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2020 Midwestern Virtual Bankruptcy Institute

Crisis Management in Bankruptcy: Dealing with a Dangerous World *Sponsored by MorrisAnderson*

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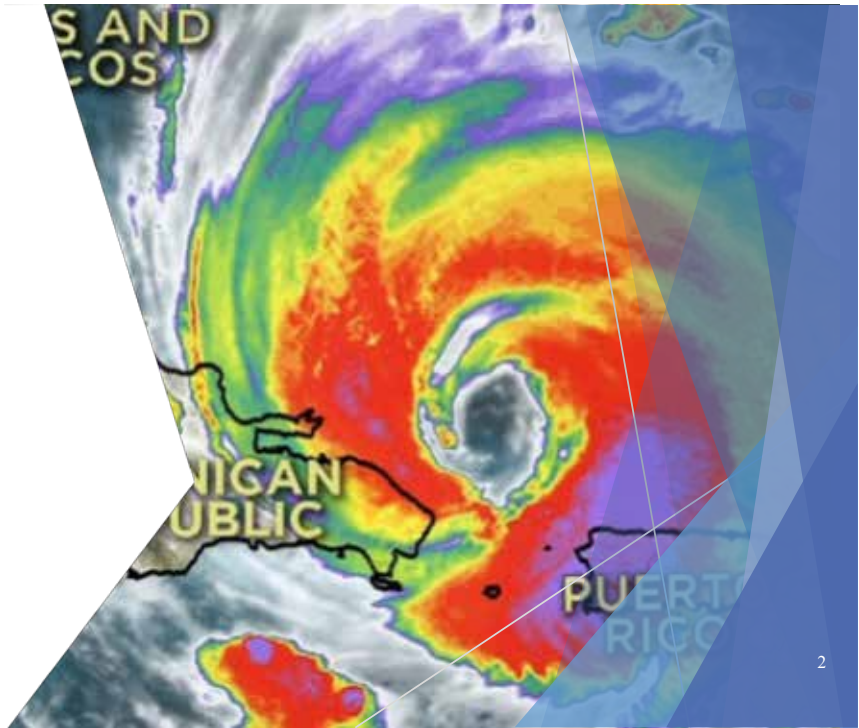
Crisis Management in Bankruptcy: Dealing with a Dangerous World

By: Chief Judge Mildred Cabán
Sharon L. Stolte
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POLL QUESTION

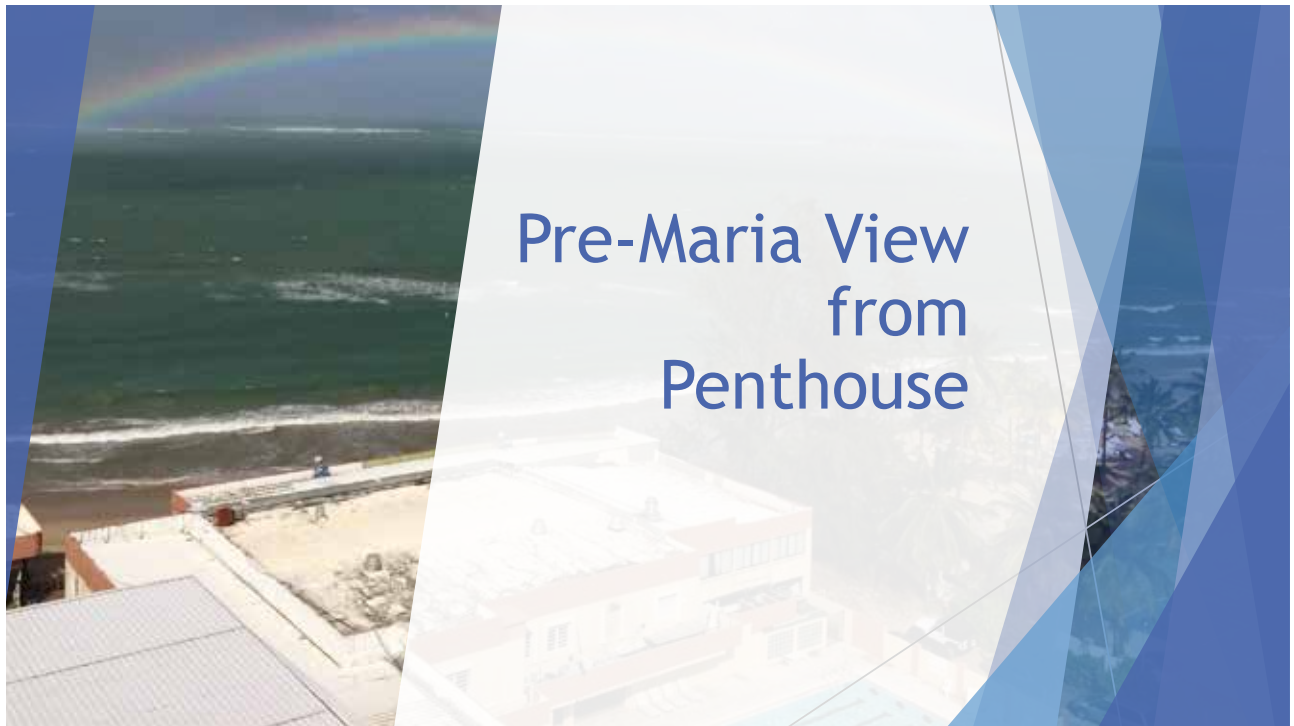
- ▶ Have you experienced a natural or man-made disaster?
 - ☐ Yes
 - ☐ No
 - ☐ Unsure

HURRICANE MARIA



PUERTO RICO









DISASTER PREPAREDNESS

Step One: Before the Disaster

PLAN TO BE SAFE:
Create a disaster plan by
deciding how you will
communicate in an emergency





Step 2: DURING THE DISASTER

- ▶ SURVIVE
- ▶ BE CALM
- ▶ STAY SAFE
- ▶ RESPOND TO WARNINGS
- ▶ STAY INFORMED

Step 3: AFTER THE DISASTER

- ▶ KEEP SAFE AND TAKE CARE OF OTHERS
- ▶ FOLLOW INSTRUCTIONS
- ▶ REPORT ANY DAMAGES
- ▶ STAY INFORMED
- ▶ ESTABLISH COMMUNICATION
- ▶ WAIT AND WATCH
- ▶ UPDATE

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POLL QUESTION

- ▶ How often do you review your plan?
 - ☐ Every 1-2 years
 - ☐ Every 4-5 years
 - ☐ Never
 - ☐ After a disaster event

