

Duty of candour in medicine

Sir Terence Stephenson

Abstract

The statutory duty of candour for healthcare providers was part of the response to the findings of the Mid-Staffordshire NHS Foundation Trust ('Mid-Staffs') public inquiry. The inquiry found multiple instances of poor care and lack of transparency towards patients and relatives, in which staff knew that care was inadequate but did not speak up or otherwise try to address those failings. Good Medical Practice has set down a professional duty of candour for many years, requiring that doctors be open and honest with patients if things go wrong. With the duty of candour, those standards became required and enforceable by law.

Keywords Candour; Mid-Staffs; raising concerns; transparency

Introduction

In 2009, an investigation into high mortality rates and the care of patients admitted as emergencies to Mid-Staffordshire NHS Foundation Trust, England, found serious breaches of care and dignity by staff. Doctors were criticized for failing to act on blatantly poor standards. The findings of the Mid-Staffs inquiry,¹ led by Sir Robert Francis QC, shone a light on the standards that all healthcare providers and professionals should be meeting, and highlighted the need for doctors to think about their duties beyond their required clinical competence.

A key recommendation of the inquiry was the introduction of a statutory duty of candour, mandating that doctors and other health professionals act in an open and transparent way in relation to care provided to patients. This duty means that, when things go wrong, patients should expect a face-to-face explanation and apology from doctors. Things can and sometimes do go wrong, and what doctors do afterwards matters.

Good practice

Good doctors make the care of their patients their first concern. Through its role in setting training standards, General Medical Council (GMC) guidance emphasizes the importance of:

- establishing the doctor–patient partnership, with the ability to demonstrate empathy and compassion

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Key points

If you realize something has gone wrong with your patient's care (even if no harm has occurred):

- Say sorry personally
- As soon as possible
- Remember that sorry is NOT the same as guilty
- Explain what happened
- Explain what can be done if the patient has suffered harm
- Say what will be done to prevent someone else being harmed in the future

- demonstrating effective consultation skills, including effective verbal and non-verbal skills
 - sharing decision-making by informing the patient and prioritizing their wishes.
- Underpinning every interaction a doctor has with their patients are the 'four Cs':
- **Communication** – communicating effectively with patients is covered in *Good Medical Practice*, which is the GMC's guide to the behaviour and conduct expected of all doctors practising in the UK.² Simply put, the guidance expects that doctors will explain issues in terms that make sense to their patients; doctors must be honest but sensitive in imparting information; and they must be available where possible when on duty to help answer questions for patients and colleagues.
 - **Consent** – the GMC's guidance on consent expands on *Good Medical Practice* and gives clear parameters to ensure that doctors are satisfied that they have consent or valid authority before carrying out any examination or treatment, or involving patients in teaching or research.³
 - **Confidentiality** – in April 2017, the GMC introduced revised and expanded guidance on confidentiality. The new guidance clarified the public protection responsibilities of doctors, including when to make disclosures in the public interest (Figure 1).
 - **Candour** – along with standards on communication and consent, the guidance focused on the importance of sharing information for direct care, recognizing the multidisciplinary and multiagency context that doctors work in (Figure 2). That context, although geared to better patient care and more support from healthcare colleagues, makes it all the more crucial that doctors fully understand their role as set out in the *duty of candour* introduced in June 2015.

What candour means for doctors

The GMC has specific guidance – 'Raising and acting on concerns about patient safety' – which highlights the duty of all

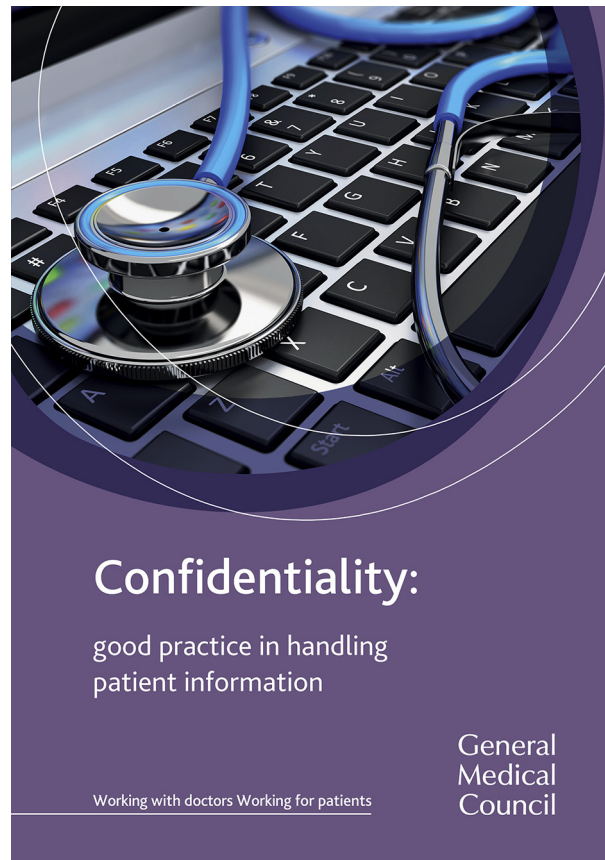


Figure 1 Source: from General Medical Council. Confidentiality: good practice in handling patient information (2017). https://www.gmc-uk.org/guidance/ethical_guidance/confidentiality.asp with permission

doctors to raise concerns where they believe that patient safety, dignity or care is compromised by the practice of either colleagues or the policies and systems, and procedures, in the places in which they work. The guidance also includes advice on acting on concerns, including where to go for help and principles for investigating concerns.

The duty of candour⁴ built on this guidance, and reinforces the actions that should be taken when something has gone wrong with the care provided (Table 1). But in jointly launching the candour guidance with the Nursing and Midwifery Council in June 2015, the regulators also made clear that doctors and other healthcare professionals must have the support of open and honest working environments where they are able to learn from mistakes and feel comfortable reporting incidents that have led to harm.

Candour and the professional

Candour is not just the right thing for patients: as with so many aspects of healthcare, what is good for patients is also good for doctors.

A striking feature of complaints received by the GMC that result in a hearing or sanction is that although most complaints are about clinical competence, these matters are much more likely to be closed without the doctor receiving a sanction. By contrast, where a doctor's professionalism is in question, a much higher proportion of complaints result in a sanction (Figure 3),

suggesting that if doctors maintain their professional standards, they are less likely to be investigated by the GMC, and their patients are more likely to be satisfied.

Simply put, we think of a 'professional' as a highly trained person to whom others go for independent, expert advice or help. In the case of medicine, this means that the doctor must always act in their patients' best interests, not their own. Issues of professionalism include:

- failing to work well with colleagues; bullying and undermining
- failing to report or share information on cases
- not communicating respectfully and appropriately with patients
- acting dishonestly, unfairly or criminally.

Space to learn from mistakes

As well as the individual responsibility that the duty of candour places on health professionals, the need for a supportive working environment, in which doctors can learn from mistakes, is crucial to making candour more than just a tick-box exercise. The Mid-Staffordshire inquiry brought into sharp focus the fact that an honest learning culture, in which staff feel able to admit to errors and raise concerns, does not always prevail. Organizational culture remains one of the biggest challenges facing the National Health Service (NHS) and a major roadblock to safe and effective care.

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