FREEFROMHARM
19th Annual NPSF Patient Safety Congress
May 17-19, 2017 | Orlando, Florida

Track 2: Creating a Culture of Safety in the Workplace
Session 102

Innovations in Responding to Patient Harm

Thomas H. Gallagher, MD, Professor and Associate Chair, Department of Medicine, University of Washington
Richard C. Boothman, JD, Chief Risk Officer, University of Michigan Health System
Cheryl M. De Kleine, Esq, Senior Director of Claims Management and Litigation Counsel, Ascension Risk Services, Ascension Healthcare.
Timothy McDonald, MD, JD, Patient Safety Expert and Director of the Center for Open and Honest Communication, MedStar Institute for Quality and Safety
Kenneth Sands, MD, MPH, Chief Epidemiologist and Patient Safety Officer, Hospital Corporation of America (HCA)

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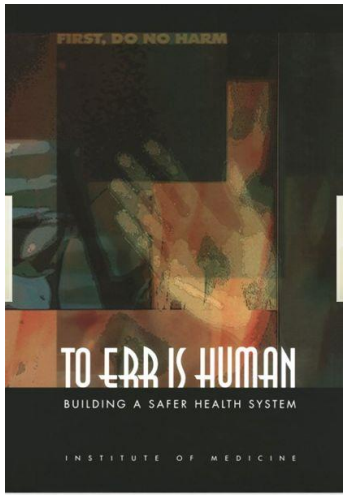
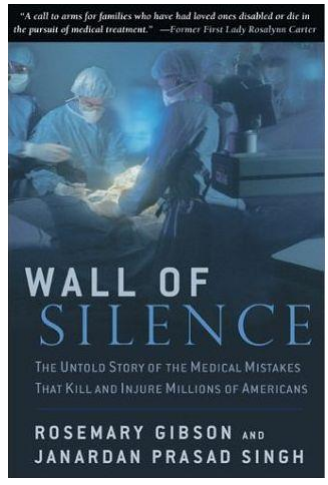
The Case for CRPs





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A Paradigm Shift

	Traditional Response	Communication and Optimal Resolution (CANDOR) Process
Incident reporting by clinicians	Delayed, often absent	Immediate
Communication with patient, family	Deny/defend	Transparent, ongoing
Event analysis	Physician, nurse are root cause	Focus on Just Culture, system, human factors
Quality improvement	Provider training	Drive value through system solutions, disseminated learning
Financial resolution	Only if family prevails on a malpractice claim	Proactively address patient/family needs
Care for the caregivers	None	Offered immediately
Patient, family involvement	Little to none	Extensive and ongoing

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The Appeal of the CRP Approach

It doesn't require legislative action.

It offers something for both provider organizations and patients.

When done right, it can produce impressive results.

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Current Developments, Lessons Learned

- CRPs hold promise for both improving patient safety and reducing medical malpractice liability
- Replicating and scaling pioneering CRP programs is challenging
- Adoption of CRPs continues to rise
- The ongoing problem of incomplete CRP implementation
  - Use of some CRP key elements but not others
  - Use of CRP for only fraction of eligible cases
- Longer-term research and evaluations needed

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Agenda

Topic	Presenter	Time
Introduction, context	Gallagher	:00-:05
Peer support	McDonald	:05-:15
Multi-insurer cases	De Kleine	:15-:25
Regional consortium model	Sands	:25-:35
New training models	Boothman	:35-:45
Discussion	All	:45-1:00

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Care for the Caregiver

Timothy McDonald, MD, JD, Patient Safety Expert and Director of the Center for Open and Honest Communication, MedStar Institute for Quality and Safety

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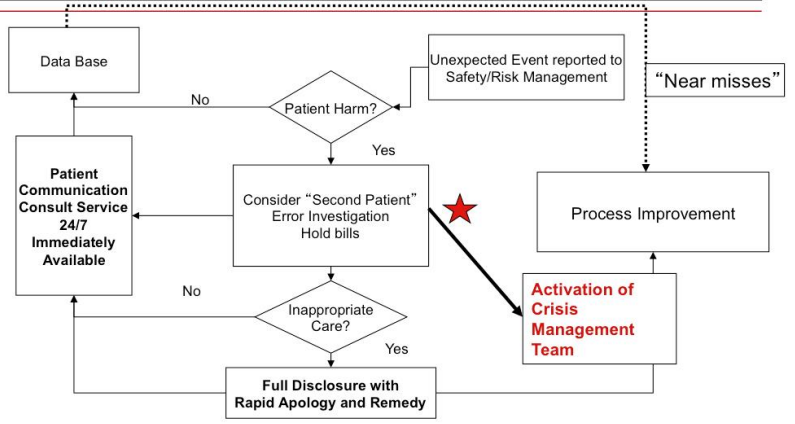
The Seven Pillars: A Comprehensive Approach to Adverse Patient Events



