

## What If?

### Can your office make a comeback from disaster?

With the focus on disaster preparedness and the catastrophic events of the recent weeks have you stopped and asked yourself “what if?” Surely, no one can ever really be ready for a direct hit from a category five hurricane, a major earthquake or a raging wild fire. But, could your office survive a less catastrophic disaster. Are you prepared for an office fire, a building flood after a plumbing failure or a long-term power outage in the aftermath of an ice storm? If your office is like many others, sadly, the answer to all these questions is “no.”

Disaster planning is not hard or something for experts only. All you need to know is summed up in the Boy Scouts’ motto, “Be Prepared,” and the old Marine adage, “plan your work and work your plan.” But being prepared and planning for preparedness require time and forethought. They are two items in short supply in most medical offices. While a number of useful resources can be found on the internet to help you overcome the inertia everyone faces in setting up any kind of office plan, below is a checklist of some things from a legal perspective that need to be considered in designing an effective office disaster plan. Just, remember, the list below is not exhaustive; after all, it is impossible to anticipate all that can go wrong in a disaster. It is, though, a starting point.

#### **Have a Discussion with your Insurance Broker, Accountant and Lawyer, NOW.**

- Review with your insurance broker what coverage you have and what risks are insured against (like water, fire, explosion, smoke, vandalism, riot civil commotion, aircraft, vehicles, and theft). Are "Acts of God" (floods, tornadoes, earthquakes, windstorms, hurricanes and ice storms) covered? Most policies will not cover earthquake damage but might cover damage caused by a quake (i.e., a fire caused by an earthquake). The most frequent cause of damage to printed materials such as medical records is water. Therefore, coverage for water related perils including burst pipes and backed up sewers is vital. Find out what the requirements and liabilities are for workers helping with a preparation or salvage efforts whether they are staff or volunteers. Don't forget to discuss business disruption and flood insurance. Then, have your broker confirm in writing your coverage and claims procedures and contacts. Ask how long it might take to be paid for a loss; will the carrier advance monies for emergency repairs or simply reimburse you after the fact. It's too late after a disaster hits to find out you're not covered or that you'll be long out of business before a claim will be paid.
- Check your general and premises liability carrier for disaster planning information and recommendations. They can't later fault you for following their recommendations. (Well, they can, but they will not get away with it.) Ask for the carrier's permission in writing to begin salvage efforts immediately without having to wait for their adjustor to visit.

- Ask your accountant to assure you in writing that your financial records are secure and safe, and can be easily exported if necessary to other software and hardware platforms.
- Talk to your lawyer about the security of your legal documents and files in their possession. Make sure to discuss with him or her successor planning and contingency arrangements should key personnel be disabled or die. Review any changes in employee manuals with your lawyer and make sure you are prepared in a disaster to comply with OSHA and other legal requirements.

### **Collect and Secure Records, Files and Data – On site and off**

- Employee, personnel, payroll and tax (for last seven years) records and files
- Employment contracts, practice formation documents (e.g., partnership or shareholder agreements (Don't leave it to your lawyers to secure copies; they may not have an adequate plan to secure client files.)
- Patient charts – Need to keep them dry, intact and accessible. (What good is a computer or electronic chart if you don't have access to a workable computer.)
- Insurance documents (e.g., policies, declaration sheets, premium receipts) and claims contact information
- Billing records and data
- Bank records and account information. (Can you access your practice's money remotely on-line.)
- Leases, real estate documents
- Privacy and security need to be considered
- Use a back up service or internet hosting service which itself is located out of harm's way.
- BACK UP DAILY, WEEKLY and MONTHLY.

