

EXHIBIT

40

Message

From: Melissa Lander [Melissa.Lander@mchs.com]
Sent: 12/15/2018 12:52:26 PM
To: Mark Weaver (mark@communicationscounsel.com) [mark@communicationscounsel.com]; Magi Curtis [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3bb60514d9a54b14b1b29a5645d258a4-MCurtis]
CC: Bret Gallaway [gallawab@trinity-health.org]; Brett Justice [bjustice@mchs.com]; David Green [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d96cd758f5cc4d6485d3ce22f29a1ce2-DGreen]; Tim Stewart [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8da4cb7ab17642aa82370590b04f0ded-tstewart]; Mandi Murray [murraym@trinity-health.org]
Subject: FW: [External] Privileged and Confidential: Sharing documents
Attachments: FAQs for hard questions v12.14.18 at 545pm.docx; Lighthouse plan overview 12-14-18 DRAFT at 545pm.docx; Master Timeline Grid DRAFT 12-14-18 at 5pm.xlsx

Thanks, Magi.
I'm reviewing now. Mark, I would appreciate your review as well.

ML

From: Magi Curtis [mailto:MCurtis@jarrardinc.com]
Sent: Saturday, December 15, 2018 10:22 AM
To: Bret Gallaway; Mandi Murray
Cc: Melissa Lander; Brett Justice; David Green; Tim Stewart
Subject: RE: [External] Privileged and Confidential: Sharing documents

Thanks, Bret. Lots of great points below.

We're working on an updated version of the core messages based on your feedback, will also then update FAQ accordingly.

Brett J and Melissa, let us know if you have any additional feedback (to incorporate or discuss if it's easier).

Our goal is to get the team an updated version of both (messages & FAQ) later this afternoon.

-Magi

Magi Curtis
Jarrard Phillips Cate & Hancock, Inc.

From: Bret Gallaway <gallawab@trinity-health.org>
Sent: Friday, December 14, 2018 10:32 PM
To: Magi Curtis <MCurtis@jarrardinc.com>; Mandi Murray <murraym@trinity-health.org>
Cc: Melissa Lander <Melissa.Lander@mchs.com>; Brett Justice <bjustice@mchs.com>; David Green <DGreen@jarrardinc.com>; Tim Stewart <tstewart@jarrardinc.com>
Subject: Re: [External] Privileged and Confidential: Sharing documents

Jarrard team-

CONFIDENTIAL



JAR_0000427

This is excellent work! Many thanks for preparing this strategic, thorough, clear and well-organized approach. You were right to talk about the broader view of this tragedy, including the actions of nurses and pharmacists. You also did a great job of explaining these complex issues in simple terms, and the Q&As address many questions we have not answered completely. Nicely done to all. This will be the foundation for our next round of core messages.

Here are some suggestions:

- * It seems we should talk about a bit more about the culture we aspire to build. We have taken many steps to develop a culture (training, communications, performance management). But, clearly, there is more work for us to do. We will learn from this tragedy, and we will be better.
- * While I agree we should talk about the widespread involvement of many clinicians, I wonder if we should focus a bit more on the physician as a ringleader. I'm not sure about this point and would like to discuss.
- * Should we say that this ICU team does not reflect the rest of Mount Carmel, which is committed to people-centered care? We want people to know that MCHS is a safe, compassionate place for people to go for care.
- * It seems there is a place to include that these actions stole the opportunity for families to be with loved ones during the last moments. We do not know yet if families were present during those late-night hours, but it seems likely that some were not.
- * Let's be sure to emphasize that we want other health provider to learn from this. We will share our conclusions with other Trinity Health regions and with other health systems.
- * The summary uses the term "dying well." While Sister Mary Ann used this term, it is not one that I recall using at Trinity Health. Is there another term we should use? "Dying well" is good. Is something better?

Brett and Melissa-

Please share your thoughts on this work and my comments above.

Jarrard-

Once you hear from Brett and Melissa, please incorporate our feedback for the next round. Then, we'll share with other senior leaders.

Mandi-

I will be out of pocket from 7am-3pm tomorrow, attending my daughter's graduation and the subsequent celebration. If there is a need for immediate communication, please text me. Otherwise, I will not be checking email.

