The Third Annual CARe Forum

Massachusetts Medical Society

May 19, 2015

Forum Objectives

- Describe the steps to successfully resolve a case of medical harm using the CARe approach, and the benefits for patients, clinicians and their attorneys.

- Describe the changes to the process of handling adverse events for risk managers in institutions that have adopted the CARe program, some of the challenges they face day-to-day, and ways to overcome those challenges.

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MACRMI and CARe: What's New

Overview, accomplishments and new resources

Alan Woodward, M.D. and Melinda Van Niel, M.B.A.

Agenda

- Overview of CARe Concept
- Brief History of CARe/CRPs and MACRMI
- Accomplishments in the past year
- New Resources

CARe

What is CARe and why is it valuable?

What is Communication, Apology, and Resolution (CARe)?

- **Communicate** with patients and families when unanticipated adverse outcomes occur, and provide for their immediate needs.
- **Investigate and explain** what happened.
- Implement systems to **avoid recurrences** of incidents and improve patient safety.
- Where appropriate, **apologize** and work towards **resolution** including an offer of fair compensation without the patient having to file a lawsuit.

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Principles of CARe

- Compensate patients quickly and fairly when unreasonable medical care caused injury.
- If the care was reasonable or did not adversely affect the clinical outcome, support caregivers and the organization vigorously.
- Reduce patient injuries (and therefore claims) by learning through patients‘ experiences.

“Nurturing a Culture of Patient Safety and Achieving Lower Malpractice Risk Through Disclosure: Lessons Learned and Future Directions.” Boothman, et al; Frontiers of Health Service Management 28:3; study at the University of Michigan Health System

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Communication is Key

- The CARe program is first and foremost about communication.
- Communicating with a patient in an ongoing way when something doesn't go as expected, whether or not it was an error, is essential.
- Empathy in the communication is also important – we should always say we're sorry when there is a negative outcome for the patient. It is a human reaction and 100% encouraged!

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Advantages (Transformational)

Reactive	⇨	Proactive
Adversarial	⇨	Advocacy
Culture of secrecy	⇨	Full disclosure / transparency
Denial	⇨	Apology (healing)
Individual blame	⇨	System improvement
Patient/MD isolation	⇨	Supportive assistance
Fear	⇨	Trust
Defensive medicine	⇨	Evidence-based medicine

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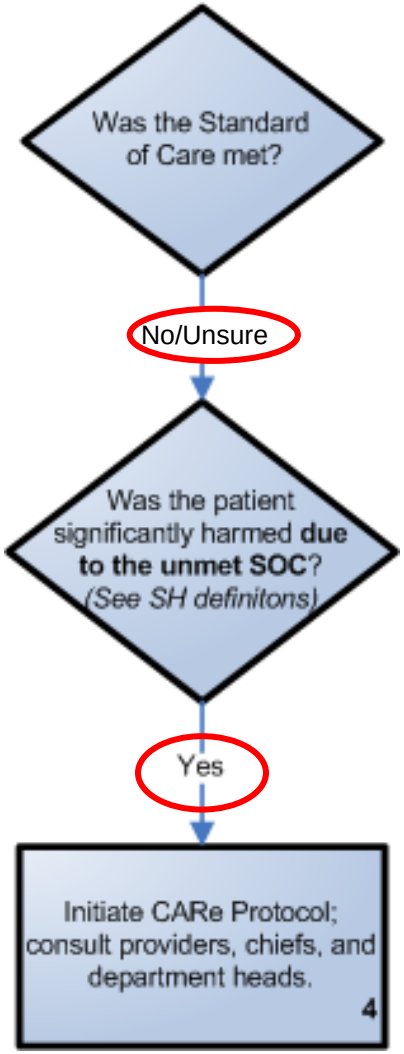
Defining a CARe Insurer Case

In CARe, if a Internal Quality Team determines that…

- The standard of care was **not** met, AND
- The unmet standard of care **caused** significant harm to the patient

…efforts are made to apologize and resolve, and the case **moves to the Insurer to for possible compensation.**

If it does not meet the criteria, we communicate with the patient about the findings, and may offer service recovery.



