



# LEARNING COMPLIANCE & RISK THROUGH THE MOVIES

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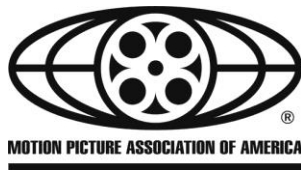
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## ... ALSO, WE ARE NOT PSYCHIC

The scenarios contained within this presentation are works of fiction. Names, characters, business, events and incidents are the products of the authors' imagination. Any resemblance to actual persons, living or dead, or actual events is purely coincidental.



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## OUTLINE

- The Plot/ Working on the Script
  - The importance of preparation
  - Defining the "Sharknado"
  - 5 common issues that lead to Compliance and Risk crises
- Filming/ Roll Sound & Action
  - "Sharknado" scenarios
- The End/ Cut and Print!
  - Final thoughts



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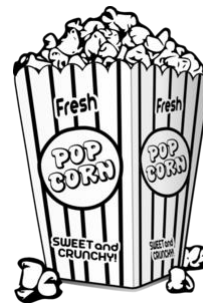
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## COMING TO A COMPLIANCE & RISK DEPARTMENT NEAR YOU...

- *It Happened One Compliance Week*
- *Seven Elements For Seven Brothers*
- *The Good, The Ethical, and The Compliant*
- *Complyin' in the Rain*
- *The Silence of the Hotline*



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## DO ANY OF THE FOLLOWING SOUND FAMILIAR?

- What movie did this come from?
  - "Run, Forrest, Run!"
    - *Forrest Gump*, 1994
  - "You can't handle the truth!"
    - *A Few Good Men*, 1992
  - "Show me the money!"
    - *Jerry Maguire*, 1996
  - "You're out of order!"
    - *And Justice For All*, 1979
  - "What we've got here is a failure to communicate."
    - *Cool Hand Luke*, 1967
  - "Houston, we've got a problem."
    - *Apollo 13*, 1995
  - "Snap out of it!"
    - *Moonstruck*, 1987
  - "Is it safe?"
    - *The Marathon Man*, 1976
- Just Remember:
  - "Ohana means family, family means nobody gets left behind or forgotten." – *Lilo and Stitch*, 2002



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## THE "SHARKNADO"

### FROM A COMPLIANCE AND RISK PERSPECTIVE

- A series of difficult predicaments that coagulates into one complex, high-risk crisis requiring an immediate hands-on resolution
- "Sharknados" require a high degree of preparation before taking drastic compliance or risk action



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## PREPARATION

- Thorough preparation is an excellent tool to avert such high-risk disasters, because it inevitably forces an organization to operate in a more proactive mind-set as opposed to a reactive one
- Ideally, compliance and risk professionals' preparation should include:
  - Understanding applicable regulations, laws, and requirements
  - Assessing standard practice in the community
  - Coordinating the appropriate resources
  - Applying the ethical principles



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## COMBATTING A “SHARKNADO”

- The best way to avoid a healthcare organization disaster is to conduct a step-by-step analysis of:
  - Business partners' / patients' needs
  - Communication
  - Regulations
  - Resources
  - Ethics



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## UNDERSTANDING BUSINESS PARTNERS' AND PATIENTS' NEEDS

- Failure to consider patients needs can lead to an organization straying from its mission or fundamental purpose for operation
- Conflicting perspectives
- Different business needs of all affected department/ different priority
- Strained relationships between department leaders
- Individuals could feel that their business needs are less valued than others
- Chilling effect on collaboration with other departments leadership in the future



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## UNDERSTANDING BUSINESS PARTNERS' AND PATIENTS' NEEDS

- Manage opposing opinions respectfully
- Remain empathetic toward others/ their business needs
- Opposing views should be presented constructively and respectfully (avoid harsh personal criticism)
- Discussing opposing opinions/ reasoning can lead to reduction of risk (consideration of all relevant factors and outcomes)
- Consideration of organization's mission and the patients' bill of rights (when any issue could potentially affect patients)

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## OPEN COMMUNICATION

- Open flow of communication leads to:
  - Quick and efficient detection of potential risks
  - Individual empowerment to share concerns and opinions
- Failure to communicate effectively leads to:
  - Duplicative efforts
  - Waste of corporate resources (time)
  - Risk of major issues being ignored or pushed aside
  - Breakdown in employees' confidence in leadership
  - Minimizing realities
  - Perception is reality



