Communication, Apology, and Resolution (CARe): Physician FAQs

What is Communication, Apology, and Resolution?
Communication, Apology, and Resolution (CARe) is a method of resolving adverse events that requires the physician(s) involved to express empathy for the consequences of the event; be honest and transparent about what happened; and engage in improving systems of care so as to help such events from recurring. The benefits of CARe programs are numerous, including improved patient safety, more efficient resolution, and preservation or repair of the clinician-patient relationship.

How does it work?

If a patient experiences significant harm, **always express empathy for the bad experience, the intent to look into what happened, and then focus on meeting the needs of the patient and family** (Use language such as: *"I'm so sorry this happened to you. We're going to look into what happened, and in the meantime, we're going to do whatever we can to take care of you.")* Often times, patient relations staff can help support the patient and family during this part of the process.

In coordination with the patient safety professionals in your organization, a root cause analysis is then performed. Any opportunities for improvement are pursued so as to reduce the risk of harm for future patients. Once the investigation is complete, in close coordination with the safety, risk, and patient relations professionals in your organization, and in some cases outside experts, the event is categorized as follows, and the loop is closed with the patient and family:

Event type	**What is communicated to patients/families (paraphrased)**
Standard of care was met	*"We did not find any opportunities to have prevented this event from happening."*
Standard of care was *not* met, but the lapse was *not* causally related to the harm	*"We made a mistake in your care, but we don't believe it caused your harm. Even if your care had been perfect, we believe the outcome would have been similar."*
Standard of care was *not* met and caused the harm	Apology for the error: *"We made a mistake in your care and believe it caused your harm. We're sorry."*

When do patients receive an apology?
We recommend always expressing empathy for patient's bad experiences ("we're so sorry this is happening to you.") Apologies for medical errors should only occur after coordinating with the safety, risk management, and patient relations professionals in your health care organization. **Apologizing for a medical error is a rare, complex, and high-stakes event, and should always occur with expert assistance.**

When do patients receive compensation?
Overall, the CARe method is about better communication with all patients and their families after adverse events, regardless of whether a medical error occurred, and regardless of whether compensation is warranted. Compensation is only proactively offered in the minority of cases where the standard of care was not met, and that lapse caused significant harm to the patient. This situation accounts for <10% of all cases where patients have experienced serious harm.

What are the benefits of using the CARe method rather than the traditional tort system?

First, regardless of whether the event was preventable, CARe improves communication with the patient and family, which can improve your relationship with them and help rebuild their trust in the healthcare system. If the event *was* preventable *and* caused harm, CARe offers you additional benefits as compared with the traditional tort system: the ability to talk about mistakes, and apologize for them, can be cathartic and promote healing for everyone involved.

Second, cases where compensation is offered -- those where the patient was significantly harmed due to an unmet standard of care as determined by both internal and external investigations -- are those that are most likely to end up in court. Using the traditional tort system, such cases typically become lawsuits that take years to resolve, which can be exhausting for everyone involved, including you. The CARe method can significantly shorten the time to resolution compared to a lawsuit.

Third, when compensation is warranted, using the CARe method, your insurer may have control over whether the root cause of the error is

allocated to you or the healthcare system, rather than leaving that determination to a jury who may not understand the complexities of the healthcare system.

In which cases will I be reported to the National Practitioner Databank (NPDB)?

If the standard of care was *not* met, *and* the lapse caused the harm, *and* the patient receives compensation, in CARe, the involved malpractice insurers determine how much of the responsibility for the error is attributed to you versus any other providers named in the claim versus the involved health care organization(s). In some situations, all of the responsibility for the event is attributed to a health care organization, in other situations all the responsibility for the event is attributed to a provider, and in the remainder, responsibility is attributed to multiple parties.

If you are *not* found to be responsible for the harm event, as in situations where systemic root causes rather than an individual's error led to the harm, then there is no reporting to the NPDB and no impact on the way you become/stay licensed or credentialed.

If you have been named in a written demand for payment and you *are* determined to be *at least partly* responsible for the harm event, your insurer is required to submit a report to the NPDB stating that a payment was made on your behalf, and that it was a result of an early offer.

How do insurers report a CARe case on my behalf to the NPDB? Is it different from a claim or lawsuit?
The insurer will not select claim, lawsuit, or settlement, but instead a new option the NPDB has created for CARe programs: "Other." They will then provide this standardized explanatory language: *"This payment was made as a result of an early offer made through a Communication and Resolution Program, rather than a settlement or judgment resulting from litigation."* This will be followed by a brief description of the circumstances of the case.

On my credentialing forms, how should I describe a CARe case where I was reported to the NPDB?
When you apply for a new license or credentials, or apply to renew an existing license or credentials, you will be asked whether you have had any claims against you. If so, you will be required to provide detailed information about them including the way in which they were resolved. If resolved with CARe, indicate that the payment was made through proactive and transparent resolution (you can use the language in italics in the prior paragraph), and describe the case.

Why is it important that others understand that the event was resolved by an early resolution process (such as CARe)?
Having participated in the Communication, Apology, and Resolution (CARe) process demonstrates your commitment to the highest ideals of the medical profession. While we all strive to "do no harm," sometimes harm happens, and when it does, it is our professional responsibility to respond in ways that minimize the harm that has occurred and prevent additional injuries. CARe is the most patient-centered and respectful way of responding when patients have suffered serious harm because of a medical error and has been shown to have benefits for patients, families, health care professionals, and health care organizations.

Links

NPDB Reporting form changes, article in Gateway magazine published by the National Association of Medical Staff Services: https://www.namssgateway.org/Full-Article/understanding-reporting-to-the-national-practitioner-data-bank-for-communication-and-resolution-programs

Provider support of CARe programs, data published in Health Affairs: http://www.healthaffairs.org/doi/10.1377/hlthaff.2017.0320

Percentage of patients receiving compensation; costs and claims trends, data published in Health Affairs: https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2018.0720?url_ver=Z39.88-2003&rfr_id=ori%3Arid%3Acrossr ef.org&rfr_dat=cr_pub%3Dpubmed