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ABA FORMAL OPINION 482

ETHICAL OBLIGATIONS RELATED TO DISASTERS

September 19, 2018

Standing Committee on Ethics & Professional
Responsibilities

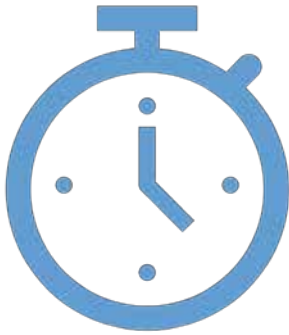
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MR 1.4 Communicate with Client

TIP — CREATE REDUNDANCY

- ▶ Paper list of client contact info
- ▶ Stored electronically
- ▶ Your emergency contact info in the engagement/retainer



MR 1.3 Reasonably Diligent & Prompt

- ▶ Be aware of any extensions of deadlines or rescheduling of hearings
- ▶ Checkout the court's website
- ▶ Call the Clerk's Office
- ▶ Visit the Courthouse



MR 1.1 Competent MR 1.16(a)(2) or (b)(7)

- ▶ "The lawyer's physical or mental condition materially impairs the lawyer's ability to represent clients" or for "other good cause."
- ▶ Assess the needs of the client for immediate services and the lawyer's ability to provide those services on a timely basis
- ▶ Withdraw from legal representation



MR 1.15 Safekeeping of Property

- ▶ Protect documents, funds & property
- ▶ Beware of just paper files/documents or just electronic files on local computer/server

TIP – CREATE REDUNDANCY

- ▶ Return originals at the end of representation
- ▶ Duty: For intrinsic docs = duty to communicate
- ▶ For non-intrinsic docs = Answer honestly if asked

Displaced Lawyers

ABA M.R. On Provision of Legal Services Following
Determination of Major Disaster
R. 4-6.6 of the Supreme Court of Missouri

Determination of major disaster

- ▶ By the highest court of the impacted jurisdiction
- ▶ May provide legal services
- ▶ Related to that lawyer's practice pre-disaster

Temporary basis to practice:

- ▶ 60 days after the court declare that the conditions have ended

Helpful Lawyer

ABA M.R. On Provision of Legal Services Following Determination of Major Disaster

The Missouri Legal Services Disaster Manual

Pro bono basis
Assigned & Supervised through

- ▶ Legal Services
- ▶ Public Interest Organization
- ▶ Law School Clinic
- ▶ Certified Pro bono Program
- ▶ Court designated Organization

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M.R. 7.1 - 7.3 AVOID IMPROPER SOLICITATION

The Florida Bar v. Wolfe, 759 So.2d 639 (Fla. 2000)

Attorney Grievance Comm'n of MD v. Lipowitz, 355 Md. 752 (1999)

In re Ravich, 155 N.J. 357 (1998)

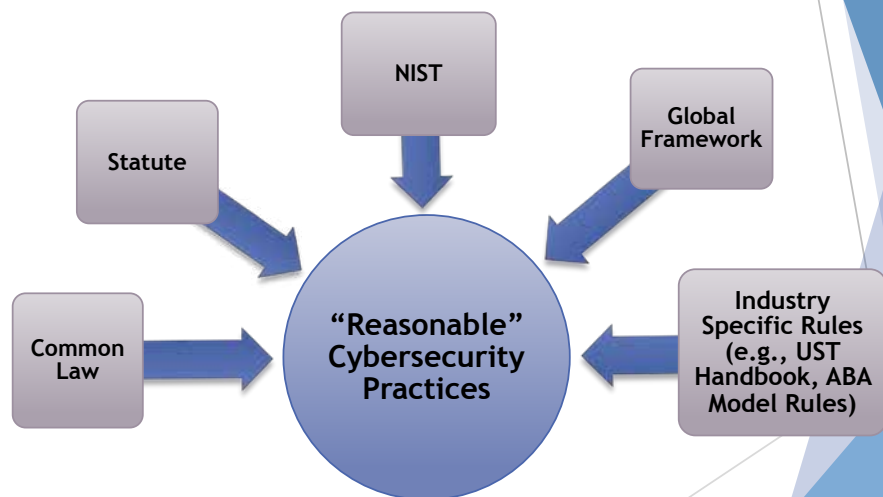
DO NOT:

- ▶ Pass out brochures
- ▶ Set up a mobile office
- ▶ Go to the shelter/hotel to give legal talk; pass out business cards; or make list of potential clients

“STAY INFORMED, STAY CONNECTED, STAY SAFE!”

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What are the Standards of Care for Insuring Data Security?



Ethical Obligations



M1.1RPC Rule



MRPC Rule 1.6



MRPC Rule 5.3
(Cmt. 3)

Amended Model Rule 1.1

- ▶ “To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology.”
 - ▶ Practically speaking, “[t]his provision will require lawyers to better understand any advances in technology that genuinely relate to competent performance of the lawyer’s duties to a client.”

The Scope of the Duty of Confidentiality

- ▶ The duty of confidentiality is far broader than the narrow duty underpinning the attorney-client privilege
 - ▶ A lawyer owes a duty of care in protecting the confidences of a client, even those of a prospective client with whom no attorney-client relationship is formed. See ABA Comm. on Ethics and Professional Responsibility, Formal Op. No. 90-358, Sept. 13, 1990.
 - ▶ *United States v. Morrell-Corrada*, 343 F. Supp. 2d 80, 88 (2004).

ABA Model Rule 1.6(c)

- ▶ Imposes a duty of confidentiality, which includes protection of client information.
 - ▶ "a lawyer shall make reasonable efforts to prevent ... the unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client."
- ▶ Comment 18 provides that:
 - ▶ Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to forgo security measures that would otherwise be required by this Rule

Limits of a Lawyer's Duties Under-Model Rule 5.3

- ▶ “A lawyer's duty is to take reasonable steps to protect confidential client information, not to become an expert in information technology,” and “[w]hen it comes to the use of cloud computing, the Rules of Professional Conduct do not impose a strict liability standard.”
 - ▶ The New Hampshire Bar

ABA Formal Opinion 477

- ▶ Seven factors to consider when determining the appropriate level of cybersecurity:
 - ▶ The nature of the threat.
 - ▶ How client confidential info is stored and sent
 - ▶ The use of reasonable electronic security measures.
 - ▶ How electronic communications should be protected.
 - ▶ The need to label client information as privileged and confidential.
 - ▶ The need to train lawyers and nonlawyer assistants.
 - ▶ “The need to conduct due diligence on vendors who provide technology services. Guidance in this regard can be found in ABA Formal Opinion 08-451.
- ▶ ABA Formal Opinion 477
<https://www.americanbar.org/content/dam/aba/images/abanews/FormalOpinion477.pdf>

Adapting to New Technologies



- ▶ Professionals must inform themselves of the risks of inadvertent or unauthorized disclosure of client's cyber data and take reasonable and information-appropriate measures to reduce those risks

Extra Security Measures are Appropriate

- ▶ Compliance with minimum standards of any kind--including those delineated in ethics rules--should only be a starting point for effective cybersecurity practice"
 - ▶ The ABA Cybersecurity Handbook

It's Not Just the Law Firm Anymore

- ▶ “To reflect the scope of the nonlawyer services now being provided outside of firms,” Model Rule 5.3’s commentary now references “cloud computing” as an example of modern outside help.