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Paradigm Shift	Traditional Response	Communication and Optimal Resolution (CANDOR) Process
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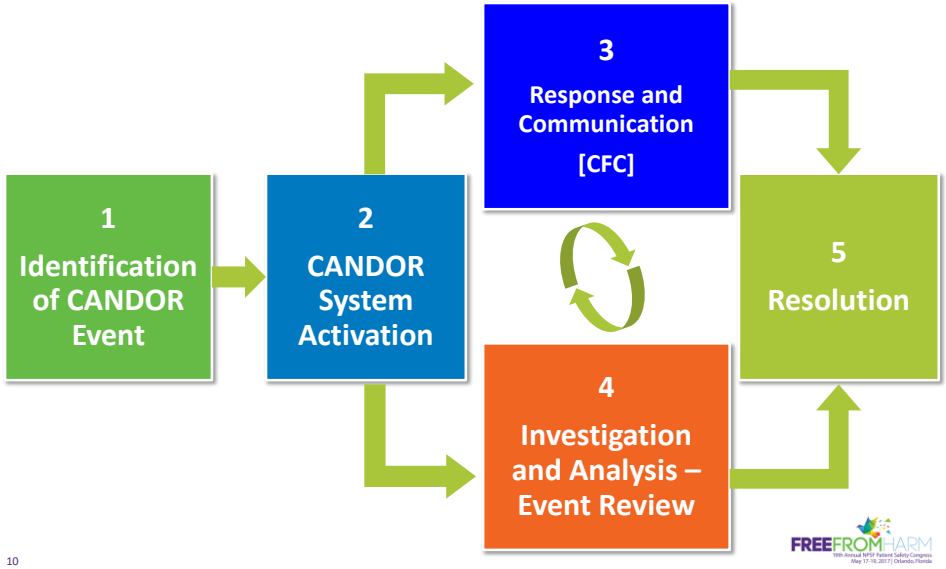
Communication AND Optimal Resolution



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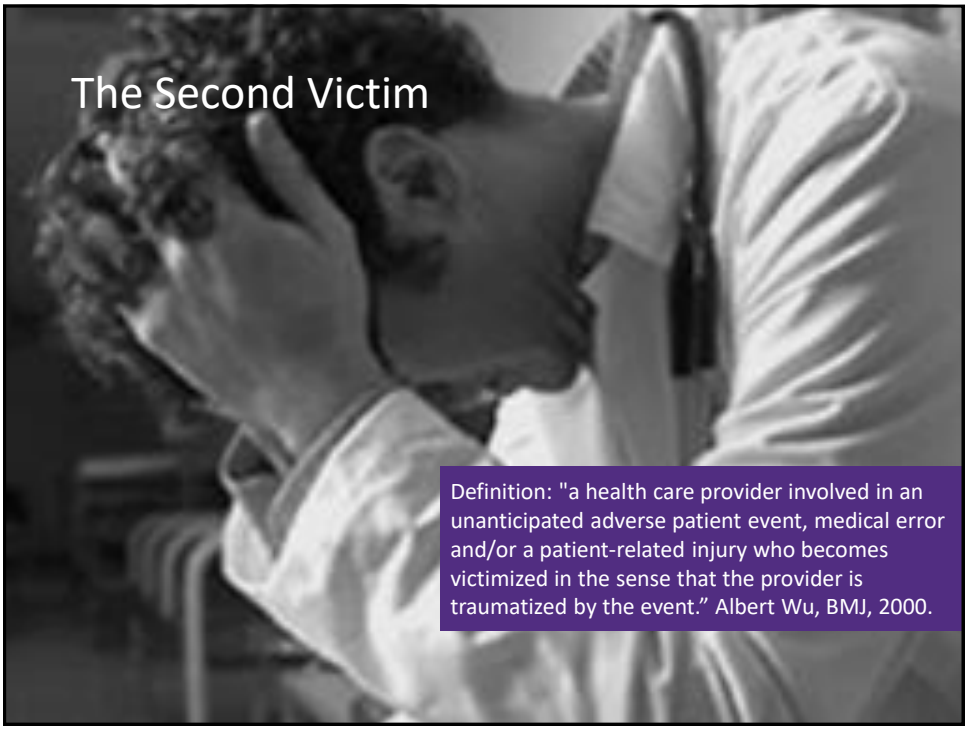
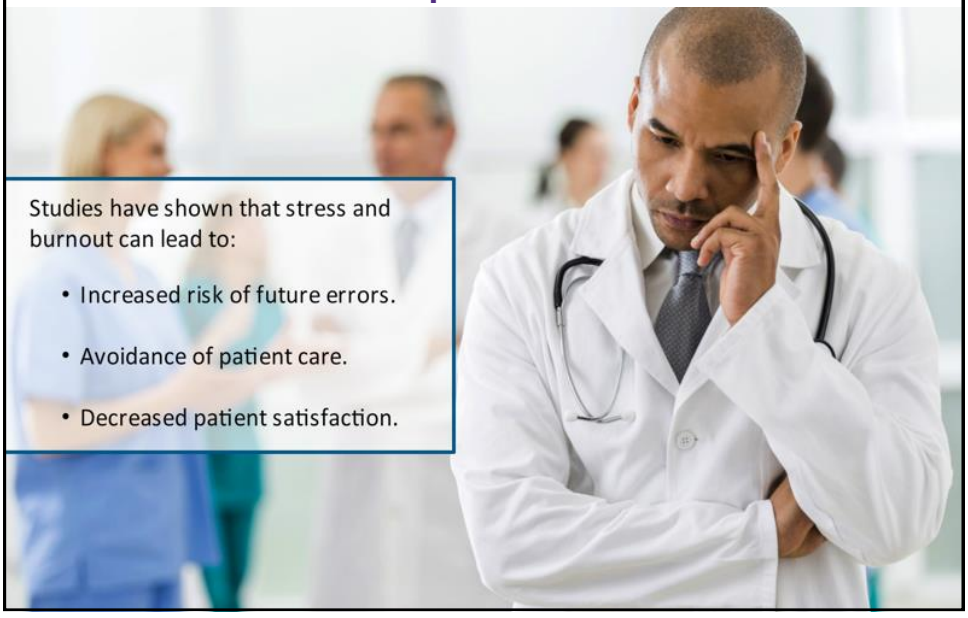
History of the Problem

