purpose of Candor is for you and your health care provider to be able to have open and honest discussions about your health care. Participation in the Candor process does not limit a patient’s ability to later file a lawsuit. However, if participation in the Candor process includes an offer of compensation which you accept, you may be asked to sign a release which would include a requirement not to seek any subsequent legal action.