Supervising Third Parties

- ▶ A law firm’s data security practices are only as strong as its weakest link
- ▶ Lawyers must make sure that law firm staff and external business partners understand necessary data security practices and the critical role all parties play in ensuring the protection of client information

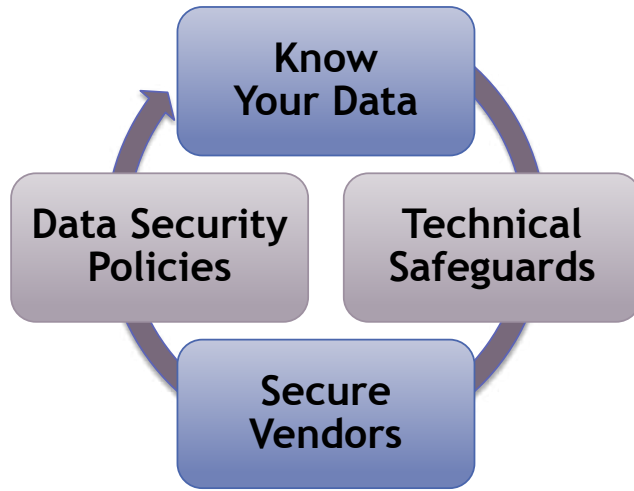
Client Audits

- ▶ Clients (especially in highly regulated industries) are insisting that their lawyers take appropriate measures to protect proprietary, regulated, or confidential information

Personally Identifiable Information (PII)

- ▶ Safeguarding personally identifiable information in the possession of the government and preventing its breach are essential to ensure the government retains the trust of the American public
 - ▶ OMB memorandum Safeguarding Against and Responding to the Breach of Protecting Personally Identifiable Information (May 22, 2007)

Protecting Valuable Client Information



Breach & Breach Reporting

What is a breach?	How does a breach occur?	Now what?
<ul style="list-style-type: none"> • Hacking • Phishing • Malware • Theft • Misuse 	<ul style="list-style-type: none"> • Motive • Opportunity • Weak security • Weak policies 	<ul style="list-style-type: none"> • Respond quickly • Respond appropriately • Preserve evidence

Why We Should Be Careful Using the Word “Breach”

- ▶ Using “breach” to describe a data-privacy related incident assumes the incident meets the definition of a security breach which triggers various notification requirements
- ▶ An “incident” does not always rise to the level of “breach” (i.e., encryption safe harbor)
- ▶ “Incident” is better received by the public than “breach”

Who Should Be On Your Incident Response Team?

- ▶ Because the issue impacts almost every component of the organization, and failure to properly manage can result in both long and short term consequences, the team should include “C” level decision makers in the following areas:
 - ▶ Legal
 - ▶ IT
 - ▶ Risk management/insurance
 - ▶ HR
 - ▶ Marketing
 - ▶ Public relations
 - ▶ Compliance & internal audit
 - ▶ Physical security
 - ▶ Other executive, as appropriate
 - ▶ Third party response services (e.g., forensics, privacy counsel, notification)

Steps in a Breach Response

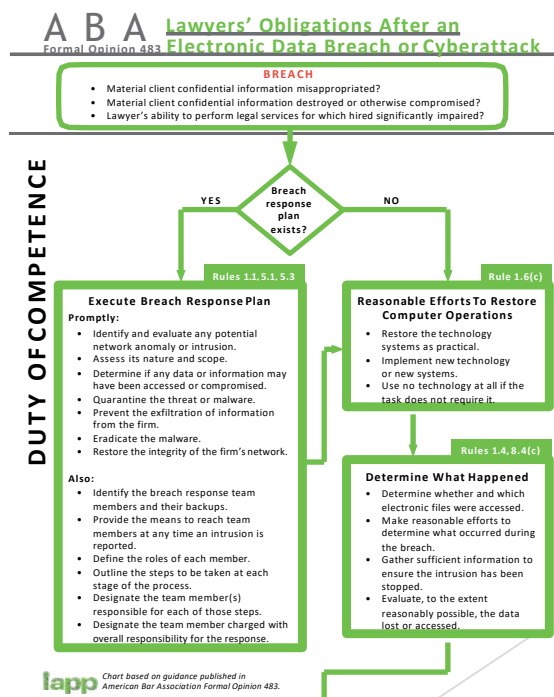
Discovery & Reporting	<ul style="list-style-type: none"> • Identify the incident or potential incident. • Immediately report the incident or threat to the proper party. • Secure and isolate affected systems to limit further data loss.
Initial Response	<ul style="list-style-type: none"> • Preserve evidence. Convene the Incident Response Team in accordance with this Plan. • Know your role. Coordinate investigation and remediation. • Gather information on the incident.
Investigation	<ul style="list-style-type: none"> • Consider involving forensics team and outside counsel. • Analyze the cause of the incident and the affected systems. • Analyze legal requirements and liabilities going forward.
Remediation	<ul style="list-style-type: none"> • Comply with legal requirements including breach notification. • Remove known vulnerabilities; repairing systems. • Respond to third party inquiries. Consider contacting law enforcement.
Post-Incident Review	<ul style="list-style-type: none"> • Review analysis and notes regarding the incident. • Improve practices as necessary. • Improve policies as necessary.