Adverse event investigations – individuals at the "sharp end" noted to be experiencing predictable behaviors post event



Patient Care Consequences



What Second Victims Want

- Formal and informal emotional support
- Prompt debriefing for individual or team
- Opportunity to take time out from clinical duties
- Help communicating with patient and/or family
- Clear and timely information about review process
- Last but not least….Remain a trusted member of the team!

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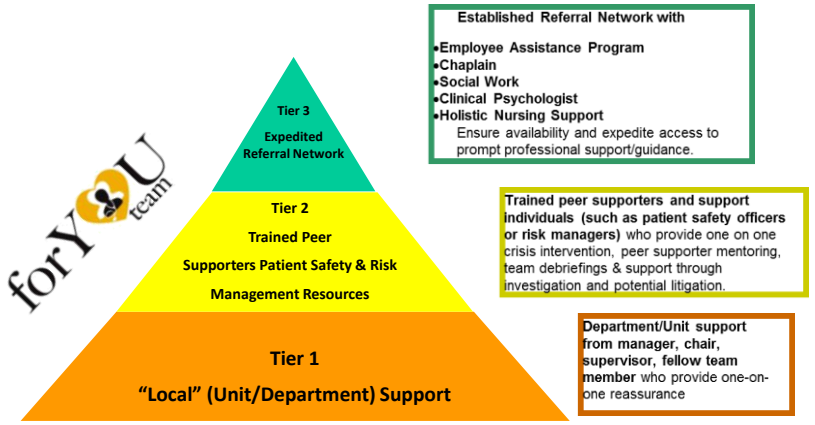
University of Missouri Health System

Scott Three-Tier Model of Support



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What's Happening in the Field

- Large interest in more formal care for caregiver programs
- Very popular with medical staffs
- Sometimes incorporated into physician wellness programs
- Extending beyond just physicians
- Increased dialogue around patient safety and "second victims".
  - Stiegler. What I learned about adverse events from Captain Sully: it's not what you think. JAMA. 2015 Jan 27.

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One Systems Response: WeCare

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Here is What "They" Say …

"The CANDOR program has brought together our community-- nurses, physicians, and administration to collaborate and communicate as a team when an unexpected clinical event occurs. It has helped us to focus on doing the right thing for patients and their families, inspiring us to communicate early and openly with those impacted. We anticipate that with implementing WeCare (the caregiver program), we will further enhance our sense of support within our community and culture of safety."

– A.C., CMO

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Multi-Insurers in CRP cases: Professional Liability Insurance Program for the Hospital Independent -Affiliated Physicians

Cheryl De Kleine, Senior Director, Claims & Litigation, Ascension

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Three of These Things Belong Together…

Or is it FOUR? The TIME has come!

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Challenges to CRP's When Multiple Providers with Different Malpractice Insurers Are Involved:

- Potentially conflicting vision
- Differing claims handling philosophy/practices
- Difficulty including non-employed physicians in hospital culture that promotes early resolution
- Lessened ability to attract/require participation in CRP educational events
- Lack of Risk Management programs for non-employed staff physicians and their practices

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Steps Necessary To Ensure Success When Multiple Insurers are Involved in Organizations Where CRP's Operate:

- Identify all insurers and prepare in advance
- Share the CRP vision and educate the insurers
- Allow the insurers to educate you
- Agree on the common goal of improvement of healthcare
- Communicate, Communicate, Communicate!

