

PRESS RELEASE

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GOVERNMENT PLAN TO WATER DOWN THE DUTY OF CANDOUR FOR PRIMARY CARE AND PRIVATE HEALTHCARE

AvMA DEMAND PLAN BE DROPPED IF DUTY OF CANDOUR TO WORK

London, 5th March, 2015: Action against Medical Accidents (AvMA – the charity for patient safety and justice) will today make a public demand for the Government to change controversial plans to water down the statutory Duty of Candour that will apply to providers of NHS primary care (GPs, dentists and pharmacists) and in private healthcare.

AvMA chief executive, Peter Walsh, will make the demand as he addresses healthcare professionals in clinical governance and complaints at a major London conference looking at NHS investigations of patient safety incident - "Investigations Fit for a Modern Health Service".

The statutory Duty of Candour applying to NHS Bodies (NHS trusts, Foundation trusts etc) came into force on 27th November 2014 following a long campaign led by AvMA and the recommendations from the Mid Staffordshire NHS Foundation Trust public inquiry. Crucially, AvMA were successful in persuading the Department of Health that the definition of a "notifiable safety incident" covered by the duty includes incidents which "in the reasonable opinion of a health care professional, could result in, or appears to have resulted in" significant harm. This wording is absent from the new draft regulations before parliament where they apply to NHS primary care providers and private healthcare providers. This means that incidents that have the potential to result in significant harm to a patient would not have to be disclosed to the patient by those providers. If the same incident happened in an NHS hospital for example, they would. NHS patients treated by GPs, dentists and pharmacists would enjoy substantially different rights than those treated in an NHS trust.

Peter Walsh will say in his speech later today, "It makes no sense at all for NHS providers in primary care to have a lesser Duty of Candour than NHS trusts. An NHS patient should enjoy the same rights wherever they are treated in the NHS. Neither should the providers of private healthcare be subject to a lesser Duty of Candour. Whether this has come about as a result of cock up or conspiracy, or a mixture of both, we are calling on the

Secretary of State for Health to withdraw the existing draft regulations and replace them with ones that ensure there is a consistent standard on the Duty of Candour across the whole of healthcare. The Government deserves great credit for agreeing to introduce a statutory Duty of Candour, which we have been calling for years. It would be a tragedy if this great advance for patient safety and patients' rights was diluted. The Government has a responsibility to get it right for all patients.

[View draft regulation 20](#) which covers the Duty of Candour. It is part of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 which are currently subject to the negative procedure in parliament, which means that MPs or peers have until 9th March to seek a debate on them or they will come into force in their current form on 1st April 2015. AvMA have written to the Secretary of State for Health asking for the regulations to be replaced with new ones setting a consistent standard for the Duty of Candour across the whole of healthcare in England. [View AvMA's letter](#). To date, there has been no response.

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