ABA Formal Opinion 483

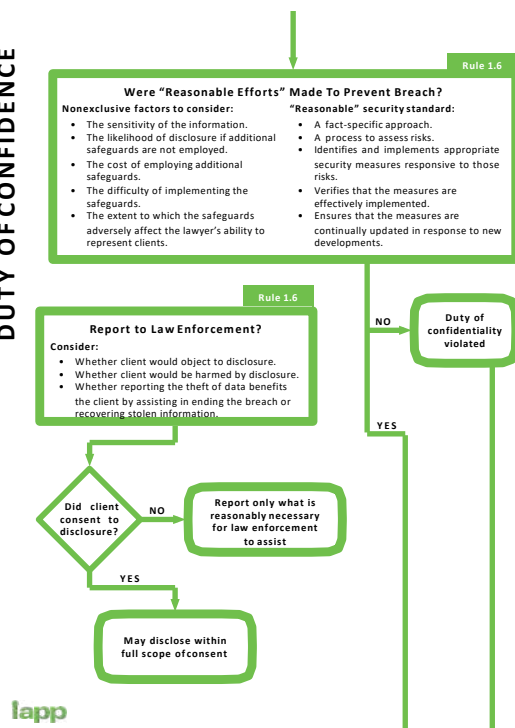
- ▶ Lawyers' Obligations After an Electronic Data Breach or Cyberattack
 - ▶ data breach occurs when "material client confidential information is misappropriated, destroyed, or otherwise compromised, or where a lawyer's ability to perform the legal services for which the lawyer is hired is significantly impaired."
 - ▶ ethical violation when "a lawyer does not undertake reasonable efforts to avoid data loss or to detect cyber-intrusion, and that lack of reasonable effort is the cause of the breach."

ABA Formal Opinion 483

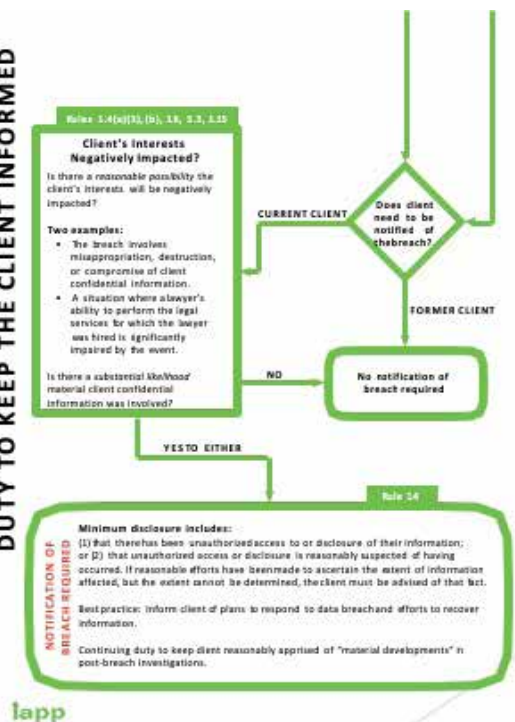
- ▶ Need Reasonable Efforts to Prevent Against Breach
 - ▶ Monitoring
 - ▶ Creation of Incident Response Plan
 - ▶ Restoration of operations to resume/continue client service
 - ▶ Determine cause of breach and impact on client data
- ▶ Obligation to Provide Notice of Breach
 - ▶ Ethical obligation to inform current clients of a breach that involves or likely involves material client confidential information
 - ▶ Advise client regarding response plan, efforts taken to recover data, and any additional measures implemented to prevent future breach
 - ▶ May also implicate state breach response laws



DUTY OF CONFIDENCE



DUTY TO KEEP THE CLIENT INFORMED



Business Resiliency During COVID- 19 Pandemic

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Initial Steps

- 1 Maximize Cash
- 2 Develop Vendor Strategy
- 3 Evaluate Legal Protections

1

Maximize Cash – Understand Loan Documents

- ▶ When updating a company's financial forecasts and models in the coming weeks and months, it is important to understand the loan documents governing the line of credit and the impact changes to a company's financial outlook may have on its line of credit. It is critical to complete a detailed review of the loan documents (and particularly any financial covenants that govern drawing on or maintaining the loan) so that potential breaches of financial covenants can be identified early on that, if unaddressed, could impair the company's ability to satisfy the conditions required to access the line.

1

Maximize Cash – Communicate with Lenders

- ▶ Now more than ever, it is critical that companies maintain a strong relationship and open communication with their lender. Being able to identify potential issues early and work with lenders to develop collaborative solutions will allow a company to maintain its access to capital. Particularly if covenant breaches or other defaults are anticipated, it is important to be communicative and transparent with lenders in order to develop a plan to address these issues before they become impediments to borrowing (such as through requesting waivers or extensions, or for more significant or multiple breaches, requesting modifications to key covenants and loan terms).

1

Maximize Cash — Assess Conditions on Borrowing

- ▶ Committed credit facilities almost universally contain conditions precedent, which the company must satisfy in order to contractually obligate the lender(s) to fund a requested advance on the line of credit. Therefore, it is critical for companies to understand these funding conditions to ensure that the company will be able to satisfy them in order to borrow on the line and manage key timing considerations. For example, it may become clear through new financial information that the company will not be able to satisfy a certain condition in the near future, which could necessitate the company needing to borrow earlier rather than later before a default may result in restricted access to the line.

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1

Maximize Cash — Assess Conditions on Borrowing (cont'd)

- ▶ Customary conditions on borrowing include (1) the absence of defaults, including compliance with affirmative and negative covenants, and (2) the accuracy of the representations and warranties contained in the loan documents, including representations as to the continued solvency of the company, and the absence of events, conditions (financial or otherwise), or changes that have had or could reasonably be expected to have a material adverse effect on the company. The determination of a material adverse effect is very fact specific analysis, so the elements of this defined term in the loan documents should be carefully reviewed. For companies that are borrowing under an asset-based loan, there are often additional conditions precedents, covenants, and lender requirements that will need to be met in order to receive an advance.

2

Develop Vendor Strategy

- ▶ Extend vendor payments to maximum acceptable terms.
- ▶ Determine which vendors are critical to continued operation of the business. Prioritize payments to these vendors.
- ▶ Consider how you will respond to signs of distress from key parties, including lenders, suppliers, lessees, and vendors to minimize adverse impacts on your operations.

2

Develop Vendor Strategy – Payment Processor Reserves

- ▶ Payment processors often require businesses (merchants) to maintain a stipulated minimum balance in a reserve account, to protect themselves against payments-related risks. These reserve requirements are sometimes stipulated up front for low-volume merchants but more commonly are put in place (or increased) as a result of the occurrence of certain triggering event.

3

Evaluate Legal Protections – Force Majeure

- ▶ A global pandemic such as COVID-19 would seem likely to qualify as an event which is unforeseeable and beyond the parties' control, but the inquiry does not stop with the nature of the event. Rather, the key is the specific impact on the contracting parties, and in particular, whether performance is truly prevented versus made more difficult or expensive. Absent express contractual language, changes in market conditions or economic hardship are likely to be insufficient to establish force majeure, even if they are the result of some unforeseen or uncontrollable event.

