

**Contact your on-site risk management designee whenever you have questions about clinical issues that are risk management related.**

Shands at AGH (352)733-0115 or 733-0111 x71113  
Shands at Lake Shore (386) 754-8180  
Shands at Live Oak (386) 362-0800  
Shands at Starke (904) 368-2300  
Shands at Vista/Rehab (352) 265-5491 x70022  
Shands at the University of Florida (352) 265-0002  
Shands Jacksonville (904) 244-3477  
Shands Clinics/Gainesville (352) 265-0002  
Shands Clinics/Jacksonville (904) 244-3477  
UF Clinics/Gainesville (352) 265-8067  
UF Clinics/Jacksonville (904) 244-4094  
UF Dental Clinics (352) 392-2911

**Please refer patients with concerns to your facility Patient Representative.**

**Additional educational material can be obtained through the Gainesville UF Self-Insurance Program office.**

- Basics in Risk Management
- Basics in Consent
- Good Care Bad Documentation
- Capacity to Consent
- Strategy for Disclosure
- Peer Review and Medical Staff Monitoring
- Wrong Site Surgery

# Disclosure of Adverse Events and Accountability in Medical Care



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## What is Disclosure?

It is the information provided to a patient regarding an unanticipated adverse outcome that may or may not be associated with medical error. However, under Florida Law disclosure of adverse incidents resulting in patient harm must be made in person and this must be documented in the medical record.

## Ethical and Legal Duty to Disclose

- The precept of autonomy requires that practitioners seek consent for proposed treatment after providing patients or families the treatment options available to enable an informed decision. Likewise, patients also need to be knowledgeable of treatment remedies when an adverse outcome occurs.
- Professional organizations including, but not limited to, the AMA, American College of Physicians, and National Patient Safety Foundation promote practitioner truthfulness in dealing with patients and recognize that an unanticipated outcome does not necessarily constitute negligence or unethical behavior, but failure to disclose them may.
- Physician-patient relationships are fiduciary in nature.
- Failure to disclose can result in claims of fraud or fraudulent concealment. (Mere silence is enough to establish fraudulent concealment.)

## Who Requires Disclosure?

- The Joint Commission Accreditation Patient Rights Standards: RI.2.90
- Florida law:  
§395.1051, Fla.Stat. (hospitals)  
§456.0575, Fla.Stat. (licensed practioners)
- CMS Conditions of Participation for Hospitals: 42 CFR, Ch. IV, 482.13(b)(2)
- Hospital Policies:  
Shands Core Policy CP1.43  
SJMC: MS-03-006

## Patient's Right to Know

Patients not only want to know the truth about adverse outcomes of care, they have a right to know. What do they want? —the “Five A’s”: Acknowledgment, Apology, All the facts, Assurance and in some cases, Appropriate compensation. They also want to know how it will affect them in the future and what will be done to prevent it from happening again. Medical error is a topic of interest in the media, on the internet, and a major focus of the entire health care industry.

## Who Should Disclose?

***The attending physician or physician designee. To avoid confusion, only one person should be responsible for disclosure.***



## Benefits of Disclosure

- Provides patients, as well as practitioners, the opportunity to recover from the devastating effect of an unanticipated outcome or medical error.
- Allows practitioners the opportunity to dispel any issues of distrust by communicating directly with the patient and/or patients family.
- Promotes patient safety initiatives that will reduce future incidences of error and improve the quality of care.
- Lessens the frequency/severity of litigation when appropriately managed and controlled.

## Ten Steps of Disclosure

1. Prior to disclosure notify Risk Management.
2. An appropriately trained attending physician shall do the disclosure.
3. Be prepared. Know nature of the event, what happened, long term effects, who will receive disclosure.
4. Choose appropriate place and time to disclose.
5. Assess patient's or family's readiness to listen and their level of understanding.
6. Choose what information to cover. Wording is crucial.
7. Be prepared for and be able to handle crying, anger, and denial.
8. Know how to conclude the conversation.
9. Plan effectively for patient follow up.
10. Objectively and factually document the unanticipated outcome in the medical record, to whom and when disclosure was made, as well as identities of any witnesses present.