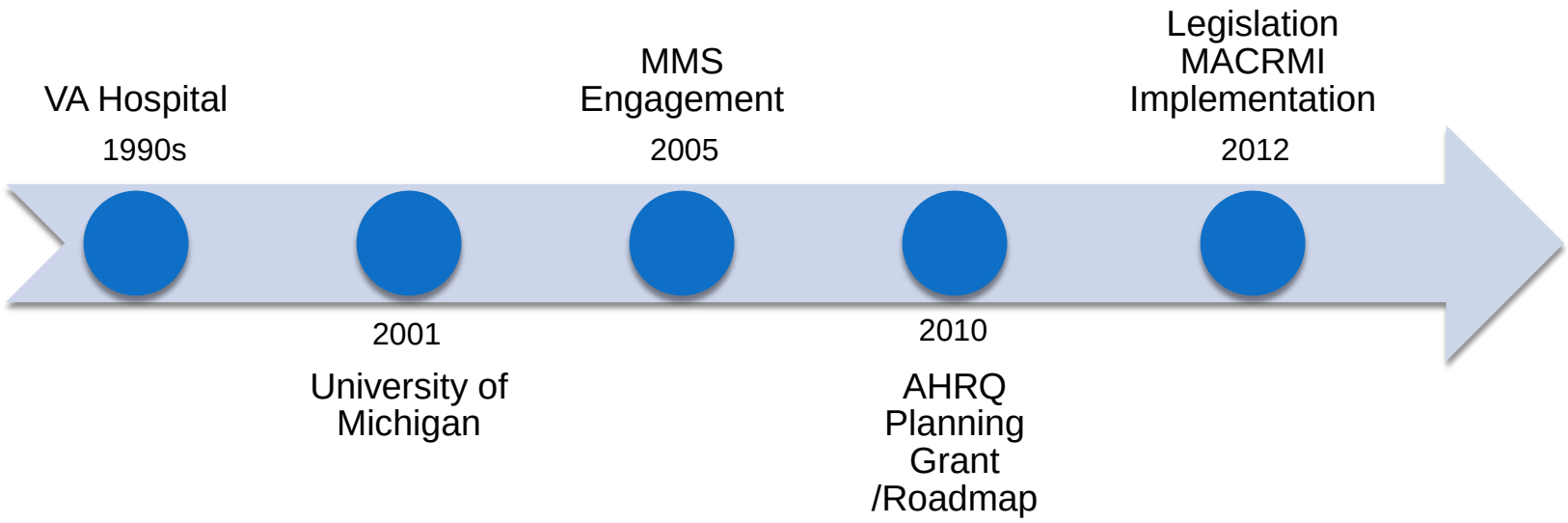
What helps CARe succeed?

- Leadership buy-in
  - Administration, Medical Staff, and Insurers
- Baseline culture of safety
  - Root cause analysis and safety improvement
- Staff
  - Program manager (if large facility)
  - Commitment from and integration of risk management and patient relations
- Support
  - Clinician Peer Support & Patient resources
  - Larger Community of like-minded institutions

Brief History

How did we develop CARe and MACRMI?

CRP History through 2012



AHRQ Planning Grant - Roadmap

- Top five significant barriers identified
  1. Charitable immunity law
  2. Physician discomfort with disclosure & apology
  3. Attorneys' interest in maintaining status quo
  4. Coordination across insurers
  5. NPDB or state reporting requirements

- Strategies to overcome barriers
  - Enabling legislation
  - Education programs
  - Leadership
  - Best Practices
  - Collaborative working groups
  - Data collection and dissemination

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Implementation: Initial Efforts

- Released Roadmap / Media Campaign
- Enacted - Consensus Enabling Legislation
- Assembled our Alliance (MACRMI) & CARe
- Secured local funding
- Established Pilot Programs in varied sites
- Launched Website
- Developed comprehensive resources
- Hosted Annual Forums
- Clarified reporting requirements

Liability Reform Provisions of Ch. 224

- Six Month Pre-Litigation Resolution Period*
- Sharing all Pertinent Medical Records*
- Apology Protection - unless contradictory*
- Full Disclosure - significant complication*
- Pre-judgment Interest Reduction - T+2
- Charitable Immunity Cap Increase - 100k

Signed into law as part of Chapter 224 - Payment Reform Legislation; Effective November 5, 2012

*** MMS, MATA & MBA Consensus**

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MITSS
Medically Induced Trauma Support Services

CRICO RMF
Protecting providers. Promoting safety.

COVERYS

MBA

Massachusetts Medical Society
Every physician matters, each patient counts.

Beth Israel Deaconess Medical Center

Baystate Health

MHA Massachusetts Hospital Association
The leading voice for hospitals.

