Starting a state or regional alliance

COMMUNICATION, APOLOGY AND RESOLUTION (CARe)

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 would all want to be treated if we were patients who experienced adverse events.

One of the key ways to scale this approach is to create a collaborative of key stakeholders in a state or region that helps 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 resources
- A central location for housing resources to promote and support CARe activities and implementation throughout your region or state
- A place for learning and discussion around challenges faced while implementing and maintaining CARe

The following is a guide to assist those who want to form a CARe alliance in their state or region. Helpful resources are included in the appendix and on the Betsy Lehman Center website at www.BetsyLehmanCenterMA.gov/CARe.

Getting 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.

Meet with key personnel:

- 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 patient safety staff, risk managers and other key leaders at organizations that have a vested interest in medical liability and the CARe program

If possible, send educational materials to these stakeholders in advance so that they understand the principles and benefits of CARe before you arrive, and have set, open-ended questions to ask during each interview to create consistency. For example, you may want to ask them:

- What are the challenges and possible barriers to implementing CARe in your state or region?
- Do you have any thoughts or suggestions for overcoming those barriers?
- Are you ready to participate in an alliance working towards broad implementation of CARe?

Once you have assessed readiness, review the data you have collected. Look for 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. 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 framework and breaking down the identified barriers can now begin.

GRANTS AND FUNDING

While it is not expensive to create and maintain a CARe alliance, grants from local and national organizations can help offset the costs 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 other stakeholders that CARe is the right thing to do. We suggest applying for health care 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 organizations in the alliance can also support the endeavor.

Key stakeholders

It is 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 others that are 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:

- Leadership from major hospitals and health systems who are committed to the CARe approach (*See Site Readiness Checklist*)
- Risk management and 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. One leader per subgroup *(see subgroups section below)*
2. Subgroup leaders above and other willing key stakeholders as a steering committee
3. One to two members of the steering committee to serve as chair(s) of the alliance.
4. One to two program manager(s), dependent on size and capacity

LOCATION

When determining where your alliance will be housed, it is important to consider whether you will need to affiliate it with a 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 group consents to housing the financial operation there, and that transparency between the organization and the alliance is ensured.

MEETINGS

The alliance should meet at regular intervals that will keep the members engaged but not overwhelmed. Some of the meetings should be in-person meetings as face-to-face time is invaluable for relationship building and discussion.

SUBGROUPS

Depending on the size of your alliance, working subgroups may be an 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:

1. Health care facilities	2. Community outreach	3. Legal	4. Insurers
This subgroup includes all health care facilities and works to tackle everyday implementation issues.	This subgroup includes all community outreach entities and is tasked with outreach and promotion.	This subgroup includes defense attorneys, plaintiff attorneys, and others to discuss legal issues.	This subgroup includes malpractice insurers and is charges with working 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 health care facilities
- Determine an implementation plan to ensure that the above are put into practice, including a case tracking system *(See the implementation guide for further suggestions)*
- Develop and refine available resources for all CARe sites to standardize the practice of the CARe approach and conserve resources
- Identify difficulties in the practice of CARe and providing a safe place for discussion to work through those challenges
- Spread the word about CARe to other local entities, particularly other health care facilities, and support them through their own implementation

DEVELOPING RESOURCES

Many resources for policies and procedures already exist. It will be helpful to review 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, need the following:

- An algorithm defining the steps of the CARe process that includes:
    1. Specific criteria for communicating with the patient/family
    2. Internal review of the situation
    3. Statement of regret
    4. Formal apology
    5. Review by the insurer
        - » Most commonly, an insurer review to determine whether compensation for a patient is warranted occurs if the health care 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.
    6. Offer of compensation
- Language to integrate CARe principles into existing policies. For example, follow-up for complaints and for safety reports, or entire policies for those sites that cannot enter new language into existing policies
- Best practices for internal risk teams, attorneys, and other groups that capture CARe principles *(See resources 3-6 in the appendix)*
- Educational materials for leadership and clinicians, outlining why this approach is better for them and their patients. Materials should explain the new process and how they can contact someone to get help with disclosure and apology. This can include PowerPoints, badge cards, posters, etc.
- A tracking tool to ensure that every case that meets certain criteria goes through the CARe protocol
- An evaluation tool to measure the success of the program

DISCUSSION GROUPS

One of the most valuable parts of an alliance is the ability to talk through issues and challenges 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 discuss and develop new guidelines as needed. It is also helpful for individual sites to call for a "consult" with other sites, leveraging the relationships formed through the alliance to connect quality leaders around the region. After CARe has been implemented, the alliance should include time for case studies or structured Q&A during each meeting to facilitate these conversations.

Spreading the word

An important responsibility of the alliance is communication and outreach, particularly to scale CARe beyond the initial participating health care 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 events, new research and articles. Maintaining a website is usually a 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, it will be important to expand prudently, with the right sites at a moderate pace, so that implementation quality does not suffer. Using a checklist (*See Site Readiness Checklist)* can help sites to self-identify, but work will also need to be done to proactively recruit sites that value transparency, patient safety and honesty. 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 sites and connect them with the resources they need.

Appendix (Resource list)

1. Site readiness checklist
2. Implementation guide
3. Best practices for CARe programs
4. Best practices for interfacing with patients using the CARe model
5. Best practices for attorneys representing patients using the CARe model
6. Best practices for attorneys representing health care providers using the CARe model
7. Best practices for insurers involved in CARe
8. *Disclosure, Apology, and Offer Programs: Stakeholders' Views of Barriers to and Strategies for Broad Implementation*, The Milbank Quarterly
9. *Liability Claims and Costs Before and After Implementation of a Medical Error Disclosure Program*, Annals of Internal Medicine
10. Nurturing a Culture of Patient Safety and Achieving Lower Malpractice Risk Through Disclosure: Lessons Learned and Future Directions, Frontiers of Health Services Management

For more resources, visit www.BetsyLehmanCenterMA.gov/CARe.

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