**UTAH MEDICAL CANDOR ACT PATIENT FAQs AND PROGRAM OVERVIEW**

**WHAT IS THE UTAH MEDICAL CANDOR ACT?**

The Utah Medical Candor Act, passed during the 2022 state legislative session, establishes a voluntary

framework for health care providers and health care facilities to offer compassionate and timely responses to patients who experience an adverse event. 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 IS THE “MEDICAL CANDOR PROCESS” UNDER THE UTAH MEDICAL CANDOR ACT?**

Whenever an unanticipated outcome or adverse event occurs related to patient care, it can be difficult for a patient and health care provider to discuss openly, honestly, and thoroughly what happened. The Act uses the term “medical candor process” 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 MEDICAL CANDOR PROCESS WORK?**

The medical candor process is completely voluntary for health care providers and patients. It is initiated by the health care provider by providing the patient or patient’s representative with a **“Health Care Provider Notice for Medical Candor Process”** form. Ideally, the medical candor process should start shortly after an unanticipated outcome, but the notice must be provided to the affected party (patient or patient’s representative) within 365 days after the day on which the health care provider knew of the adverse event involving a patient. If the patient chooses to participate in the medical candor process, then the patient must sign a written **“Patient Consent to Participate in Medical Candor Process”** form.

Upon receiving a signed “Patient Consent to Participate in Medical Candor Process,” 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 DURING THE MEDICAL CANDOR PROCESS DISCUSSIONS?**

Yes, you can have your family or other individuals present during the medical candor process discussions. You can also have an attorney present, if you wish. However, anyone you want to attend has to sign a **“Participation Agreement in Medical Candor Process”** 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 the medical candor process 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 discussion should not be discussed outside the medical 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 Utah Medical Candor Act says that all communications, materials, and information in any form specifically created for or during a medical candor process (including all Candor forms and communications to participate in the medical candor process) are privileged and confidential and cannot be disclosed outside the medical candor process. Furthermore, 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 judicial proceeding, administrative proceeding, or arbitration proceeding arising out of the adverse event.

Documents and communications that weren’t specifically created for or during a medical candor process aren’t confidential under the Utah Medical 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 Utah Medical 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 MEDICAL CANDOR PROCESS?**

Yes. If, after you sign the “Patient Consent to Participate in Medical Candor Process” form you decide you no longer wish to participate in the medical 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 MEDICAL 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 medical candor process does not limit a patient’s ability to later file a lawsuit. However, if participation in the medical 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.