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## OPEN COMMUNICATION

- Supporting open communication (not routine dialogue)
  - Mutuality
  - Intention
- Lack of mutuality in communication between leadership
  - Lack of trust that the other party is not working toward a common goal
- Acknowledging another's apprehensions and goals in relation to any given issue (empathy)
  - Allows one to establish mutuality with other parties involved (business partners/ patients)
- Combining mutuality with intention shows others that the exchange of ideas is meaningful and legitimate
- Note:
  - Many are devoted to their own departmental goals and succeeding
  - We all work for the same team and ultimately want our organizations to succeed
  - Trust but verify

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## EDUCATION ON CONFLICTING REGULATIONS OR REQUIREMENTS

- Confusion/ Inconsistency between laws governing our organization's day-to-day activities
  - Difficult to measure an organization's exposure to risk
  - Difficulty communicating difference to patients and business partners
- This particular element of a "sharknado" can lead to serious legal risks when not considered appropriately



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## EDUCATION ON CONFLICTING REGULATIONS OR REQUIREMENTS

- Stay current on all applicable (or potentially applicable) regulations
- Evaluate all relevant regulations on the same subject individually (most stringent elements)
  - Compile aspects into a set of policies that can coexist (focus on similarities)
- Note the exceptions to each regulation and conflicts between them
- If a true inconsistency in regulation is discovered:
  - Does the state regulation supersede the federal regulation?
  - Does the state regulation only seem to be conflicting because it appears more stringent?
  - Document where the regulations appear to conflict/ the compliance procedure the organization has chosen to follow
  - Consult with legal

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## RESOURCE RESTRICTIONS AND ABILITIES

- The most subjective element of a “sharknado,” but certainly affects everyone at some point in an organization
- This “sharknado” element becomes a risk when a misunderstanding over what tools/resources are really necessary rather than just preferred arises
- Legitimate?
  - Even with the basic tools needed to operate, departments generally still encounter reasons to request additional resources
  - Balance between necessity for tools desired to achieve success and budgetary restrictions



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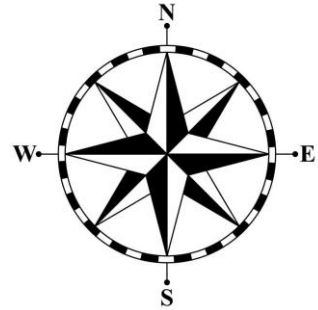
## RESOURCE RESTRICTIONS AND ABILITIES

- Are expenses are guided by an organizational purpose?
- Using purpose to evaluate finances, time, and other resources allows leadership teams to use integrated business planning to activate the broader mission of their organization
- A focus on purpose is also effective when communicating resource restrictions to your patients
- Abilities
  - If your organization does not have sufficient/ adequate internal resources, consider hiring a 3<sup>rd</sup> party vendor

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## THE INFLUENCE OF ETHICS

- Common point of contention for others involved in the resolution of the issue at hand
  - Even something as simple as doing the right thing can be seen differently from other perspectives
- Although they are often joined at the hip, many consider compliance and ethics as synonymous, but this is not a constant truth
- Compliance, risk, and ethics can coexist and work together, **but you must understand that one is more objective than the other**



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## THE INFLUENCE OF ETHICS PERSONAL LENS

- Compliance, Risk, and ethics all support adherence to applicable regulations, laws, and requirements; standard practice in the community; coordination of appropriate resources; and application of ethical principles
- HOWEVER, each area focuses on these principles through a different lens:
  - What does Compliance focus on?
    - Compliance focuses on effective operation within established legal requirements
  - What does Risk focus on?
    - Risk focuses on prevention and mitigation
  - What are some principles influence the ethical lens?
    - Autonomy, beneficence, nonmaleficence, fidelity/veracity, and justice/fairness
    - Ethical principles focus more directly on patients than compliance or risk
    - The ethical principles are directly related to organizational culture and support compliance and risk

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## FILMING: SCENARIO 1

### THIS IS MY EMERGENCY, TAKE CARE OF IT NOW!

You are the Chief Compliance Officer of a 100-bed hospital. It is late Friday afternoon before a three day weekend and you are thinking of ending your day an hour early so that you can get a head start on your weekend. Just as you are about to log off of your computer, the Chief Operations Officer (COO) calls.