3

Evaluate Legal Protections — Material Adverse Changes

- ▶ Material adverse change clauses may excuse the delay, postponement, or even the termination of contractual obligations.
 - ▶ The party invoking the clause is subject to a heavy burden.
 - ▶ Requires unanticipated event that could not have been foreseen or guarded against in the contract.
 - ▶ Adverse change must be material, e.g., pose a substantial threat to a party's financial condition in a durationally significant manner

Continuing Actions

1

Establish Clear Communications

2

Evaluate Supply Chain Vulnerabilities

3

Consider Restructuring Alternatives

Taking Care of Your Mental Health

Mental health is an important part of overall health and wellbeing. It affects how we think, feel, and act. It may also affect how we handle stress, relate to others, and make choices during an emergency.

People with pre-existing mental health conditions or substance use disorders may be particularly vulnerable in an emergency. Mental health conditions (such as depression, anxiety, bipolar disorder, or schizophrenia) affect a person's thinking, feeling, mood or behavior in a way that influences their ability to relate to others and function each day. These conditions may be situational (short-term) or long-lasting (chronic). People with preexisting mental health conditions should continue with their treatment and be aware of new or worsening symptoms.

Signs and symptoms of stress

- ▶ Difficulties with sleep
- ▶ Low energy and motivation
- ▶ Sadness
- ▶ Nervousness
- ▶ Difficulties with concentration
- ▶ Questioning one's abilities
- ▶ Feeling easily annoyed or irritable

Healthy ways to cope with stress

Know what to do if you are sick and are concerned about COVID-19. Contact a health professional before you start any self-treatment for COVID-19.

Know where and how to get treatment and other support services and resources, including counseling or therapy (in person or through telehealth services).

Take care of your emotional health. Taking care of your emotional health will help you think clearly and react to the urgent needs to protect yourself and your family.

Take breaks from watching, reading, or listening to news stories, including those on social media. Hearing about the pandemic repeatedly can be upsetting.

Take care of your body.

- Take deep breaths, stretch, or meditate

- Try to eat healthy, well-balanced meals.

- Exercise regularly.

- Get plenty of sleep.

- Avoid excessive alcohol and drug use.

Make time to unwind. Try to do some other activities you enjoy.

Connect with others. Talk with people you trust about your concerns and how you are feeling.

Helping children deal with stress

► Depending on the age and personality of the child, stress can be handled differently. Children may show:

- Defiance
- Disrespect
- Complaining
- Fighting
- Not wanting to leave your side
- Ignoring

► Helping children cope with a crisis includes:

- Using words to describe what they are feeling
- Encouraging slow, deep breathing
- Coming up with a list of fun activities to do when they are worrying or scared
- Finding a spot/room where the child/teenager can go when they need a “calming time” and it is just theirs
- Keeping to a routine/structure
- Finding new fun and creative projects to do as a family but also individually

THANK YOU

What are lawyers to do in a major disaster?

Written by: Hon. Mildred Cabán
U.S. Bankruptcy Court
San Juan, Puerto Rico

Disaster, whether natural or man-made, could happen to anyone, at any time or place. A lawyer could be faced with the reality of property damage, no electricity or no internet connection. Along with trying to resume business activities, there may be concerns with obtaining basic provisions such as water, food and fuel. Many lawyers in the District of Puerto Rico faced these hardships and much worse during the wake of Hurricane Maria. Some were displaced temporarily due to lack of necessities in order to protect and to provide for their families. Others helped each other during the crisis.

I hope that no one suffers the fury of a weather phenomenon or encounters an unexpected man-made emergency. The reality is that we are not immune to emergencies. While we may not be able to prevent disasters, we can take measures to protect our families, property and workplace. I ask the following questions---Are you ready? Is your workplace prepared? Do you know your ethical responsibilities before and after a disaster strikes?

After the devastating hurricanes and wildfires of 2017, the Standing Committee on Ethics and Professional Responsibility of the American Bar Association (ABA) released a formal opinion on ethical obligations related to disasters in order to help lawyers understand their duties when a disaster strikes.¹ Communication is one of the starting points for recovery in the aftermath of a disaster. The opinion reminds lawyers of their duty to communicate with clients. Rule 1.4 of the ABA Model Rules of Professional Conduct requires that “[a] lawyer shall...keep the client reasonably informed about the status of the matter” and “promptly comply with reasonable request for information.”² Model Rule 1.3 mandates that lawyers shall act with reasonable diligence and promptness in representing clients. After a disaster occurs, the federal courthouse and the clerk’s office may be temporarily inaccessible. The courts generally issue orders suspending or extending deadlines, including prescriptive and preemptive periods. Hearings may have to be rescheduled due to the emergency conditions. The Rules do not allow lawyers to be disconnected from their clients and their cases, even after a disaster has occurred.

To avoid becoming a disconnected lawyer, the ABA Opinion recommends that lawyers maintain a paper list of current clients and their contact information as well as having this information stored in a manner that is easily accessible. Lawyers cannot rely solely on having the information in the computer or “in the cloud” because telecommunications could fail, or systems can be damaged in a disaster. “If Internet access to files is provided through a cloud service, the lawyer should (i) choose a reputable company, and (ii) take reasonable steps to ensure that the confidentiality of client information is preserved, and that the information is readily accessible to the lawyer.”³ By the same token, lawyers cannot just have the information on paper due to the possibility of water, wind or fire damage. The key to preserving clients’ data is redundancy, by having important information stored electronically and on

¹ ABA Comm’n on Ethics and Prof’l Responsibility, Formal Op. 482 (2018)[hereinafter referred to as “ABA Opinion”].

² Unless expressly stated otherwise, all references to “Rule” or “Model Rule” shall be to the ABA Model Rules of Professional Conduct as amended by the ABA House of Delegates through 2018.

³ ABA Opinion at 4.

paper. Another suggested tip for maintaining communication is to include the lawyer's emergency contact information in the fee agreement or engagement letter.

Prior to any disaster, lawyers need to protect documents, funds and other property that are held for clients or third parties.⁴ Client files and documents may be lost or destroyed in an impacted area. Responsibilities will depend on the status of the affected clients and the nature of the stored document. There is a duty to communicate with current and former clients regarding the loss of documents with intrinsic value, such as original executed wills, etc.⁵ When a current client or former client requests information about their documents (whether having intrinsic value or not), the lawyer must be forthcoming and answer honestly.⁶ The ABA Opinion recommends that lawyers "should consider returning all original documents and documents with intrinsic value created by the lawyer as a result of the representation to clients at the end of the representation to avoid [making reasonable efforts to reconstruct lost documents of intrinsic value]."⁷

Even under dire circumstances, like power and telecommunication failures, lawyers must "make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of the client," as required by Model Rule 1.6(c). Competent representation means that a "lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology," as espoused in Comment 8 of Model Rule 1.1. Lawyers must keep up with technology as it impacts their law practice and thus cannot afford to stay in the dinosaur era.