Board of Registration in Medicine

Massachusetts Coalition for the Prevention of Medical Errors

STURDY MEMORIAL HOSPITAL

Atrius Health

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

Funding for Implementation

- Applied for AHRQ - $3M / 3Yr Demonstration Grant
  - $50M in ACA - no appropriation

- Local sources of funding:
  - CRICO and BHIC (insurers for pilot sites)
  - Blue Cross Blue Shield of MA, Harvard Pilgrim Health Care, Tufts Health Plan
  - Coverys, Mass Medical Society & Reliant

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Recent Accomplishments

What we've been up to since May 2014

Accomplishments: Year 3

- Continued working to clarify NPDB reporting criteria
- Work to disseminate the CARe model in MA and nationally
- Continued to collect data for CARe Study on outcomes and implementation
- Facilitated CARe Educational Forum for Attorneys
- Began collecting data for Provider Study on perceptions of the CARe process at pilot sites
- Developed multiple new resources

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NPDB Update

- **NPDB Clarification statement by HHS Secretary –**

  "Only medical malpractice payments resulting from a written demand are required to be reported. If an individual makes a claim or demand for payment only in a non-written form (e.g. phone, interpersonal conversation), any payment made to settle this claim is not reportable to the NPDB"

- For Systems Issues, payments made on behalf of the institution rather than for an individual are likewise not reportable.

MA dissemination

- Added Sturdy Memorial Hospital and Atrius Health as new official pilot sites
- Interest from many other MA organizations who are in the process of going through our Preparatory Checklist

Atrius Health

STURDY MEMORIAL HOSPITAL

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National Efforts

- Collaborative for Accountability and Improvement (CAI) has come together to work on National Implementation of CRPs

- National Patient Safety Foundation working to better understand how they can disseminate the model
  - Held exploratory forum in January, and featured CARe Model at their National Conference

Recent Media

- *Urgent Matters* Podcast; Sands, Woodward
- *"The Michigan Model" for Malpractice Reform*; Wall Street Journal; Kachalia
- *Should Malpractice Settlements Be Secret?*; JAMA; Catalano, Mello
- *Malpractice Reforms Offer More Open Process in Massachusetts;* Kaiser Health News; Andrews
- *How Policy Makers Can Smooth The Way For Communication-And-Resolution Programs*; Health Affairs; Mello, Sage Woodward

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New Resources

Developed by MACRMI, for you!

Resources developed since May 2014

- *Best Practices for Patient Representation (for Healthcare Facility use)*
- *Best Practices for Attorneys Representing Patients*
- *Best Practices for Attorneys Representing Providers*
- Recorded *CARe Education Forum* for Attorneys
- Comprehensive *CARe Implementation Guide*
- Handout: *Unexpected Medical Outcomes: Information for Patients*

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Best Practices for Patient Representation

- Patients are encouraged to seek legal representation during discussions of resolution
  - Resource designed for healthcare facilities with assistance from the HNMCP
- Need Legal Community Buy-in
  - Providing attorneys with information about CARe and its benefits will help resolve cases early and collaboratively

CARe Seminar for Attorneys

- Goal: to educate attorneys about the CARe process
  - Attorneys (for plaintiffs and defense) and healthcare providers were on the panel to discuss the benefits of the program
  - Program was recorded and available free online
  - http://www.massbar.org/cle/mba-on-demand?k=3760&kp=3759

MASSBAR ASSOCIATION

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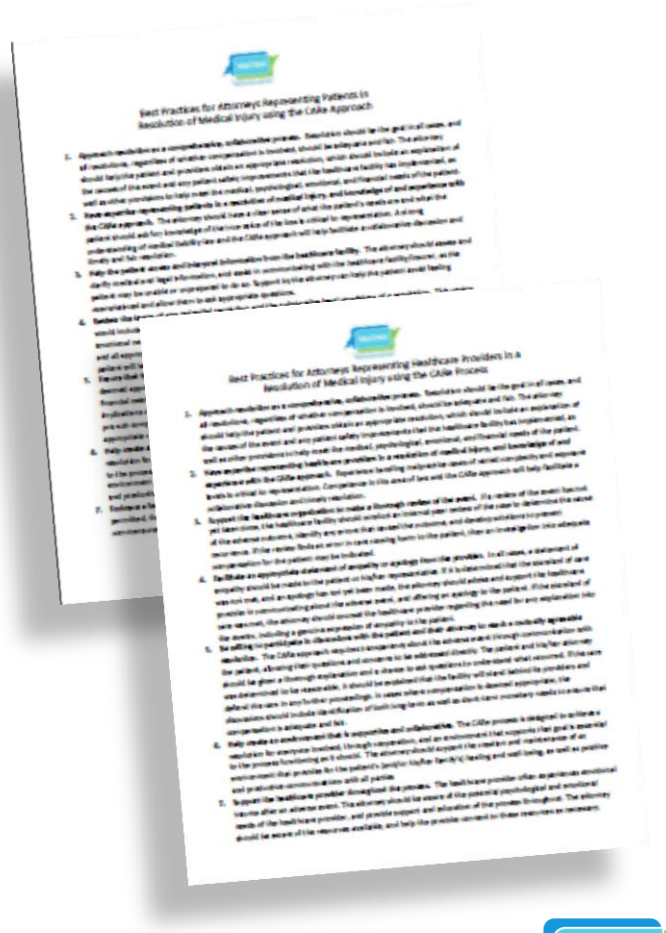
Best Practices for Attorneys Representing Patients and Providers