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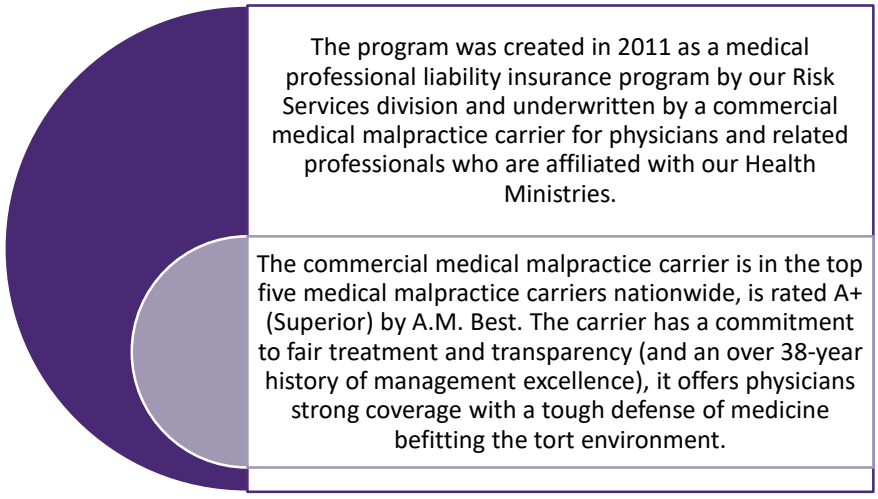
Find a Way: CRP Innovation with Commercial Carrier



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Objective

The program offers medical professional liability insurance for our health ministries' independent staff physicians—and affiliated mid-level providers—to:

- Enhance physician focused professional liability coverage and services
- Enhance physician focused risk management services
- Advance and strengthen patient care and safety at our facilities.
- Control cost and defense coordination on medical malpractice claims involving our Health facilities and staff physicians

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The Program's Value Proposition

Program Pillars

- Partnership: Commitment to Early Resolution when Appropriate
- Customized / Hands On Risk Management
- Joint Defense/Coordinated Defense when Defending Good Medicine

Providing Physicians with the Best Defense when Appropriate

- Claims Management
- Joint Defense/Coordinated Defense

Making Care Safer with this program

- Supportive of CORE™
- Promotion of our healthcare system's based risk trends
- Risk Resources Advisors available from commercial insurance carrier

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Why the Claims Philosophy Works

The program promotes a collaborative defense approach to claims that need to be defended.

Collaborative defense agreements (joint defense or coordinated defense agreements) promote unity between defendants.

When there is unity between defendants (no finger pointing) there is an increased chance the case will be dismissed without indemnity payments and/or the case will be won at trial.

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Program Affiliation

The program brings together the financial strength and commitment of our healthcare system and the commercial insurance carrier—two national healthcare leaders.

With risk-sharing by our captive insurance company, the commercial carrier underwrites the program (physician receives a policy from the commercial carrier)

The commercial carrier has been named as a Ward's 50® top property & casualty company every year since 2007, its values and infrastructure enable a system-wide program. It is a carrier that is rated A+ (Superior) by A.M. Best.

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Market Presence

2017 – Available at 22 Ministries in 12 states and the District of Columbia

2885 Physicians in the program, over 3800 Risks Covered

- Michigan
- Indiana
- Florida
- Texas
- Illinois
- Wisconsin
- Alabama

- Washington DC
- Maryland
- Connecticut
- Oklahoma
- Kansas
- Tennessee
- New York

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Examples of the Success: Proof that an Unlikely Pair Can Work Together

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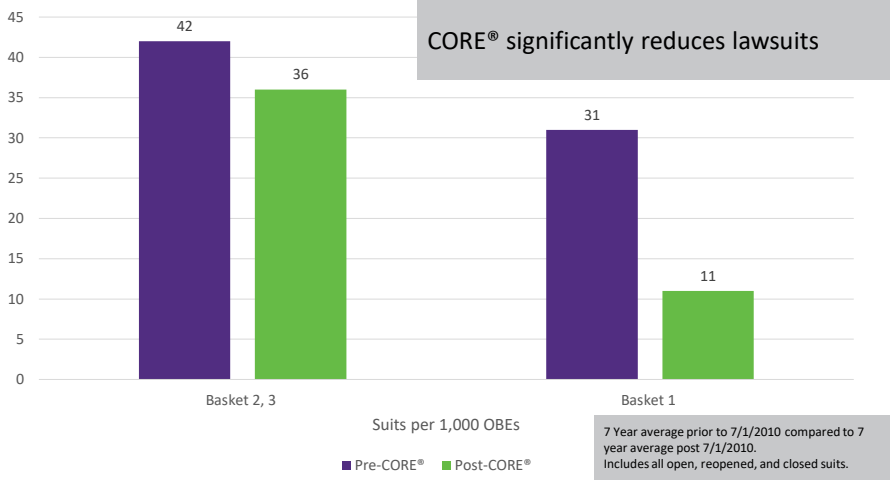
Impact of CORE®

Average Number of Lawsuits



CORE® significantly reduces lawsuits

7 Year average prior to 7/1/2010 compared to 7 year average post 7/1/2010.
Includes all open, reopened, and closed suits.

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Turning CRP Challenges Into Opportunities

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Thank You!

Cheryl De Kleine, Senior Director, Claims & Litigation, Ascension
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Communication and Resolution: The Regional Consortium Model

Kenneth Sands, MD

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Why the Slow Uptake of CRPs?

- Scary for an institution to "go it alone"
- Multiple involved stakeholders, many outside the provider institution
- A change effort that requires advocacy as well as implementation
- Logistically complex – multiple heads better than one

If this is so great, why is adoption so slow? AHRQ Planning Grant - Massachusetts

- 1 Yr - 300K AHRQ Planning Grant - MMS / BIDMC
- Key informant interview study of 27 knowledgeable individuals from all leading stakeholder constituencies in Massachusetts
- Twelve significant barriers were identified along with multiple strategies to overcome each one
- Strategies for each barrier were then evaluated and prioritized to develop our Roadmap
- **CARe is the best of all options for liability reform, the right thing to do and broad support exists for change**

– Results published in Milbank Quarterly, 2012

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Implementation with Continued Stakeholder Engagement

MACRMI

Massachusetts Alliance for Communication and Resolution following Medical Injury

"**CARe**" (Communication, Apology, and Resolution) is MACRMI's preferred way to reference the process.

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Implementation with Continued Stakeholder Engagement

Beth Israel Deaconess Medical Center

Massachusetts Medical Society
Every physician matters, each patient counts.

COVERYS

Baystate Health

MACRMI
Massachusetts Alliance for Communication and Resolution following Medical Injury

MITSS
Medically Induced Trauma Support Services

"**CARe**" (Communication, Apology, and Resolution) is MACRMI's preferred way to reference the process.

CRICO RMF Protecting providers. Promoting safety.

Board of Registration in Medicine

MHA Massachusetts Hospital Association
The leading voice for hospitals.

Massachusetts Coalition for the Prevention of Medical Errors

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Implementation with Continued Stakeholder Engagement

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CRICO RMF Protecting providers. Promoting safety.

MBA

Atrius Health

BRIGHAM HEALTH
BWH BRIGHAM AND WOMEN'S HOSPITAL

PARTNERS HEALTHCARE

Board of Registration in Medicine

MHA Massachusetts Hospital Association
The leading voice for hospitals.

Massachusetts Coalition for the Prevention of Medical Errors

STURDY MEMORIAL HOSPITAL

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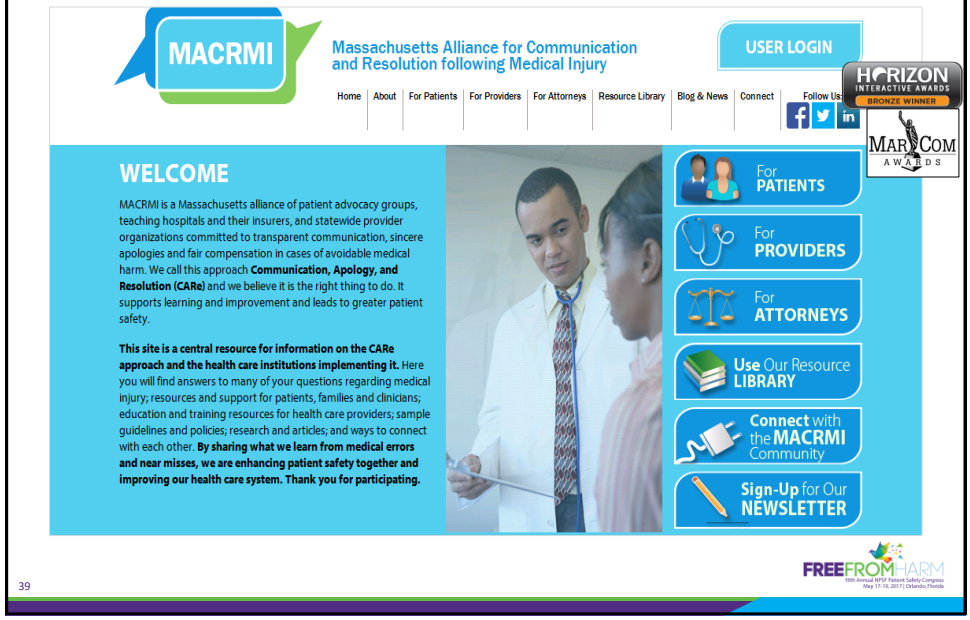
Website: www.macrmi.info



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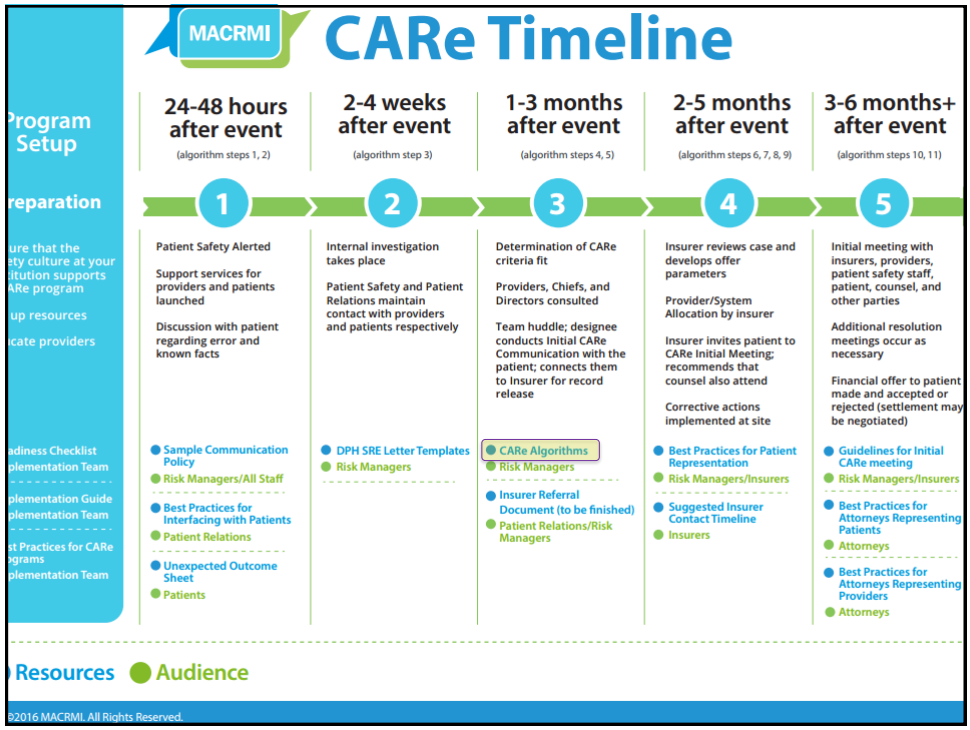
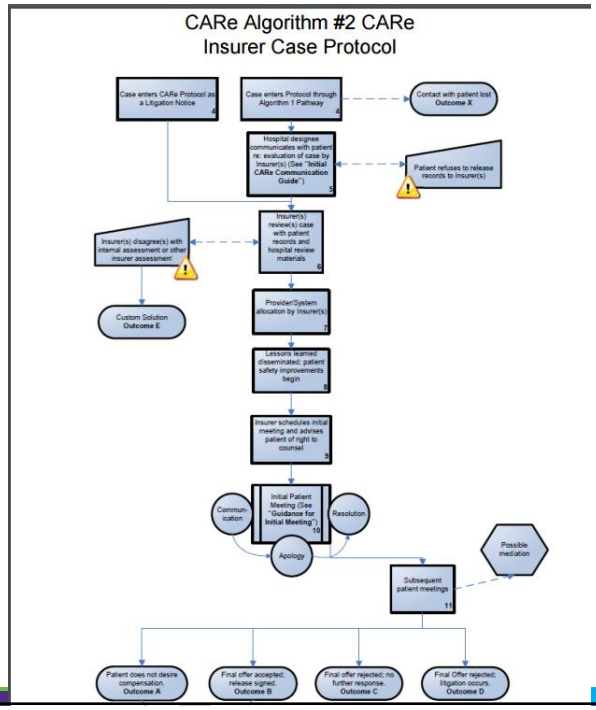
CARe Timeline



Protocols Available



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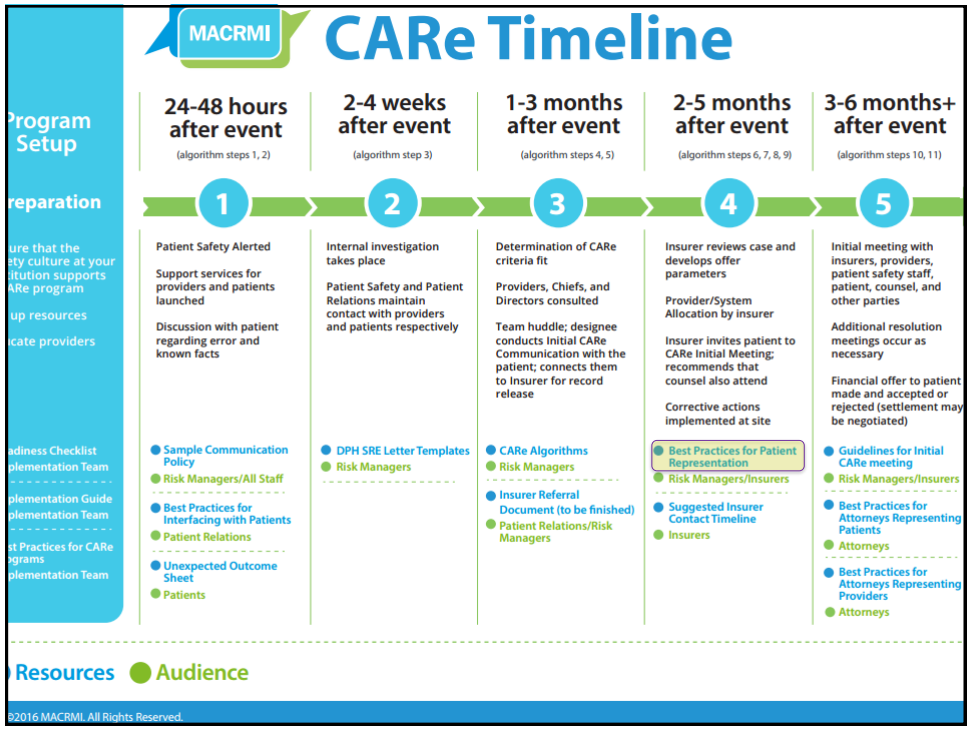

