Council of Deans of Health Response to Openness and honesty when things go wrong: the professional duty of candour - Draft joint NMC and GMC guidance

5 January 2015

The Council of Deans of Health

The Council of Deans of Health (CoDH) is the representative voice of all 85 UK university health faculties engaged in education and research for nursing, midwifery and the allied health professions. Further information about us can be read at: http://www.councilofdeans.org.uk/. We welcome the opportunity to respond to this consultation.

Consultation questions

Q1. Is it helpful to have additional guidance on this issue?

The Council of Deans of Health (CoDH) supports the principles underlying a professional duty of candour for healthcare staff and students, including nursing and midwives. Nurses and midwives already have a professional duty to be honest and transparent in everything that they do and to uphold the standards of the professions for the benefit and protection of their patients, which are set out in *The Code: Standards of conduct, performance and ethics for nurses and midwives.* Additional guidance to support nurses and midwives understand and undertake their professional responsibilities is generally welcome.

This guidance will only achieve maximum benefit if the organisations within which professionals work also embrace a culture of openness and organisational support structures are in place to facilitate timely and open reporting of concerns. Being open and honest when something has gone wrong is generally acknowledged by health and social care professionals as the right thing to do, however, many are fearful of the ramifications of disclosure and/or whistleblowing on their careers.

Q2. How easy is the guidance to understand?

Generally the guidance is easy to understand, however, we suggest improvement could be made by providing examples and brief case studies throughout, which staff could work

through to gain additional understanding and clarification. We also suggest clarification could be given on the following:

- The professional duty of candour principles (page 5) suggest in each case to tell the patient, apologise to the patient, and explain fully to the patient….OR WHEN APPROPRIATE the patient's advocate, carer or family. This needs further clarification in terms of patient confidentiality and is open to interpretation of when it is 'appropriate' not to tell the patient.

- The wording in paragraph 9 (page 6) is ambiguous. If the task of speaking to a patient is delegated to someone else, this must be done in an appropriate and safe way, and the person who has accepted that task is accountable for performing it correctly.

- Paragraphs 13b (page 7) – nurses and midwives have a professional responsibility to be open and honest with patients but they also have a duty to protect patients from potential harm. Disclosure of information has the potential to cause distress to patients and therefore the guidance should be more explicit on how doctors, nurses and midwives should best handle this in the context of their legal and ethical responsibilities.

- We are concerned that the wording of Paragraph C (page 7) is potentially ambiguous and could have legal implications for nurses and midwives if they accept personal responsibility for something going wrong. We suggest the following rewording '…*if you offer an apology for something going wrong*….' It is right that doctors, nurses say sorry and explain fully and promptly what has happened but this should be without fear of admitting legal liability.

- Paragraph 19 and 20 (page 8): examples of near misses would be helpful here and would provide additional clarification.

Q3. Do you think there is anything else that the guidance should cover?

Care is usually delivered in multi-professional teams, so openness and honesty when something goes wrong requires a multi-professional approach. The remit of this guidance, however, does not extend to other registered professions such as the allied health professions (AHPs). It remains unclear how multi-professional teams would collaborate if there were complex errors involving a number of systems and personnel. It would be helpful if the guidance could provide additional information to support this point.

Nursing and midwifery students deliver supervised clinical care to patients whilst on placements and have a responsibility to report concerns when things go wrong. Our members play a role in encouraging candour and supporting students in raising concerns through the education and training they provide. The draft guidance as it stands only applies to doctors, nurses and midwives on the GMC and NMC register. Although this is a complex area in its own right, the guidance could reference the role that students play in patient care.

There may be incidences where patients, their relatives or carers may wish to make an informal or formal complaint following an adverse event or near miss. The guidance could be clearer how doctors, nurses and midwives should deal with complaints.

Q4. Is there anything you think could be removed from the guidance?

There are no specific elements of the guidance that we think should be removed.

Q5. Do you have ideas about how we could illustrate how the guidance works in practice (e.g. case studies or decision tools)

Paragraph 19 and 20 (page 8) examples of near misses would be helpful here and would provide additional clarification.

Q6. Do you think there is anything else that doctors, nurses and midwives should consider when apologising to patients or those close to them?

Doctors, nurses and midwives may wish to seek additional advice from their indemnity provider when something has gone wrong.

Q7. To what extent to you agree or disagree that patients should always be told about near misses?

We believe doctors, nurses and midwives should use their professional judgement when considering whether patients should be told about near misses. As stated in the guidance there will be circumstances where patients will want to be informed and not doing so could damage the patient-professional relationship. In other cases, informing patients a near miss could cause unnecessary distress and harm.

Q8. Do you have any other comments or suggestions about the draft guidance?

We have no further comments on the draft guidance.

Contact for further information:
Rachel Craine, Senior Policy Officer
Rachel.Craine@cod-health.ac.uk