

Crisis Communications

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Frequently healthcare providers are unprepared to address incidents that can seriously affect a provider's reputation or a practitioner's career. These incidents may occur in a chemotherapy infusion center, in the billing or medical records departments where administrative errors have the potential to compromise patient privacy, or in connection with patient care in other settings, such as inpatient hospital care. Interactions between staff and patients, or among staff members themselves, can often become highly problematic, while staff conduct outside of the workplace may affect the reputation of the practice as a whole. In some cases, such as care provided to high-profile patients, unwanted media attention can turn from a nuisance to a potentially serious matter affecting not only the privacy of the high-profile patients themselves, but also the ability of the practice to operate and provide care to patients while trying to manage the media.

Any such situation that is, or may become, public presents a host of legal issues and public relations concerns that must be anticipated, recognized, and addressed by the practice's personnel. Procedures and protocols should be in place to avoid a last-minute scramble as to how to address them. As a general rule, it's helpful to remember the acronym, CAPT (Control - Action Plan - Truth), when considering crisis communications. By keeping this acronym in mind when preparing thoughtful approaches to crisis situations, hospitals and practices may be able to mitigate any fallout and potential liabilities.

Treatment-Related Crises

Even the best medical care may result in injury or death. Complications are, at times, unavoidable and the circumstances surrounding treatment and patient or family notification are inevitably sensitive. Practitioners must remain aware of their responsibilities to the patient and the practice's protocol to be followed. More challenging, however, are the legal and public relations pitfalls that follow in the wake of practitioner mistakes or incidents related to treatment. For example, chemotherapy infusion staff may administer an inappropriate medication, or a dosage far too small or large. In this situation, or any others that suggest a level of negligence, malpractice, or criminal conduct, providers must be prepared to efficiently and quickly "control" the situation, uniformly develop and execute a consistent "action plan," and remain forthcoming and "truthful" throughout this difficult process. Two nationally publicized incidents illustrate differing types of care-related errors that may occur.

One of the most well-known cases of medication error, in oncology or any other field, is the 1994 case in which a patient in an experimental breast cancer pro-

tolocol received a four-fold dose of cyclophosphamide over a four-day period. Often described as a "watershed event," this case was played across the media and resulted in significant changes in chemotherapy protocols. While the level of publicity was undoubtedly, at least in part, due to the fact that the patient was a *Boston Globe* health news reporter, the reputational "hit" to the provider was significant.

A more recent case combined a medication error with celebrity. According to published reports, in early November 2007, the wife of movie actor Dennis Quaid gave birth to Thomas Boone and Zoe Grace at Cedars-Sinai Medical Center in Los Angeles, California. Two weeks later, both children were among patients given an accidental overdose of Heparin. The dosage administered was 1,000 times stronger than what was prescribed, and the error reportedly occurred because vials of the concentrated medication were accidentally stocked in a medicine cabinet assigned to the neonatal unit of the hospital. As soon as staff realized their mistake, they quickly and appropriately managed the clinical effects of the error. Concurrent with this timely and effective medical response to the emergency, spokespersons for the hospital mobilized to manage the media exposure.

First, the hospital insisted on the privacy of its patients and refused to identify or confirm reports as to the individuals involved or to provide any personal medical information related to the incident. Furthermore, the hospital's Chief Medical Officer released a statement two days after the incident that accurately reported the mistakes made and the measures taken to restore the babies' health, humbly apologizing and acknowledging a "preventable error." The statement said, "I want to extend my deepest apologies to the families

who were affected by this situation... This was a preventable error, involving a failure to follow our standard policies and procedures, and there is no excuse for that to occur at Cedars-Sinai." The statement also detailed the hospital's cooperation with authorities and efforts to ensure "that this [type of medical mistake] never happens here again." Note that this response was made after the incident was otherwise made public and it is highly likely that the families were informed of and consented to the response. Cedars-Sinai's response emphasized the importance of patient safety and sought to maintain the integrity of the hospital. It deliberately highlighted the actions taken to effectively control the crisis and professionally address the situation. The focus was turned to the hospital's proactive measures to assure the mistake would not happen again. Tellingly, perhaps, the Quaid family has not sued Cedars-Sinai, but has brought a product-liability lawsuit against pharmaceutical manufacturer Baxter Healthcare Corp., alleging that the company distributed vials of concentrated Heparin in bottles too closely resembling the vials holding dosages meant for newborns.

Administrative and Operational Crises

Apart from the risks and vulnerabilities associated with the actual practice of medicine, a provider's administrative and operational functions demand a response that must be properly managed in order to safeguard the security and privacy of patients, responsibly protect confidential databases, secure prescription medications, and ensure day-to-day functioning. To these ends, practices must take security measures appropriate to the practice setting and foster healthy relationships with local police and emergency responders. At a minimum, the premises must be fully secured, and access to patients, controlled pharmaceuticals, and record-keeping systems monitored and restricted. As has been widely reported in recent news stories across the country, data security is becoming increasingly difficult and especially vital.

In an age of high-tech piracy, Internet fraud, and identity theft,

providers responsible for protected health information need to be even more vigilant about protecting their computers. Recently, one of the largest breaches of personal data in this nation's history was exposed when, from July 2005 until January 2007, hackers infiltrated technology owned by the retail giant, TJX Cos.



These hackers mined over 45 million credit and debit card numbers and gained unfettered access to a broad range of sensitive personal data. Even more troubling, a TJX vice president circulated internal memos about the company's digital weaknesses and susceptibility to hackers in early 2005, yet the company refused to update its encryption devices. The security breach has already cost TJX over \$5 million to conduct an investigation and secure its computer systems, but the total losses incurred by the company and its consumers and the damage to TJX's reputation still remain beyond calculation.

Given the extreme sensitivity of medical information, as well as the standards imposed by HIPAA and state and federal requirements, providers must take all prudent measures to protect themselves against breaches of their premises, records, and systems. And just as important, if confidential information is released or physical security compromised, thoughtful planning and timely public responses will greatly alleviate any potential reputational damage to the institution or individuals involved.

What To Do...

To navigate the legal and public relations minefields that may result from a crisis situation, hospitals and practices should plan and prepare a CAPT approach, and then practice and refine procedures and personnel responses accordingly.

In addition, if the incident occurred at a hospital, which by operation of law has available to it a peer review process protecting its investigatory processes and documents from certain types of discovery, any investigation should be undertaken in strict accordance with the Medical Staff Bylaws so as to preserve those peer review protections. Hospitals and practices alike should also preserve any available attorney-client privilege that may be useful to protect confidentiality and the integrity of any investigation.

By acting quickly and thoughtfully, it is possible to control a crisis and mitigate collateral damage beyond the actual incident. The value of having a comprehensive crisis management plan in place before a crisis is incalculable. By involving proper authorities and outside experts, and by encouraging constructive communication throughout the media and legal process, it is possible to minimize liability and public exposure. Public relations consultants or internal communications resources should consult with legal counsel to assure that responses are in compliance with applicable laws. Ideally, relationships with these specialists should be established before any emergency occurs. Hospitals and practices that effectively plan for emergency situations *now* may even avoid many types of crises from ever occurring at all. 📌

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