Bret

Bret Gallaway

Senior Vice President
Marketing and Communications
Trinity Health

gallaway@trinity-health.org

W 734-343-0231

C 210-913-1013

20555 Victor Parkway Livonia, MI 48152

trinity-health.org | [Facebook](#) | [Twitter](#) | [LinkedIn](#)

PRIVILEGED AND CONFIDENTIAL
DRAFT FAQs
Updated 12/14/18

Situation Overview

Q: What happened?

A: On [DATE], we shared with authorities the results of an investigation we recently launched into patient care by a physician, pharmacists and nurses who, until recently, worked in the Intensive Care Unit at Mount Carmel Health West.

Our investigation showed that the physician ordered fatal overdoses of pain medication for at least 24 patients who were receiving end-of-life care in the ICU, that the medication was administered by ICU nurses, and that there were pharmacists who were aware of doses used after-the-fact and did not report it.

These actions violated our standards of care, and may have been illegal. As a result, we have terminated the employment of the physician, as well as 10 registered nurses, six pharmacists, a nurse manager and a pharmacy manager. The doctor, pharmacists and nurses knew, or should have known, that these dosages could be fatal and violated our standards of care. The managers were not aware of the actions of these employees but should have been.

We promptly reported the results of our investigation to the appropriate authorities, including law enforcement. We are in the process now of notifying families and addressing their questions and concerns.

We are also taking steps to prevent this from happening again by retraining our staff on the appropriate use of pain-relief medications in end-of-life care and are thoroughly reviewing our procedures to encourage employees to report when they see conduct that violates our standards of care.

Q: How could this have gone on for at least two years without anyone knowing?

A: These actions violated our standards of care and may have been illegal. We deeply regret this tragedy, and we're doing everything we can to understand how it happened at our health system. We've engaged an outside group of experts to review what happened and ensure it never happens again. We apologize to the families of these patients for these events, and we're committed to taking all necessary steps to help ensure it never happens again.

Q: Aren't there checks and balances when administering medication to patients?

A: We have many safety protocols in place, and that's why we're doing everything we can to understand how this happened at our health system. We've engaged an outside group of experts to review our processes and make a full report on what happened and what we can do better.

Q: If these doses were lethal, why didn't nurses or other people caring for the patients notice the amount?

A: While there is no absolute medical standard for pain medication dosage, the level prescribed by the physician in these instances was a single dosage, as opposed to an incremental increase based on patient response, and was absolutely outside standard normal range for pain medication. This is something that the nurses involved had a responsibility to both know and report when they saw the standards of care being deviated from in each of these instances.

While we cannot say why the nurses involved didn't report the incidents, we can tell you that we are launching a broad-based effort to accelerate our adoption of a Just Culture that encourages clinicians to report errors or deviations from standards of care so that we can institute processes that prevent repetition of error in the future.



Communications Plan

Lighthouse National Messaging and Action Plan

December 14, 2018

I. Background and Objectives

Brief summary of initiative to communicate

The plan below outlines communications to achieve the following objectives:

- Preserve the reputation of Mount Carmel Health System (MCHS) and Trinity Health (Trinity) as high-quality healthcare institutions deeply rooted in a strong commitment to mission-driven care;
- Instill confidence among all audiences important to MCHS and Trinity that we recognize the tragedy, are taking action and remain committed to people-centered care;
- Act with integrity, transparency;
- Act with compassion and dignity to all of those impacted;
- Leverage allies to support Mount Carmel Health System and Trinity Health during this challenging time; and
- Create discipline around the communications effort.

Note: These are suggestions; changes welcome

II. Strategy

- Our messaging must appeal to the heart as well as the mind. The messaging from the doctor, nurses and pharmacists will likely be heavy on emotion: "We were just trying to alleviate acute suffering in the patients' last few minutes of life." Our emotional argument must be stronger.
- We should avoid, to the degree possible, framing this strictly in terms of Catholic doctrine. There are very strong arguments against physician-assisted death that don't need to rely on Catholic doctrine, which has baggage in the minds of some people.
- While our position would be strengthened by an indictment(s), our argument must be able to stand on its own, regardless of what the D.A. does.
- Our messaging must be directed at the act, not the actor. An attempt to demonize the doctor/nurses and pharmacists could easily backfire. They will likely be saying that they were just trying to alleviate suffering, which will get them empathy from many people, even from those who don't agree with how they went about it. We don't want to alienate that last group.
- We will need to be very careful in how we explain the role of the Just Culture in what is happening. It would be easy for employees to become confused.
- To the extent that we can, let's obtain and utilize external validation of:
 - Our commitment to dying well (start with Ira Byock); and

- Physician alignment that doses prescribed were clearly over any reasonable medical standard practice.