- MBA and MACRMI jointly developed Guidelines for Attorneys representing patients or providers in the CARe process
- Vetted by appropriate section councils of the MBA, panel members, and audience at CARe Seminar for Attorneys

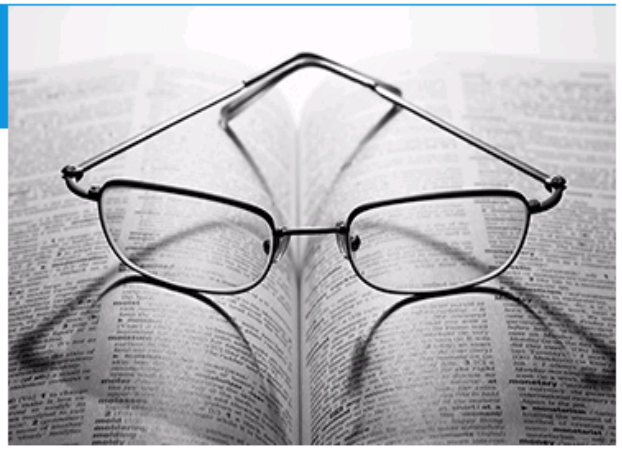


New website section for Attorneys

For Attorneys

FAQs

- What is CARe?
- What are the advantages of CARe?
- What is evidence that it works?
- What current laws support the CARe approach?
- What is my role as an attorney representing a patient in the CARe process?
- What is my role as an attorney representing a healthcare provider in the CARe process?
- What should I expect in a CARe meeting?
- Does participating in the CARe process deny patients the right to bring legal action?



Useful Resources

CARe Education Forum at the Massachusetts Bar Association (MBA)

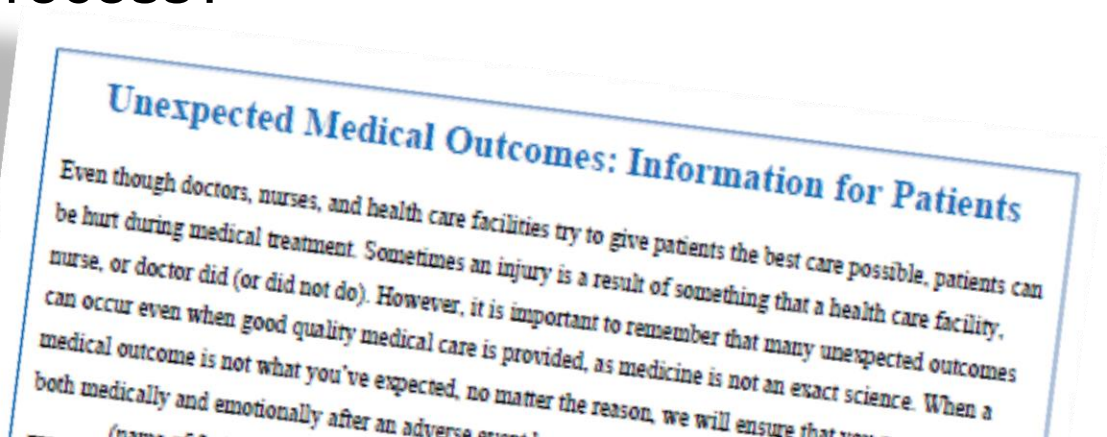
To learn more about CARe and hear from attorneys who have worked with the program, click here to register and view the webinar for free. (you must register as a non-member of the MBA when you "checkout")

Best Practices

Unexpected Medical Outcomes: Information for Patients

This resource is designed to help those who have had something unexpected happen during care understand what the process is around that event