Apparently, the Chief Operations Officer of a sister hospital just told your COO about a potential HIPAA concern with one of the physicians working for your hospital. Your COO explains that the other COO claims the physician inappropriately took a picture of a patient's wound. Your COO demands that you contact Human Resources immediately so that the physician can be disciplined. Once the COO tells you the identity of the physician, you realize that this physician is not only a good friend of yours, but is also your mother's podiatrist.

How should you proceed?

## SCENARIO 1 — BREAKDOWN

### SUMMARY: COO DEMANDS THAT YOU DISCIPLINE A PODIATRIST

- Understanding business partners' and patients' needs
- Open communication
- Education on conflicting regulations or requirements
- Resource restrictions and abilities
- The influence of ethics



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## FILMING: SCENARIO 2

### JUST LET IT GO!

You are the Chief Risk Officer. You are attending a teleconference call discussing the status of an upgrade to the hospital's patient portal. After the teleconference ends, your Chief Compliance Officer (CCO) visits you.

After you two discuss the progress of the project and conclude that Risk and Compliance do not need to attend future calls, the Director of one of the hospital's clinics walks into your office. The Director explains that she is unimpressed with the layout of the patient portal and feels that patients will not be able to use it. She also adds that she is irritated with the project manager, because he blamed her for missing a deadline on a different project last year. After the Director asks you to follow up with the project manager, the CCO reminds you that the patient portal has already missed its launch deadline and that it is costing much more to implement than originally projected.

How should you proceed?

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## SCENARIO 2 — BREAKDOWN

SUMMARY: DIRECTOR HAS CONCERNS WITH PATIENT PORTAL/ PROJECT MANAGER

- Understanding business partners' and patients' needs
- Open communication
- Education on conflicting regulations or requirements
- Resource restrictions and abilities
- The influence of ethics



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## FILMING: SCENARIO 3

I'M FRUSTRATED, SO I'M GOING TO TAKE IT OUT ON YOU!

You are the Chief Compliance Officer. You and the Chief Risk Officer, are attending a meeting with several members of management and a few health care providers. The purpose of the meeting is to introduce several enhancements and changes to the Electronic Medical Record System (EMR).

After the Chief Information Officer explains that the EMR now has additional options for patients to select gender, a CRNA sitting in the room raises his hand and asks if this is a necessary update. After the Chief Operations Officer explains that this is a legal requirement, the CRNA expresses that he is irritated with these numerous regulatory updates, such as required Model of Care Training from various health plans. The CRNA then explains that patients' gender really does not affect his work, so he does not understand why this is now necessary.

Should you and the Chief Risk Officer address the CRNA?

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## SCENARIO 3 — BREAKDOWN

### SUMMARY: CRNA APPEARS TO BE UNACCEPTING OF EMR UPDATE

- Understanding business partners' and patients' needs
- Open communication
- Education on conflicting regulations or requirements
- Resource restrictions and abilities
- The influence of ethics



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## FILMING: SCENARIO 4

### THE PERPETUAL BEARER OF BAD NEWS?

After a routine audit, an internal compliance auditor notices that a medical assistant has been using an outdated patient packet. After informing the medical assistant that she is using the wrong packet, he also informs her that he is unable to find the PPACA §1557 notice with taglines.

The medical assistant tells the auditor that this is not a priority for her, but she will handle it at the end of the day. When the auditor tries to explain the importance of having updated forms and notices, the medical assistant states that this is not a big deal since all of the patients in the clinic speak English. She then explains that she normally is not responsible for organizing patient intake forms or managing the clinic's notices. Lastly, the medical assistant also adds that since the employee responsible for those items quit, she has had to temporarily be responsible for these things that are not a part of her job description.

What should the compliance auditor do?

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## SCENARIO 4 — BREAKDOWN

### SUMMARY: MEDICAL ASSISTANT UNABLE TO PRODUCE UPDATED PACKET AND NOTICE

- Understanding business partners' and patients' needs
- Open communication
- Education on conflicting regulations or requirements
- Resource restrictions and abilities
- The influence of ethics



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## FINAL THOUGHTS

- With “Sharknados,” it’s never a case of if, but when
- Also, much like the franchise, these “Sharknados” do have sequels
- Preparation, preparation, and preparation!
- Don’t be scared to collaborate with your “ohana”
- “Nobody puts Baby in a corner.” – *Dirty Dancing*, 1987
  - Don’t be scared to speak up if you feel that a “sharknado” is imminent
  - Sometimes you need to think outside of the box, which can be intimidating



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## CAST

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