If the law office or the lawyer suffers damages or injuries from a disaster that impacts the ability to represent clients, then the lawyer may have to withdraw from those legal representations. Model Rule 1.16(a)(2) or (b)(7) requires withdrawal of legal representation when "the lawyer's physical or mental condition materially impairs the lawyer's ability to represent clients" or for "other good cause." Part of the recovery stage is assessing the needs of the client for immediate legal services and the lawyer's ability to provide those services on a timely basis.

Displaced lawyers who are considering practicing law outside their jurisdiction need to proceed with caution. The ABA Model Rule on Provision of Legal Services Following Determination of Major Disaster indicates that the displaced lawyers "may provide legal services in [another] jurisdiction on a temporary basis ... if permitted by the highest court of the ... jurisdiction."⁸ This rule has not been adopted in all jurisdictions. For example, after Hurricane Harvey in 2017, the Texas Supreme Court adopted certain requirements that were like the ABA Model Rule.⁹

On the other side, lawyers from unaffected jurisdictions who may want to provide legal services to survivors may do so, only if they are allowed by the affected jurisdiction's law, rules or by order of the highest court. The ABA Opinion provides some guidance regarding pro bono representation of survivors through a non-profit bar association, pro bono program, legal services program or any other entity

⁴ ABA Model Rule 1.15(a).

⁵ See Model Rules of Prof'l Conduct R. 1.4 (2018); NY City Bar Ass'n Formal Op. 2015-6 (2015).

⁶ NY City Bar Ass'n Formal Op. 2015-6 (2015).

⁷ ABA Opinion at 9.

⁸ ABA Model Court Rule on Provision of Legal Services Following Determination of Major Disaster, at 1-2 (2007).

⁹ Amended Emergency Order After Hurricane Harvey Permitting Out-of-State Lawyers to Practice Texas Law Temporarily, Misc. Docket No. 18-9029 issued by the Supreme Court of Texas on February 26, 2018.

designated by the courts in the impacted jurisdiction. Lawyers should remember that they are still bound by rules on advertising and solicitation even in the aftermath of a disaster.¹⁰

During difficult and literally dark times, lawyers need to keep calm and be optimistic. Do not become hardened and bitter. Be civil to your opponent especially if you have all the benefits of electricity, internet and no damages, but your opponent does not. Six weeks after Hurricane Maria, our courthouse was reopened for hearings. In the first case on the calendar, all the attorneys appeared, and they had filed a joint motion. After discussing the issues of the case, I thanked them for being prepared under the horrific circumstances that we all faced. The lawyers then began to explain their individual circumstances of either not having electricity, internet or both. They thanked the one attorney who had these vital services and opened his office to the attorneys to discuss the case and file their joint motion. In another case, one chapter 7 trustee was grateful to his fellow trustee who allowed him to work from his office so that he could fulfill the responsibility of administering his bankruptcy estates. That day and many other days, my face beamed with joy and pride with the civility displayed by the members of the bar in our district.

Therefore, before any disaster happens, lawyers need to have a plan to continue with their law practice and to protect their clients' files. If there is a plan in place, please be sure to update it and practice it. After surviving a traumatic experience, lawyers must comply with ethical responsibilities by maintaining competence and diligence in providing legal services to clients who are suffering, too.

Be safe, keep calm, maintain a healthy disposition and work ethically before and after a disaster.

¹⁰ ABA Model Rule 7.3. See *The Florida Bar v. Wolfe*, 759 So.2d 639 (Fla. 2000)(Lawyer suspended for one year for soliciting clients by passing out brochures in affected areas in wake of tornados.).

EMERGENCY PREPAREDNESS, RESPONSE AND RECOVERY

By Chief Judge Mildred Cabán

An emergency - whether man-made or a natural disaster - may impact your area. A significant emergency may cause the courthouse and your workplace to close for a temporary or an extended period. The reopening of the courthouse doors to the public is vital for a stable society. The reopening of your law practice is important for your livelihood.

After an emergency, the goal is to reopen the courts and your law practice as soon as practicable. Having the courthouse doors open as soon as possible is essential for protecting individuals, families, businesses and public institution as well as maintaining social stability. 28 U.S.C. § 452 (“All courts of the United States shall be deemed always open for the purpose of filing proper papers, issuing and returning process, and making motions and orders. . .”). For example, issues of personal safety, due process and property rights may need to be addressed in the immediate aftermath of an emergency. Parties whose claims are bound by statute of limitations need access to the courts to protect their interests. When necessary, courts may issue orders tolling and extending deadlines. The court provides a service to a public that may need immediate access, especially in the face of disasters or acts of terrorism.

The best way to reopen your law practice, protect life and property after a disaster is through preparation. By being prepared, we are better able to respond in any emergency whether manmade or a natural disaster and to recover from its impact.

ASSESSMENT

The first step in protecting life and property is to assess what risk(s) your location may be exposed to in the future. Disasters come in many forms. Your area may be exposed to one or more risks of emergency disaster. For example, California is exposed to wildfires and earthquakes. Other areas, like Texas, Louisiana, Florida and Puerto Rico, are exposed to certain risks on a seasonal basis like tornados and hurricanes. Your area may also be located in a flood zone area. Other jurisdictions have experienced terrorist attacks, like New York and Oklahoma. Moreover, in today’s modern world we can face disasters in the form of diseases, like the current COVID-19 pandemic.

PREPAREDNESS FOR EMERGENCY/DISASTER

After you have assessed the risk(s) that your area may be exposed to, then the next step is to prepare as best as you can under the circumstances. Preparation involves gathering information about hazards, creating a plan, practicing and maintaining your plan.

All courts are required to have an updated Occupant Emergency Plan (OEP) and a Continuity of Operations Plan (COOP) in place for their court facilities. All individuals should have a Family Plan. Law firms and solo practitioners should also have business continuity/disaster recovery plans.

These plans should be periodically reviewed, especially after an incident. In Puerto Rico, the Bankruptcy Court established a COOP plan in 2008 with the most recent revision in 2018 after the devastating hurricane season of 2017. Not only was it revised but our district created a hurricane guide for the District Court, the Bankruptcy Court, the U.S. Probation Office, and the Federal Public Defender Office. If your area is prone to a potential risk, then consider developing a guide for that potential risk.