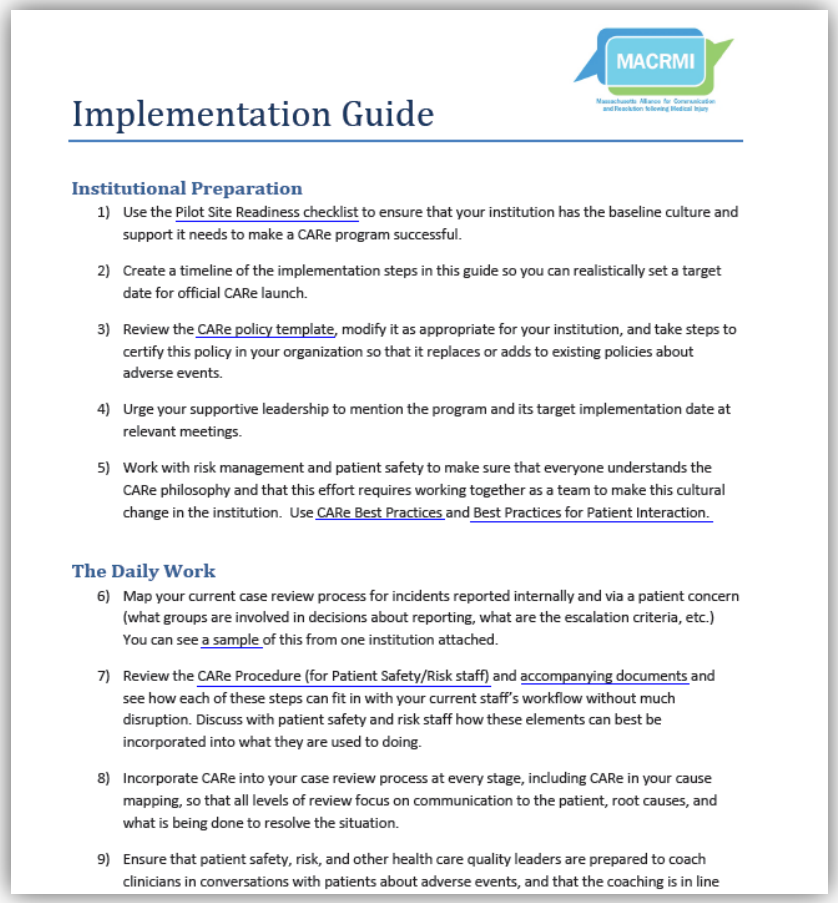
- How can we assure patients that have experienced an unexpected medical outcome event that the institution will support them?
- How can we inform patients about what to expect from the CARe process?


Unexpected Medical Outcomes: Information for Patients

Even though doctors, nurses, and health care facilities try to give patients the best care possible, patients can be hurt during medical treatment. Sometimes an injury is a result of something that a health care facility, nurse, or doctor did (or did not do). However, it is important to remember that many unexpected outcomes can occur even when good quality medical care is provided, as medicine is not an exact science. When a medical outcome is not what you've expected, no matter the reason, we will ensure that you both medically and emotionally after an adverse event.

CARe Implementation Guide

- Designed for institutions interested in implementing the CARe Program
- To be used with personal assistance from our implementation team
- Lays out timeline of important tasks, and links to relevant MACRMI resources for each step in the process



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Implementation Guide

Institutional Preparation

1) Use the Pilot Site Readiness checklist to ensure that your institution has the baseline culture and support it needs to make a CARe program successful.
2) Create a timeline of the implementation steps in this guide so you can realistically set a target date for official CARe launch.
3) Review the CARe policy template, modify it as appropriate for your institution, and take steps to certify this policy in your organization so that it replaces or adds to existing policies about adverse events.
4) Urge your supportive leadership to mention the program and its target implementation date at relevant meetings.
5) Work with risk management and patient safety to make sure that everyone understands the CARe philosophy and that this effort requires working together as a team to make this cultural change in the institution. Use CARe Best Practices and Best Practices for Patient Interaction.

