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2022 Annual Conference and Trade Show · August 30 – September 1, 2022

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## Crisis Management & Communications for Health Care Executives

**Presenters: Bruce Hennes & Alan E. Schabes**

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## Objectives:

1. Learn and understand the use of the “Damage Control Playbook,” which includes practical and actionable activities designed to blunt, avoid and/or mitigate crisis situations.
2. Learn how to establish and maintain “control of the message.”
3. Better understand how to balance legal and business considerations – and why “no comment” should never be used.

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## Crisis Management & Crisis Communications



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## What You or Your Organization Might Face



<ul style="list-style-type: none"> <li>Accident</li> <li>Active Shooter</li> <li>Board – Chair Dispute</li> <li>Chemical Spill</li> <li>COVID Testing Controversy</li> <li>Criminal Accusation</li> <li>Cyber-Attack / Data Breach</li> <li>Discrimination Complaint</li> <li>Diversity Issue</li> <li>Employee Participated in Attack on U.S. Capitol</li> <li>Epidemic/Pandemic</li> <li>Explosion</li> <li>Fire</li> <li>Fiscal Mismanagement</li> <li>Food-Borne Illness</li> </ul>	<ul style="list-style-type: none"> <li>Hacker Attack</li> <li>HIPAA Violation</li> <li>Inappropriate Comment on Social Media</li> <li>Lawsuit</li> <li>Loss of Star Rating</li> <li>Mass Casualty Event</li> <li>Protest</li> <li>Reputational Threat</li> <li>Sexual Harassment / Misconduct</li> <li>Social Media Threat</li> <li>Strike</li> <li>Resident Death / Murder / Arrest</li> <li>Theft</li> <li>Union Grievance</li> <li>Unreasonable Family Member</li> <li>Walk-Away</li> </ul>
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## Case Study: The SeaStreak Ferry Disaster








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## Could This Happen to You, Your Organization or Client?



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## Crisis Management & Crisis Communications



- When the media turns their pen, camera or laptop on you, your organization or client
- Who we are
- What we do

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## The Court of Public Opinion

Controversies today are tried in the **Court of Public Opinion** – as often as in the **Court of Law**.



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## The Damage Control Playbook

Rule #1: Tell the truth

Rule #2: Tell it first

Rule #3: Tell it all

Rule #4: Tell it fast

Rule #5: The media filters

Rule #6: Fundamental role of reporters isn't simply to inform or educate – it's to tell stories



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## The Damage Control Playbook

Let's eat, Grandma.

Let's eat Grandma.

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## Crisis Management & Crisis Communications

**Villain**

**Victim**


**Vindicator**



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## The Damage Control Playbook

Rule #1: Tell the truth


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## Tell the Truth, Tell It All, Tell It First, Tell It Fast



A Non-Profit Dedicated to Disclosure & Apology for Medical Errors

[www.sorryworks.net](http://www.sorryworks.net)

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**Tell the Truth, Tell It All, Tell It First, Tell It Fast**

**What if you  
ARE  
the Villain?**

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**Tell the Truth, Tell It All, Tell It First, Tell It Fast**

**Iterative Journalism  
and  
the Need for Speed**

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## Crisis Management & Crisis Communications

**Hennes Communications**  
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Crisis Communications  
Litigation Communications Support  
Media Training


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[hennes@crisiscommunications.com](mailto:hennes@crisiscommunications.com)



**You have a situation.  
We have a strategy.**

Because the Court of Public Opinion is always in session.


**Crisis Management Today**



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## Crisis Management & Crisis Communications

Reprinted with permission from *Bar Leader*, a publication of the American Bar Association.

**The Media Revolution is 'Iterative' and Social:  
Experts Share How Not to Get Left Behind**

By Marilyn Gersbach

"You're all living in a media revolution," said Thom Fladung, vice president of Hennes Communications. "And you don't even know it."

Offering a window onto one aspect of that revolution, Bruce Hennes, president of the same crisis communications firm, said, "I don't think there's a reporter in the country who's not using Twitter to crowdsource what people are thinking about."

Speaking at this year's Midyear Meeting of the National Association of Bar Executives, National Conference of Bar Presidents, and National Conference of Bar Foundations, Hennes and Fladung helped attendees understand how they should navigate in a world where, as Fladung put it, "The media has changed more in 10 years than in the past 100."

**What's New? Iterative Reporting**

It used to be that a news article was a single item, published once, Fladung said, and reporters were expected to get every important source into the story, even if it meant trying to reach them in different ways before going up.