III. Key Messages

- On [DATE], we shared with authorities the results of an investigation we launched into patient care by a physician, pharmacists and nurses who, until recently, worked in the Intensive Care Unit at Mount Carmel Health West.
- Our investigation indicated that the physician ordered fatal overdoses of pain medication for at least 24 patients who were receiving end-of-life care in the ICU, that the medication was administered by ICU nurses and that there were pharmacists who were aware of the doses used after-the-fact, who did not report it.
- These actions violated our standards of care, and may have been illegal. As a result, we have terminated the employment of the physician, as well as 10 registered nurses, six pharmacists, a nurse manager and a pharmacy manager. The doctor, pharmacists and nurses knew, or should have known, that these dosages could be fatal and violated our standards of care. The managers were not aware of the actions of these employees but should have been.
- After discovering the actions of the physicians, nurses, pharmacists, we took immediate measures to ensure patient safety and address this tragedy:
 - We removed the physician, nurses and pharmacists, and the two managers from patient care and terminated their employment.
 - We promptly reported the results of our investigation to the appropriate authorities, including law enforcement.
 - We are continuing to investigate this matter in full cooperation with law enforcement and other authorities.
 - We are in the process of notifying families and addressing their questions and concerns.
 - We have begun taking steps to prevent this from happening again by retraining our staff on the appropriate use of pain-relief medications in end-of-life care, and are thoroughly reviewing our procedures to encourage employees to report when they see conduct that violates our standards of care.
- As part of our commitment to people-centered care, we strongly believe in helping patients die well, with dignity and in comfort. That means giving them and their families maximum appropriate control over what happens at the end of life.
- In these cases, the patients' families had requested that all life-saving measures be stopped, which can be part of the process of dying well. Our protocol in that circumstance is to offer palliative care, in which appropriate doses of pain relief medication are administered as needed. While that may, for example, slow the heart and hasten death as a secondary result, it is not the same as intentionally administering a fatal overdose of medication, which is in no way necessary to alleviate suffering.
- Our standards of care are designed not only to comply with the law, but also to follow the most basic ethical principle of medicine: Do no harm. We are dedicated to respecting the sanctity of life for every patient we treat.

- While all our clinical employees have a responsibility to follow the standards of care and to report any deviations from those standards, our hospital's management also has a responsibility to foster a culture in which employees do not fear making those reports.
- This is called a Just Culture. It encourages clinicians to report errors so that systems may be improved, and devices installed that prevent repetition of the errors. We also have a responsibility to assist our employees in dealing each day with very difficult matters involving life or death. We clearly failed to meet those responsibilities in this case.
- To that end, we are launching a broad-based effort to accelerate our adoption of a Just Culture that will start with sessions in which management listens to employees concerns and suggestions, and then acts on them.
- Mount Carmel is shocked and saddened by these events. We pray, and we ask others to pray, for the involved patients and for their families. Our colleagues and clinical staff remain fully committed to compassionate care that respects people at every stage of life.
- We are also committed to transparency and will continue to share information with our colleagues, physicians and the community we serve. As always, when sharing information, we will respect people's privacy and follow the related guidance of regulators and investigating authorities.
- We deeply regret this tragedy and share in the additional grief it has caused. We are doing everything we can to understand how this happened at our health system, which honors the sacredness of every human life, and we are committed to ensuring that this does not happen again.

IV. Key Audiences and Spokespersons

Key audiences we will engage throughout this effort

Internal:	External:
<ul style="list-style-type: none"> • MCHS board(s) • MCHS executive leaders • MCHS MedExec • MCHS employees and volunteers • MCHS physicians • MCHS donors • Trinity Health Board • Local boards of other Trinity hospitals and health systems • System leadership • Hospital CEOs and management teams • All Trinity employees and physicians 	<ul style="list-style-type: none"> • Patients • Regulators • Elected officials • Existing and potential partners • Trade associations • Media <ul style="list-style-type: none"> ◦ National Catholic and healthcare trades ◦ National general media • Catholic leaders • Others <ul style="list-style-type: none"> ◦ Payors ◦ Accrediting agencies ◦ Physician recruits in the pipeline

Key spokespeople we will equip, assign to stakeholder groups and prepare for the announcement include: