

PRESS RELEASE : 22nd JULY 2008 FOR IMMEDIATE RELEASE

NHS CHALLENGED OVER 'BEING OPEN'

Action against Medical Accidents (AvMA – the charity for patient safety and justice) are pressing for the withdrawal of a circular issued by the NHS Litigation Authority to NHS bodies warning them to take care when providing explanations to patients or families affected by medical accidents so as to “avoid future litigation risks”. The circular, issued in August 2007, also encourages NHS bodies to offer apologies and explanations, and AvMA believes it was probably issued with good intentions. However, the stark warning to NHS bodies to frame their explanations with a view to avoiding potential litigation is in direct contrast to official NHS policy on being fully open and honest when things go wrong.

Ironically, the NHS Litigation Authority would be responsible for the proposed NHS Redress Scheme, which is entirely reliant on the NHS itself recognising and owning up to its liability for clinical negligence and proactively offering appropriate compensation.

AvMA Chief Executive, Peter Walsh, said

“This circular does more harm than good and should be replaced with more enlightened guidance. Apart from the wholly inappropriate warning to temper explanations so as to avoid litigation, the circular also wrongly implies that simple apologies and expressions of regret might be interpreted as an admission of liability. It also shows a depressing lack of insight about what constitutes a meaningful apology, which it defines merely as an “expression of regret” or “sympathy”. We are inviting the NHSLA to help put things right by issuing a revised circular and joining with us in promoting better awareness of these issues. We are disappointed that in spite of us raising our concerns with the NHSLA in November 2007, nothing has been done to put this right. This all goes to show how far we have to go to achieve an open and fair culture in the NHS. We need ‘Being Open’ to be made mandatory and a legal duty of candour”.

ENDS

1. Website: www.avma.org.uk
2. AvMA is a registered charity no. 299123 and a limited company registered in England No 2405420