Starting a State or Regional Alliance to Support a Communication, Apology, and Resolution Initiative

Communication, Apology, and Resolution (CARe) is an alternative approach to handling adverse events that emphasizes transparency, apology, support, and in certain circumstances, early compensation for injuries suffered. The CARe approach aims to:

- Improve communication and transparency about adverse outcomes
- Support patients and families to help achieve a fair, timely and healing resolution to medical harm
- Support clinicians in disclosing unexpected outcomes to patients
- Improve patient safety by learning from errors and near misses and preventing future harm
- Provide an alternative to lawsuits and their unnecessary costs by offering timely and fair compensation to avoidably injured patients and their families, without resorting to litigation

The CARe approach is ethically and morally the right thing to do – it's how we'd all want to be treated if we were patients who experienced adverse events.

The National Patient Safety Foundation ("NPSF") and other groups dedicated to improving patient safety believe that one of the key ways to support the dissemination of this approach as a best practice is to create a collaborative, or "Alliance," of key stakeholders in a state or region within a state that help foster CARe's implementation and success.

A CARe Alliance will help create:

- A community of champions who will encourage others to adopt the philosophy
- Inclusivity and understanding of the varied perspectives to be taken into account when creating useful resources
- A central location for housing resources to promote and support CARe activities and implementation throughout your region/state
- A place for learning and discussion around challenges that are faced while implementing and maintaining a CARe approach

The following is a guide to assist those who want to form an Alliance to further CARe in their state or region. Helpful resources are attached in the Appendix, and more can be found at the website for the Massachusetts Alliance for Communication and Resolution Following Medical Injury - www.macrmi.info.

How to get started

Establishing Readiness

Before gathering members of an Alliance together to support and promote CARe, it is important to assess the state or region for readiness. Each state or region will have its own unique challenges and it is best to identify what those are ahead of time.

If there is an opportunity to have many key personnel in a room at one time, consider hosting an educational session about CARe and why it is preferable to the traditional medical liability system to establish a general awareness in the community.

Interview key personnel at organizations that you think have a vested interest in medical liability and the CARe program, asking them to identify challenges and possible barriers to implementing CARe in your state, and suggestions for overcoming those barriers. Also inquire if they are ready to participate in an Alliance working towards implementation in the future. If possible, send educational materials to these stakeholders in advance so that they understand the principles and benefits of CARe before you arrive (see the Appendix as well as www.macrmi.info), and have set, open-ended questions to ask during each interview to create consistency. Once you have collected interview results from all stakeholders, take stock and find commonalities and patterns so that you understand the concerns, challenges, and potential solutions for the community.

Creating an Alliance is about building relationships and working toward a common goal. Once you have assessed readiness, as above, review the data you have collected. Hopefully you will discover that almost all of these organizations agree on the ethical and moral advantages of the approach, and that they have shared interests, which means you are ready to begin an Alliance. The work of setting up the Alliance framework and breaking down the identified barriers can now begin.

Grants and Funding

While it is not an expensive proposition to run an Alliance, grants from local and national organizations that support CARe principles can help offset the costs of running the Alliance and allow for better spread of your materials and message. Participating in a grant and fundraising process will also bolster your roster of supporters, which will help to further convince your audience that CARe is the right thing to do according to a variety of stakeholders. We suggest applying for healthcare improvement grants at the national and local level (AHRQ, regional medical societies, etc.). Also, local medical and liability insurance companies are often willing to give small grants to show their support of the concept.

While grant funding is helpful, it is not altogether necessary – in-kind donations from the stakeholders in the Alliance can also support the endeavor.

Key stakeholders

It will be important to invite key stakeholders that are involved in medical professional liability in your state or region to be part of the Alliance. Diverse perspectives will not only increase the quality of the products the group produces, but will make them more likely to be accepted by the general population and other stakeholders not yet "sold" on the concept. It will also help the Alliance's ability to reach a wide audience. These key stakeholders include any number of interested parties, but those that are the most essential include the following:

- Leadership from major hospitals/health systems who are committed to the CARe approach [see Site Readiness Checklist in Appendix]
- Risk management/Patient Safety team members from the above hospitals who operationalize the CARe approach on a daily basis
- Medical professional liability insurance leaders (from both commercial and captive models if both are substantial players in your region)
- Patient Advocacy and Safety leaders
- Members of the State/Regional Medical Society and/or Medical Review Board
- A leader from the local/regional Hospital Association
- Leaders in the legal community, such as well-known malpractice attorneys or leaders in a local Bar Association
- If you will be measuring your progress in participating facilities through data analysis, a representative from the study/data team

Governance Structure, Location, and Meetings

Governance

The Governance Structure of the Alliance should have roles for leadership and steering. Even a group of like-minded individuals will have difficulty accomplishing what they want to without specific members taking on a role that will keep the direction of the work moving forward.

The following roles are suggested:

1) 1 leader per subgroup (see *Subgroups* section below)
2) Subgroup leaders above + other willing key stakeholders as a Steering Committee
3) 1-2 members of the Steering Committee to serve as Chair(s) of the Alliance.
4) 1-2 program manager(s), dependent on size and capacity

Location

When determining where your alliance will be housed, it is important to consider the qualities of the Alliance itself, and whether you will need to affiliate it with a more well-known and established entity. For example, the Alliance is likely not to be incorporated, may not have the ability to take in or distribute funds, may not qualify for 501(c)3 status, etc. Therefore, you may want to consider affiliating with one of the key stakeholders for the purposes of conducting financial business. Using one of the key stakeholder organizations for this is acceptable, provided the Alliance consents to housing the financial operation there, and that transparency between the organization and the Alliance is ensured.