OCCUPANT EMERGENCY PLAN

A plan should contain the actions or procedures to be taken during an emergency at your workplace. Plans, like the Occupant Emergency Plan, involve recognition, reaction and reporting:

Recognize

- Situations that could lead to, or become, an emergency
- Actual emergency situations

React

- To ensure your safety and others

Report

- To proper authorities from a safe location.

Generally, an OEP covers the following types of emergencies: HAZMAT spills/releases, natural disasters, evacuations, shelter-in-place, medical emergencies, fire, bomb threat, chemical/biological/radiological attack, cyber-attack, utility loss (blackout), and civil unrest. The plan serves to reduce the threat to personnel, property and other assets within the facility in the event of an incident inside or immediately surrounding a facility by providing protocols for occupants to follow.

Designated employees are assigned to undertake certain duties to ensure that personnel are moved quickly to safety, that property damage is minimized and that the proper authorities are notified in the event of an emergency.

BUSINESS CONTINUITY PLAN

Unlike the Occupant Emergency Plan, the Business Continuity Plan is designed to continue work operations after an emergency incident. It is triggered when the facility is not operational.

All court personnel should be aware and have access to a copy of the OEP. This plan provides up-to-date contact rosters for first responders and essential contacts.

TIPS: Place important phone numbers in your contact list on your mobile phone and have a printed paper form that is accessible in multiple locations such as your office and home. Do not rely completely on technology because the impacted area may be without electricity or internet service. Find out where your staff will take shelter and do not assume that they will be in their homes. Consider other communication methods or options because traditional communication methods may fail.

FAMILY PLAN

Every family should prepare and practice a family emergency plan. Like your work plans, the family plan should contain lists of contact information, work addresses, alternate meeting location, emergency numbers in your neighborhood as well as regional meeting places, school information, family information, medical contacts, insurance information and financial information.

PRACTICE

After preparing emergency plans, you need to practice them. For work, training should be conducted to ensure that personnel understand the emergency procedures and perform drills that provide an opportunity to practice emergency procedures to ensure efficient response in the event of a real emergency. For instance, in our district, it was discovered in a practice fire drill that a designated floor monitor was needed for the chambers wing of the building because the floor monitor could not cover the entire floor. With training and practice drills, a designated official, like a floor monitor, will be familiarized with their duties if an incident were to happen. Consider in your plans to designate alternates in the event the primary person is out of the office during the incident.

Although the most common training is a practice fire drill, consider other type of drills like sheltering in place or the type of drills that will better prepare you for the type of risks your area may be exposed.

TIPS: Timing yourself on how fast you can exit the building in the event of an emergency, like an active shooter.

Part of your business continuity procedures should include the possibility of remote or telework options to support operations. Periodically ensure that the staff is trained to telework in the event of an emergency that requires closing the facilities.

Practicing drills should not be limited to work. Your family plan should be shared and practiced by your family members. Consider where the family will meet if a disaster occurs.

No one should wait for an emergency to prepare themselves. Gathering supplies should form part of your emergency planning.

STOCK SUPPLIES

Verify emergency supplies and provisions for your office and home in case you are unable to leave your home and lose utilities.

Purchase emergency supplies for the type of incident your area is susceptible. For COVID-19, those emergencies supplies should be--face masks, face shields, hand sanitizers, alcohol swabs, disinfectant wipes, protective barriers, and/or temperature checks. For hurricane season, the emergency supplies are water, can food, dry food, flashlights, batteries, especially D batteries, duct tape, medical supplies, and basic sanitation materials as well as a generator and satellite phone.

Lawyers and their employees should prepare themselves and their properties. There are supplies that can be purchased in advance of any emergency. It is suggested that everyone have enough supplies, food and water for at least ten days. Attorneys should consider creating an intranet website for their employees. The intranet site should contain information regarding emergency preparedness that is accessible to staff. The intranet site could contain the latest information about potential risks your area is likely to encounter. For example, the site may provide information about epidemics, weather events, other natural disasters, or man-made disaster such as an active shooter or terrorism. You can place links to webpages from the Centers for Disease Control and Prevention and World Health Organization for COVID-19 and from FEMA for natural disasters.

GO-BAG

Prepare in advance a “go-bag” in the event of an evacuation order. The “Go-Bag” should be placed in your home, workplace and vehicle. Examples of COOP Go-Kit Categories are equipment, files, and/or reference materials that are needed to perform essential functions through telework or relocation to an alternate facility. Check out these sites for suggested

items to pack in your go-bag, http://inet.ao.dcn/sites/default/files/pdf/Go-Kit_Checklist_2008.pdf; <https://www.ready.gov/built-a-kit/>; <https://www.fema.gov/mobile-app>. An emergency preparedness bag may be purchased from the Red Cross or Amazon.

FINANCIAL PREPAREDNESS

Part of emergency planning is to have an emergency fund because disasters are costly. It is important to compile, review, safeguard and update important documents and paperwork. These could be destroyed by fire, water and wind.

Compile: Gather important documents and contacts. Use a checklist in identifying documents. Print or download statements of your obligations. Obtain originals or copies of important documents. Take photos or videos prior to the disaster. Keep cash in different amounts of dollar bills.

Review: Review Insurance policies. Consider purchasing flood insurance. Visit www.usa.gov/topics/family-homes/insurance.shtml for additional tips on homeowners and renter's insurance.

Safeguard: Store paper and electronic copies of all files in a safe location. Consider fireproof and waterproof box or safe. Store files in a password-protected format on a removable flash or external hard drive. Visit www.us-cert.gov/ncas/tips/st04-019 to learn how to use electronic encryption to protect sensitive information.

Update: Revisit your emergency financial first aid kit. See www.ready.gov/financial-preparedness. If your location is exposed to seasonal weather conditions, then the preparations should occur on or before the start of the season. September is emergency preparedness month. If your location is not exposed to seasonal weather conditions, here are some suggested schedule for routine review: September Preparedness Month, tax season, or the beginning of the new year.

SECURITY

You work facilities may be a potential target of attacks. It is important check that the security system is working in your workplace. The following items should be reviewed during the daytime and nighttime to ensure that they are functioning properly in and around the facility: cameras, video monitoring equipment, and lighting.

For your personal security, you should be alert and be aware while you are walking outside. Keep focus on your surroundings such as walking with purpose and confidence. Make casual eye contact with others. Keep your hands free; so, put away your cell phone when walking outside. Trust your instincts and ask for help.