Because articles can, and are, updated easily online, the typical news story is now given out "piece by piece, over time," Fladung said, noting that this is called "iterative reporting."


As a source, Fladung added, this means you are no longer indispensable—you can't make yourself difficult to reach, or you'll miss the chance to put your association in its best light (whether the story is good news for you, or bad news).

"If you don't pick up the phone, you're not in the story," he said, noting that Google's analytics give priority to whichever news outlet broke a story first—which has put pressure on reporters to work faster than ever, and not to spend too much time chasing down sources.

While you could still make it into an update to the story, Fladung added, that's not really where you want to be. "When is the last time you went back on your phone to see if there's been an update to something you read?" he asked, noting that 60 percent of all news content is now consumed via smart phone.

What if you really can't make the reporter's deadline, or you find out after the fact about a story your bar should have been part of? See if the reporter will do a whole new story with a new headline, Fladung suggested—again, so you can avoid being hidden away in an update.

Both Fladung and Hennes confirmed to skeptical audience members that reporters really are receptive to this idea, as long as you honestly do have a lot of new facts to offer. Hennes noted that quite often, reporters are rewarded—including in pay—for



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## Crisis Management & Crisis Communications - Handouts

**CRAIN'S**  
CLEVELAND BUSINESS

**Mergers , Acquisitions, and  
Management Transitions: Using Crisis  
Communications Principles to Achieve  
Better Outcomes**

Attorneys and accountants aspiring to be trusted advisers rather than simply transactionalists must understand that from the point of view of their clients, the Court of Public Opinion is often more important than the Court of Law.

THE  
**NATIONAL LAW REVIEW**

**Crisis Management –  
Your Law Firm or Bar Association's  
Reputation is Its Largest Uninsured  
Asset**

Partnership splits, sexual misconduct, data theft, management transitions, accusations of mal- and misfeasance, mergers & acquisitions and layoffs are just a few of the situations today's managing partners and executive directors face.

**7 Questions to Ask Before Hiring a Crisis  
Communications Firm**

**Crisis communications** is a sub-specialty of the public relations profession that is designed to protect and defend an individual, company, or organization facing a public challenge to its reputation. Crisis communications is aimed at raising awareness of a specific type of threat, the magnitude, outcomes, and specific behaviors to adopt to reduce the threat.

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## Crisis Management & Crisis Communications

### Defining a Crisis

**A *crisis* is:**

an unstable situation of extreme danger or difficulty;  
a crucial stage or turning point in the course of something.

**A *sudden healthcare crisis* is:**

a sudden or unexpected event or situation that creates an obstacle to the ability to operate and will likely generate news coverage causing damage to a company's reputation with stakeholders whose support is essential to continued operation and success.

**A *smoldering healthcare crisis* is:**

any serious business problem that is not generally known which, if made "public" through negative news media, could result in fines, lawsuits and expenses and costs for the organization.

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Events Leading to a Crisis

**Quality of Care**

- Allegations of inappropriate or inadequate care (elopements, death, abuse, neglect)
- Medical Error
- Health/safety violations (State and Complaint Surveys) exposing patients, family or staff to harm
- Complaints regarding staff interactions with family members
- Diversity-related complaints (lack of sensitivity to ethnic, racial, cultural or faith based issues)
- Disclosure of confidential information

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**Disaster, Accident or Crime**

- Natural disaster (**e.g.** pandemic, hurricane, flood, earthquake)
- Major fire, explosion, terrorism, bomb threat
- Extended utility outage - power, water
- Violence committed on the organization's property or involving its staff

**Employment Matters**

- Undocumented Workers
- Union Organizing
- OSHA/Department of Labor

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## Crisis Management & Crisis Communications

### Management of Crisis Care

- Government Regulation & Certification
  - State Licensing Authority
  - OSHA
- Financial Reimbursement
  - Coverage
  - Payor Sources
  - Insurance
- Landlord-Tenant & Premises Liability Obligations
- Continued Media Communication
- Criminal Investigations

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## Crisis Management & Crisis Communications

- On your crisis team, consider including:
  - CEO and Senior Management
  - Chief Communications Officer
  - Medical Director
  - Key employee communications staff
  - Senior manager in the department central to the crisis (nursing, human resources, safety)
  - Risk Management/Quality Assurance
  - Board Chairman/Ownership Representative
  - Legal counsel
  - Financial/Reimbursement Specialist
  - Outside Crisis Management/Crisis Communications specialist
  - Resident/Family Communications Coordinator
  - Spiritual Support Personnel
  - Information technology
  - Support staff

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## Crisis Management & Crisis Communications

