

Best practices for insurers

COMMUNICATION, APOLOGY AND RESOLUTION (CARE)

- 1. Approach CARE as a comprehensive, collaborative process.** Timely and fair resolution, regardless of whether compensation is offered, should be the goal in all cases.
- 2. Support health care institutions in a thorough review of the case, including identification and implementation of patient safety improvements.** Institutions may be wary of conducting their own investigation or fixing problems identified due to historical messaging about changing practice in light of a claim or lawsuit. The CARE process is designed to, above all, improve patient safety; insurers should reassure and support health care institutions to understand root causes of the events and implement corrective actions whenever possible, and assist in the dissemination of lessons learned.
- 3. Advise the patient/family of their right to representation by counsel if it is determined that the insured health care provider(s) deviated from the standard of care, resulting in significant preventable harm to the patient.** The insurer should encourage the patient to retain an attorney who is familiar with collaborative case resolution. You may direct them to the Betsy Lehman Center's [list of attorneys](#) who have committed to best practices and attended an educational session about CARE. CARE resolutions are often complex, involving liens and/or governmental benefits, and are far more successful for all parties involved when a patient is represented by counsel. For more information on studies that demonstrate the benefits to having an attorney involved when compensation is offered, please read this [report by the Harvard Negotiation and Clinical Mediation Program](#) and [article published in the Healthcare Professional Liability Review](#).
- 4. Keep all parties apprised of the progress of the case review.** When insurers and external medical experts are evaluating the care rendered, it is often difficult for providers and patients to understand the steps and timeline for review. It is helpful for everyone involved to have regular updates from the insurer of the progress so that their expectations are set appropriately and positive relationships are maintained.
- 5. Utilize mediation as needed to facilitate collaboration and compromise.** In the CARE process, there should be an active reorientation away from a strictly adversarial approach and recognition that mediation can be a useful vehicle in reaching optimal solutions. In circumstances where it is agreed that compensation is warranted, but the amount of that compensation is contested, mediation may be an effective tool to promote cooperative resolution and reconciliation.
- 6. Commit to working collaboratively with other insurers when there are multiple insurers involved in a case.** Be willing to educate those insurers involved who are unfamiliar with the CARE approach. Encourage proactive resolution that is fair to all.
- 7. When a report to the National Practitioner Databank is required, use the appropriate checkboxes and descriptions to emphasize the CARE process.** Checking "Other" as the type of resolution and describing the proactive and transparent CARE process on the form will help those inquiring have a clearer picture of the case. [Sample language can be found here](#).