The Daily Work

6) Map your current case review process for incidents reported internally and via a patient concern (what groups are involved in decisions about reporting, what are the escalation criteria, etc.) You can see a sample of this from one institution attached.
7) Review the CARe Procedure (for Patient Safety/Risk staff) and accompanying documents and see how each of these steps can fit in with your current staff's workflow without much disruption. Discuss with patient safety and risk staff how these elements can best be incorporated into what they are used to doing.
8) Incorporate CARe into your case review process at every stage, including CARe in your cause mapping, so that all levels of review focus on communication to the patient, root causes, and what is being done to resolve the situation.
9) Ensure that patient safety, risk, and other health care quality leaders are prepared to coach clinicians in conversations with patients about adverse events, and that the coaching is in line

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Website: **www.macrmi.info**

HORIZON INTERACTIVE AWARDS BRONZE WINNER

MARCOM AWARDS

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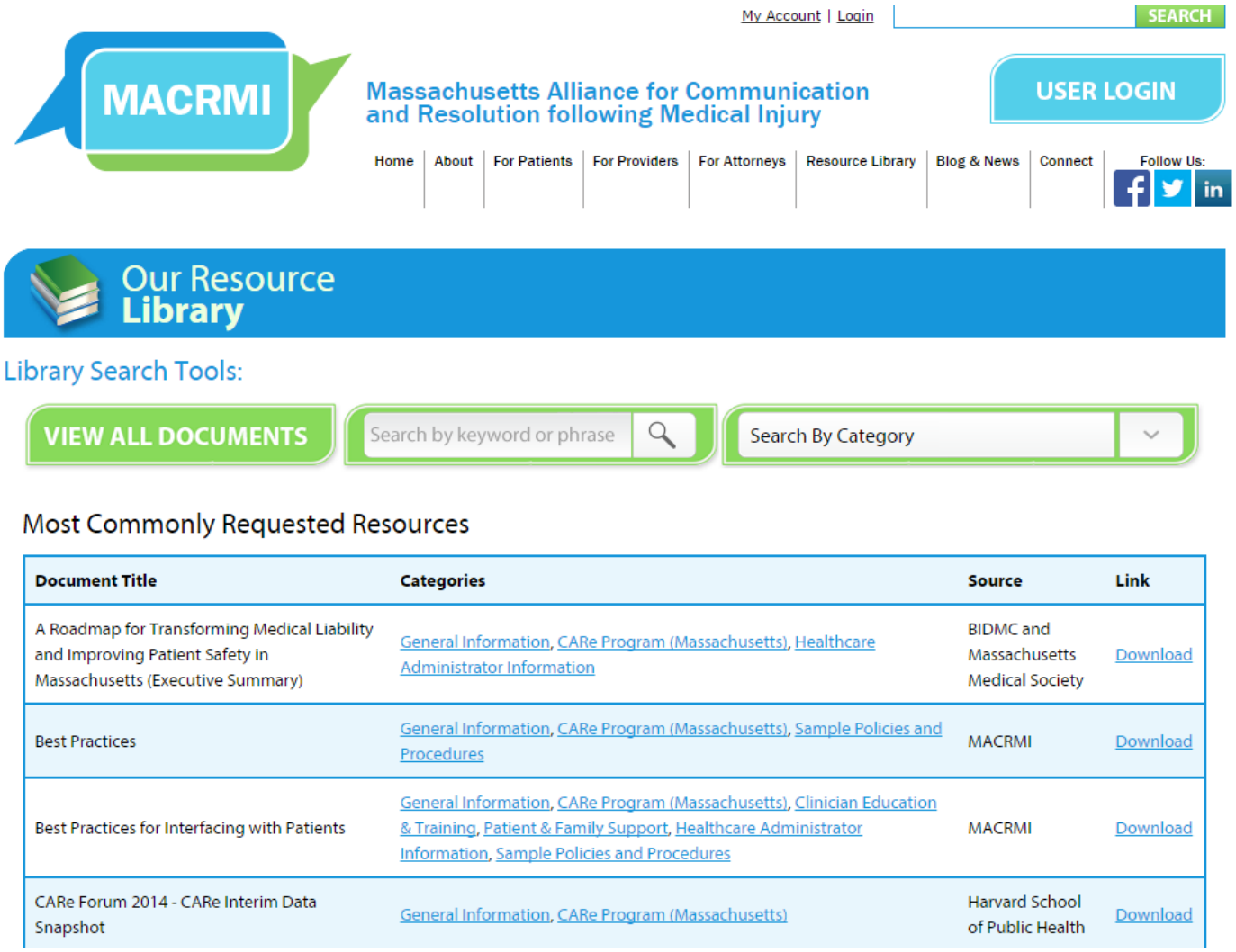
Resource Library



Where we're going…

By next year's Forum…

-Develop a list of attorneys trained in CARe and committed to Best Practices

-Add additional CARe sites in MA

-Continue national dissemination efforts

-Complete data analysis of 3-year pilot study

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