- Responsibilities to consider for specific Crisis Team members are:
  - Assessments of the scope and severity of the event
  - Determination of the need for immediate response to the media
- Responding to Media & Others
  - Notifying and advising support staff, secretaries and security on how to respond to the media or the public arriving at the location
  - Preparation of key messages and releasing statements regarding the crisis
  - Establishing protocols for approval of communications before they are released to the media or other stakeholders

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## Crisis Management & Crisis Communications

- Immediate Patient & Staff Needs
  - Patient Care
    - Medical
    - Psycho-Social
  - Staff Matters
    - Wage & Hour
    - Safety & Workers Compensation
    - Mental Health
- Analyzing and evaluating the response after the crisis has resolved to determine effectiveness and any necessary modifications to the plan

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## Crisis Management & Crisis Communications

- In communicating regarding the crisis, the Crisis Team must:
  - Gather and communicate only the facts without speculation
  - Take responsibility without admissions of liability using compassion and sympathy
  - Designate a spokesperson (a flexible plan will also include a back-up spokesperson) who will be responsible for responding to the media and direct inquiries to the appropriate crisis team member
  - Notify employees first of a crisis event and maintain communication with all audiences until the crisis is resolved
  - Bring the crisis to resolution as efficiently and as expeditiously as possible so the organization can move out of crisis mode and continue with operations

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## Crisis Management & Crisis Communications

### Communicating to Employees

- When notifying employees of a crisis event:
  - Convey the facts and confirm that everyone understands them
  - Be in control
  - Provide Updates
- Key information to deliver to your employees would be:
  - A brief summary of the facts
  - An explanation of what caused the crisis
  - The steps being taken in response to the crisis
  - How long the crisis is expected to last
  - Acknowledgement about emotional impact
  - Identification of the Crisis Team
  - Identification of the lines of crisis communications
  - Commitment to maintain internal communications

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## Crisis Management & Crisis Communications


### Crisis Plan Main Message and Strategies

- Select main messages to convey to the various audiences in the event a crisis scenario arises
- Some effective strategies include:
  - Remediation** - offering some form of compensation to help victims of a crisis.
  - Rectification** - taking some action to prevent a recurrence of the crisis in the future.
  - Sympathy** - portraying the organization as the unfair victim of an attack by an outside entity.
  - Apology** - "expressions of sympathy" vs. admission of fault
- Compensation and sympathy may be the best strategies
- The impressions of the audience should be that the organization is taking responsibility and is focused on the needs of residents, families and staff

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## Crisis Management & Crisis Communications

### Legal Issues

- Could a lawsuit or other investigation result from the crisis?
- Is the crisis related to a lawsuit or investigation and if so, what are the defenses being developed on behalf of the organization
- What entities in the organization could be involved in a lawsuit that arises from the crisis (management, operators, and individuals) and what defenses are being developed for them?
- What laws/regulations and limitations periods are relevant to the crisis and a potential lawsuit?
- CMS Emergency Preparedness Checklist

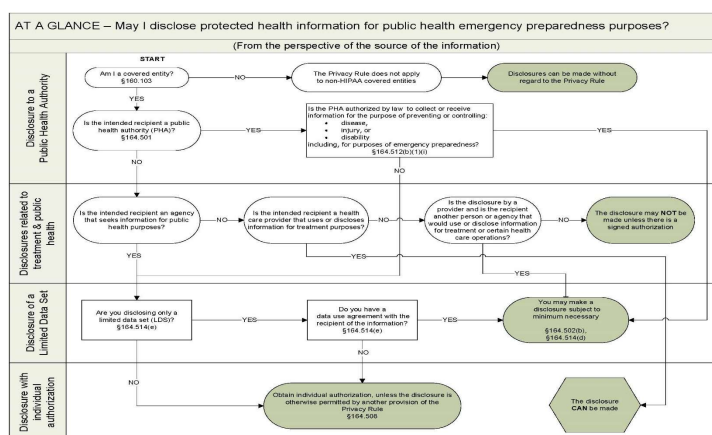
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## Crisis Management & Crisis Communications

### Release of Information on the Condition of Residents and HIPAA

- The Health Insurance Portability and Accountability Act's (HIPAA) governs the use and release of a resident's personal or protected health information (PHI)
- According to HIPAA, only the following information can be placed in a facility directory:
  - The resident's name
  - The resident's location in the healthcare provider's facility
  - The resident's condition, described in general terms, that does not communicate specific information about the individual
  - The resident's religious affiliation

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### Q&A

**Bruce Hennes, CEO**

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