Document Title	Categories	Source	Link
A Guide to Insurer Referral Conversations	CARe Program (Massachusetts), Healthcare Administrator Information, Sample Policies and Procedures	MACRMI	Download
A Roadmap for Transforming Medical Liability and Improving Patient Safety in Massachusetts (Executive Summary)	General Information, CARe Program (Massachusetts), Healthcare Administrator Information	BIDMC and Massachusetts Medical Society	Download
Best Practices	General Information, CARe Program (Massachusetts), Best Practices	MACRMI	Download
Best Practices for Attorneys Representing Healthcare Providers	CARe Program (Massachusetts), Provider Support & Information, Healthcare Administrator Information, Best Practices	MACRMI	Download
Best Practices for Attorneys Representing Patients	CARe Program (Massachusetts), Patient & Family Support, Best Practices	MACRMI	Download
Best Practices for Interfacing with Patients	CARe Program (Massachusetts), Clinician Education & Training, Patient & Family Support, Healthcare Administrator Information, Best Practices	MACRMI	Download
Best Practices for Patient Representation in CARe Programs	CARe Program (Massachusetts), Patient & Family Support, Healthcare Administrator Information, Best Practices	MACRMI	Download
CARe Readiness Checklist	General Information, CARe Program (Massachusetts), Healthcare Administrator Information	MACRMI	Download
CARe Timeline	General Information, Provider Support & Information	MACRMI	Download
How to Implement a CARe Program: An Implementation Guide	General Information, CARe Program (Massachusetts), Healthcare Administrator Information, Sample Policies and Procedures	MACRMI	Download
Informational Patient Brochure	General Information, Patient & Family Support	MACRMI	Download
MITSS: Supporting Patients and Families for Over a Decade	Patient & Family Support	PSHQ Magazine	Download
Patients' and Physicians' Attitudes Regarding the Disclosure of Medical Errors	General Information, Patient & Family Support	JAMA	Download
The Disclosure and Offer Model: Understanding the Basics	General Information	Harvard School of Public Health	Download

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Sample Document

Best Practices for Attorneys Representing Patients in Resolution of Medical Injury using the CARe Approach

1. **Approach resolution as a comprehensive, collaborative process.** Resolution should be the goal in all cases, and all resolutions, regardless of whether compensation is involved, should be adequate and fair. The attorney should help the patient and providers obtain an appropriate resolution, which should include an explanation of the causes of the event and any patient safety improvements that the healthcare facility has implemented, as well as other provisions to help meet the medical, psychological, emotional, and financial needs of the patient.
2. **Have expertise representing patients in a resolution of medical injury, and knowledge of and experience with the CARe approach.** The attorney should have a clear sense of what the patient's needs are and what the patient should ask for; knowledge of the true value of the loss is critical to representation. A strong understanding of medical liability law and the CARe approach will help facilitate a collaborative discussion and timely and fair resolution.
3. **Help the patient access and interpret information from the healthcare facility.** The attorney should clarify medical and legal information for the patient, and assist in communicating with the healthcare facility/insurer, as the patient may be unable or unprepared to do so. Support by the attorney can help the patient avoid feeling overwhelmed and allow them to ask appropriate questions.
4. **Facilitate the exchange of relevant medical records in a timely manner**, so that appropriate evaluations can be made to resolve the case as stated in Chapter 224, Section 221(f) of the Massachusetts General Laws.
5. **Review the terms of any potential resolution and the substantive legal provisions of a resolution.** This review would include an assessment of whether the proposed resolution is adequate to meet the patient's financial and emotional needs. This also involves reviewing and explaining the written settlement agreement (e.g., release) and all appropriate documents, which impose legal obligations on the patient after settlement, and which the patient will be asked to sign upon receiving any compensation.
6. **Ensure that the patient develops realistic expectations of fair compensation.** In cases where compensation is deemed appropriate, the discussions should include identification of both long-term as well as short-term financial needs to ensure that compensation is adequate and fair. The attorney should discuss the full implications of medical malpractice litigation with patients in helping them to decide whether to accept or reject pre-suit compensation. The attorney should also assist them in feeling comfortable accepting fair and appropriate compensation if the process achieves that result.
7. **Help create an environment that is supportive and collaborative.** The CARe process is designed to achieve a resolution for everyone involved, through cooperation, and an environment that supports that goal is essential to the process functioning as it should. The attorney should support the creation and maintenance of an