### **Don't Forget Your Staff - Involve Them**

- Encourage them to develop personal plans for themselves and their families (the American Red Cross has several excellent resources that can be accessed at [http://www.redcross.org/services/prepare/0,1082,0\\_239\\_00.html](http://www.redcross.org/services/prepare/0,1082,0_239_00.html) ). You don't want them abandoning their posts before necessary in the face of a disaster or being so distracted they'll make mistakes or put patients and other staff at risk.
- Make sure they know when and how to get out. Whether it's a fire evacuation plan or an escape route to be used when a patient threatens people at the front desk.
- Show them a draft of the plan and solicit their comments; consider possibly incorporating the plan into your employee manual and have each new employee sign and acknowledge receipt of the plan and manual.
- Make sure they understand their obligations to the practice and to your patients

- Don't expect or ask for heroic efforts (Heroes have families that can and will sue.)
- Make arrangements to inoculate staff and offer them prophylaxis
- Don't forget OSHA requirements and requisite protective efforts
- Plan to feed and hydrate staff.
- Make sure the staff has a way to communicate with you and you with them. Let them know how they can find out what's going on with the practice. Think about phone chains and the like. Instruct staff on using cell phones for text messaging. Set up a special contingent email account and internet presence to ease communications. Prepare wallet cards for them with key contact information and basic instructions.
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- Suggest that they visit their bank or an ATM before a disaster hits so that they have cash on hand. In a disaster you don't want to be their bank.

### **Don't Forget the Patients – Involve Them**

- Let them know you have a plan and encourage them to plan for their own safety.
- Plan a means for communicating information about the practice to patients.
- Let them know where they can get help and how they can get access to their records.
- Offer them prescription refills sufficient to ensure a thirty-day supply of prescription medications on hand. Educate them to the benefits of having prescriptions filled at a drug store with off-site storage and access to prescriptions and dispensing history.
- Don't unrealistically raise their expectations. Don't promise what you may not be able to deliver.
- Document your efforts on behalf of patients.
- Design a scaleable and survivable "on-call" system

### **Don't Add to the Disaster – Secure Potentially Hazardous Materials.**

- Make provisions for securing and disposing of medical waste safely including that generated before the disaster hits.
- Have adequate stores of protective equipment available
- Protect your drugs, vaccines and biologicals from contamination and spoilage
- Don't forget alternative means of sterilizing equipment and providing different ways for staff to clean up
- Consider involving patients. Think about having patients supply linens, gowns or whatever they can to avoid cross contamination.
- Clean water may be necessary for patients to take medications
- Basic aseptic technique goes a long way.
- Know how to turn off utilities or secure office from hazards associated with utilities. Leaking gas lines and electrical shorts can kill and injure long after the immediate impact of a disaster.

- Mold can be an environmental toxin and its abatement can cost you plenty. Know how to avoid its occurrence and minimize its effects.

### **Mitigate and Remediate Damage Done**

- Make sure staff knows who to call, to fix what, when. Develop a contacts list with names of repair and restoration vendors like electricians, plumbers, and water and fire damage people.
- Contact premises liability carrier for the names and contact information for their approved vendors. (Don't forget to confirm the status of a vendor with the carrier, if possible, before calling the vendor in a time of need.)
- Make sure you can pay for services needed. Think about having more cash on hand than usual.

### **Keep it Simple and Don't Forget the Obvious.**

- Complex and complicated plans are useless. You'll never use them.
- With recent emphasis on dramatic images of super-catastrophes there is a risk that the more obvious and probable disasters will be forgotten. Office fires, toxic spills, floods, and snow and ice storms can disrupt your practice and put you at risk.

### **Write It All Down**

- Don't forget your plan needs to be written down somewhere your staff can access it, especially, if you're not available.
- Keep checklists handy for equipment and supplies, and post-disaster safety.

### **Don't Forget Good Management Is Good Risk Management.**

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Bob and his firm are general counsel to the Medical Society of New Jersey, and a number of county and specialty societies in the states of New York and New Jersey.

Bob is a frequent lecturer on health law issues, and has been featured in a nationally distributed video series on the legal aspects of physician practice management. In addition to his law degree, Bob holds a Masters in Public Administration from Baruch College of the City University of New York, and a Masters in Public Health from Harvard University with a concentration in health policy and management.

Bob, who is a former first-responder, has also completed a number of courses in emergency response and disaster preparedness.

Bob was the Chief of the City of New York's Medical Malpractice Defense Unit and a Special Consultant on medical malpractice issues to the City's Corporation Counsel and the Mayor's Office of Management and Budget.

A national healthcare publisher has honored Bob by naming him one of the country's most influential healthcare policy makers and thinkers. And his peers have recognized his contributions to the practice of law by electing him a Fellow in the international College

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