Meetings

The Alliance should meet regularly, at intervals that will keep the members engaged, but not overwhelmed. A suggested pace would be monthly interactions, perhaps alternating modes of meeting (one month phone meeting, one month in-person meetings). In-person meetings should be scheduled at least 6 times a year, as face-to-face time is invaluable for relationship building and discussion.

Subgroups

Depending on the size of your Alliance, working subgroups may be a more efficient way to get work done. Identify the major tasks to be addressed and assign stakeholders to a subgroup to work on each and report back to the larger group. Some work will need to be done with the Alliance all together, but you will likely find many tasks can be completed by this small group work-then-report method.

Suggested subgroups for your Alliance:

- Subgroup of all healthcare facilities to tackle everyday implementation issues
- Subgroup of all community outreach entities to work on spreading the word
- Subgroup of attorneys, that include defense, plaintiff, and others, to work out legal issues
- Subgroup of insurers to work on challenges unique to them

The Work

The work of the Alliance should be scoped at the outset to ensure that its mission is clear and not too broad. We recommend the following work to be attempted by any regional Alliance:

- Develop algorithms, policies, and procedures for CARe in practice at healthcare facilities
- Determine an implementation plan to ensure that the above are put into practice, including a case tracking system [See MACRMI's *Implementation Guide* for further suggestions]
- Develop and refine available resources for all CARe sites to a) standardize the practice of the CARe approach and b) conserve resources

- Identify difficulties in the practice of CARe and providing a safe place for discussion to work through those challenges
- Spreading the word about CARe to other local entities, particularly other healthcare facilities, when ready, and support them through their own implementation

Developing Resources

Many resources for policies and procedures exist, and we suggest that you review all of these before determining whether you can use those that already exist with some minor adjustments, or whether you'll want to develop your own for your unique setting (local laws, etc.).You will, at a minimum however, need the following for the healthcare facilities participating:

- **An algorithm** defining the steps of the CARe process that include specific criteria for: communicating with the patient/family, an internal review of the situation, a statement of regret, a formal apology, a review by the insurer, and an offer of compensation.
    - For example, most commonly, a referral to the insurer for a review to determine whether compensation for a patient is warranted occurs if the healthcare facility 1) determines the standard of care was not met during their internal investigation 2) that lapse caused the patient significant harm and 3) the health care facility has had a discussion with the patient to explain the findings, apologize, and offer a review for compensation to the patient.
- **Policy sections** that integrate CARe principles into existing policies re: follow-up for complaints and for safety reports, or entire policies/procedures for those sites that cannot enter new language into existing policies
- **Best Practices** for different groups (internal risk teams, attorneys, etc.) to follow that capture CARe principles [See www.macrmi.info or develop your own]
- **Educational materials** for leadership, and clinicians, outlining why this approach is better for them and their patients, the new steps they should take as a result of this program, and how they can contact someone to get help with disclosure and apology. This can include PowerPoints, badge cards, posters, etc.
- **A tracking/evaluation tool** to ensure that every case that meets certain criteria goes through the steps of the CARe protocol/algorithm, and a way to evaluate the success of the program

Discussion Groups

One of the most valuable parts of an Alliance is the ability to discuss issues and difficulties as they arise with others who are using the same processes and procedures. CARe requires careful thinking in situations that are not always black-and-white, and it is an enormous benefit to have a group of people who can get together to discuss and develop new guidelines as needed. It is also helpful for individual sites to call for a "consult" of sorts with other sites in the Alliance, leveraging the relationships formed

through the Alliance to connect quality leaders around the region. It is recommended that after CARe has been implemented, your Alliance has case studies or structured question and answer time during each meeting to discuss challenges that have arisen.

Spreading the word

One of the subgroups in your Alliance should be tasked with communication and outreach, particularly for the spread of the CARe approach beyond the initial participating healthcare facilities. Resources developed should be widely and freely available. An easy way to do this is to create a website to house the resources and spread news about educational events or new articles and reports relevant to the topic. Maintaining a website is usually a very minimal cost but can have a large positive impact on spread of your message and adoption of CARe.

Spreading the word also includes identifying potential early adopters of the approach who were not initially part of the Alliance. As CARe gains more support as a concept, it will be important to expand prudently, with the right sites, at a moderate pace, so that implementation quality does not suffer. Using a readiness checklist (see www.macrmi.org) can help sites to self-identify as the next CARe site, but work will also need to be done to recruit sites that value transparency, patient safety and honesty, and help them implement CARe properly. It is up to you how involved the Alliance will be in the actual implementation assistance, but it is well within the Alliance's responsibility to help identify future implementers, and connect them with the resources they need.

Appendix (Resource list)

Best Practices for CARe programs

Best Practices for Interfacing with Patients in CARe Programs

Best Practices for Attorneys Representing Patients in CARe Programs

Best Practices for Attorneys Representing Providers in CARe Programs

CARe Site Readiness Checklist

Milbank Quarterly Article

Liability Claims and Costs Before and After Implementation of a Medical Error Disclosure Program – Boothman/Kachalia

Nurturing a Culture of Patient Safety and Achieving Lower Malpractice Risk Through Disclosure: Lessons Learned and Future Directions