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Pilot Program Implementation

Site	#Beds	Location	Teaching (Y/N)
Beth Israel Deaconess Medical Center	642	Inner City	Y
BID-Milton	88	Community	N
BID-Needham	58	Community	N
Baystate Medical Center	716	Inner City	Y
Baystate Franklin Medical Center	93	Community	N
Baystate Mary Lane Hospital	31	Community	N
*Atrius Health**	*n/a*	*Ambulatory*	*N*
*Sturdy Memorial**	*128*	*Community*	*N*

46 *Not yet in full implementation

Study Hospitals Demonstrated Good Adherence to Protocol

82% had a disclosure communication documented

61% had a feedback communication documented

87% of cases that met criteria for insurer referral were referred

Compensation offers were made where criteria were met in all but 3 cases

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Few Events Met Compensation Criteria

9% of events met compensation criteria

- Standard of care met 74% of the time
- Where SOC violated, 45% did not involve significant harm and 33% lacked causation

Median compensation payment: $75,000 [interquartile range, $22,500-$250,000; maximum $2 million]

"Service recovery" items offered in 181 cases

48

No Avalanche of New Claims

5% of events that did not originate as a claim or pre-litigation notice resulted in one by Oct 2016

Possible explanations:

- Patients came to understand they did not have a valid claim?
- Pessimism about ability to prevail in litigation or find an attorney?

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CRP: It Takes a Village

For Further questions, please contact Ken Sands at:
Kenneth.sands@hcahealthcare.com

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CRP Developments: A new training program by The University of Michigan and Michigan Hospital Association

Richard C. Boothman
Chief Risk Officer, Michigan Medicine
Executive Director, Patient Relations and Clinical Risk

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The challenge to define and preserve what makes a CRP unique; then train to the essential elements

The Training Challenge:

Stubbornly satisfy the fundamentals

. . . flexibly-enough to leverage institutional resources, meet institutional priorities amidst regional culture, demands,

. . . while maintaining relentless service to the healthcare mission

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Essential Elements of a True CRP

Notification of unintended clinical outcome	**Stabilize the clinical environment and protect other patients**	**Support the patient, listen, promise full disclosure**
Support the caregiver, listen, promise full disclosure	**Normalize honesty, rigorous investigation and review**	**Share facts and conclusions openly with caregivers and patients alike**
Be principled and accountable. Compensate where warranted, consistent in peer review	**Leverage lessons learned in safety, quality and peer review in continuous quality and safety improvement**	**Measure what's important, communicate, normalize, be relentless**

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Attributes

- Systematic
- Principled
- Relentless
- Normalized
- It's stubbornly clinical until it's not
- Risk management, legal and insurance serves the larger clinical mission and is careful not to impede it
- Locked and focused on the core clinical mission, uniting patients and caregivers in a singular mission: to put patients at the center of all we do

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University of Michigan-Michigan Hospital Association Training Program

- The University of Michigan and the Michigan Hospital Association partnership
- Inspired by MACRMI's success and model
- Credible, consistent, principle-based-yet-nimble
- Regional – start with 6 pilot hospitals
- Successful models to emulate
- Leverages the state hospital association network
- Available also to large hospital systems and international groups
- Self perpetuating

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Typical Progression

- Leadership training
- Preliminary analysis of organizational structure and resources, multiple markers relating to claims, culture and climate
- Individualized "needs assessment", identification of impediments/assassins, rollout trajectory plotted, metrics established
- Recruitment of a select leadership group to champion
- Tailored operational training and methodical approach to building the necessary resources, simulation
- Inclusion in research, data pool
- Continued support/reinforcement
- Ultimate goal: to normalize approach regionally

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UM/MHA Training Program

UM offers:	MHA offers:
IP	Operational/admin staff
Content, materials	Business platform
Some faculty	Faculty
Laboratory for site visits	Facilities
Experience and brand credibility	Marketing
Scholarly/research platform – potential "home" for the Collaborative	Publishing
International outreach	Leverage leadership and experience with large patient safety "spread"
	State and local outreach

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Advantages

- Elements met and fidelity to the vision protected
- Diversity of approaches to satisfy consistent elements
- Create community of learners, self perpetuating as trainers
- Establish expectations, standards, measures organizationally and regionally
- Construct with certification potential
- Inclusion in research, multidisciplinary scholarly work, and data pool
- Ultimately, normalizing the approach will speed adoption
- Hospital association is a natural network, flexibility to train systems large-enough to warrant individual training
- International interest – already China and Singapore

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