Emergencies are not limited to the workplace and at home. Emergencies may occur while traveling abroad. The U.S. Department of State recommends that all travelers enroll in the Smart Traveler Enrollment Program (STEP). It is a free service that allows U.S. Citizens and nationals traveling abroad to enroll their trip with the nearest U.S. Embassy or Consulate. You will receive important information about safety conditions, help the U.S. Embassy contact you in an emergency, whether natural disaster, civil unrest, or family emergency and help your family get in touch with you in an emergency.

TIPS: All employees should know the location of their nearest fire alarm pull station and defibrillators.

WEATHER PROOFING

In preparing your workplace, consider covering your computers with plastic bags for an upcoming storm. In preparing your home, consider trimming limbs/trees, clearing clogged gutters, retrofit to secure and reinforce the roof, windows, and doors, including the garage doors and purchase a portable generator or install generator for use during power outages.

RESPONSE DURING THE EMERGENCY/DISASTER

During ongoing emergency or disaster, remember to be calm, stay safe, respond to warnings and stay informed.

Be Calm: The first basic rule is to remain calm. Panic is contagious. Being calm during the “storm” will have a calming effect on others.

Stay safe: Follow the safety protocols for that event. For instance, during an earthquake that is happening, remember to drop, cover and hold.

Respond to Warnings: Follow the instructions from local officials and from your emergency response team.

Stay informed: Keep listening to the radio, television or using mobile devices to get the latest update. For example, in a tropical storm, use a hurricane map and plot the coordinates of the storm from news report.

Consider the relocation of employees to reestablish or continue with essential functions during and after emergencies. For Hurricane Maria, the bankruptcy court happened to have a judge in New York City and the chief deputy clerk in Washington, D.C. who helped handle any emergency court filings and logistics. Generally, large law firms have satellites offices.

RECOVERY AFTER THE EMERGENCY/DISASTER

Follow Instructions: Follow the protocols established in the plan and wait for emergency announcements and instructions by the appropriate authorities. The appropriate officials designated in the plan will assess the impact on the facilities and staff.

Keep safe and take care of yourself: Check yourself for injuries before helping others who are disabled, injured, or trapped. Do not move seriously injured people unless they are in immediate danger or further injury. Do not leave the protected area unless other immediate hazards emerge. Contact the local or federal disaster relief service to help with immediate needs.

TIPS: Arrange for posttraumatic counseling services or debriefing sessions for your staff to help recover from the emergency incident. Medical plans generally provide these services for free to employees. These sessions can be conducted live and virtually.

Report any damages: Report any damages to work property so that needed repairs and/or recovery can commence. Report any damages to personal and real property to your insurance.

Stay Informed: Listen for current information. The local media will provide evacuation details and shelter locations. Make sure your battery-powered radio is functioning and maintain extra batteries for your radio and for your portable devices. There are rechargeable batteries and solar batteries that can be used for electronic devices.

Communication: Establish communication with staff and determine their welfare (i.e. food, water, transport, locating unaccounted for family members, etc.). Generally, traditional methods may be used to communicate with staff such as telephone, emails, or mobile phones. Depending on how telecommunications may be impacted in the area, you need to pursue other forms of communications, radio, television, emergency alert system, satellite phones, etc.

Establish communication with your staff, client and the judiciary. Consider multiple methods of communications such as blast emails, texts or news media. Your local courthouse may make wi-fi available for attorneys, if internet service is spotty or poor, as well as allowing paper filings, and even handwritten motions, if electricity services are down.

Build relationships with the federal, state and local emergency management agencies.

Wait and Watch: Wait until the area is declared safe before venturing outdoors. Wait before drinking tap water until officials declare the water supply is safe to drink. Watch for closed roads, weakened bridges and moving water on roads and on the ground. Watch and

avoid downed power lines and moving water. Wear appropriate clothing and footwear during debris removal.

Update: Review your plans after an incident and update with the lessons learned from the experience.

Mental Health: During the recovery stage, you or your staff may have suffered traumas from the disastrous incident. It is important to remember that support, comfort and help are available through your healthcare provider and your office may consider arranging to have a general discussion and debriefing after an emergency. Suicide prevention hotlines are available 24 hours a day, seven days a week to help a person in distress.

“Stay Informed, Stay Connected, Stay Safe!”



EMERGENCY PREPAREDNESS AND DISASTER RECOVERY RESOURCES



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PREPARING FOR NATURAL DISASTERS

BUSINESS CONTINUITY PLAN

Preparedness Planning for Your Business

Businesses and their staff face a variety of hazards:

- Natural hazards like floods, hurricanes, tornadoes, and earthquakes.
- Health hazards such as widespread and serious illnesses like the flu.
- Human-caused hazards including accidents and acts of violence.
- Technology-related hazards like power outages and equipment failure.

There is much that a business leader can do to prepare his or her organization for the most likely hazards. The Ready Business program helps business leaders make a preparedness plan to get ready for these hazards.

Ready Business Toolkits

The Ready Business Toolkit series includes hazard-specific versions for earthquake, hurricane, inland flooding, power outage, and severe wind/tornado. Toolkits offer business leaders a step-by-step guide to build preparedness within an organization. Each toolkit contains the following sections:

- Identify Your Risk
- Develop A Plan
- Take Action
- Be Recognized and Inspire Others

Business Emergency Preparedness Social Media Toolkit

The Business Emergency Preparedness Social Media Toolkit has safety and preparedness messages you can share on your social media channels.

- [Business Emergency Preparedness Social Media Toolkit](#)

Earthquake “QuakeSmart” Toolkit

Unlike other natural disasters, earthquakes occur without warning and cannot be predicted. Most of the United States is at some risk for earthquakes, not just the West Coast, so it is important that you understand your risk, develop preparedness and mitigation plans, and take action.

- [QuakeSmart Ready Business Toolkit](#)
- [Spanish Ready Business QuakeSmart Toolkit](#)

Hurricane Toolkit

Many parts of the United States, including Atlantic and Gulf of Mexico coastal areas, Hawaii, parts of the Southwest, Puerto Rico, the Pacific Coast, and the U.S. Virgin Islands and territories in the Pacific may be directly affected by heavy rains, strong winds, wind-driven rain, coastal and inland floods, tornadoes, and coastal storm surges resulting from tropical storms and hurricanes. The Ready Business Hurricane Toolkit helps leaders take action to protect employees, protect customers, and help ensure business continuity as well.

- [Hurricane Ready Business Toolkit](#)
- [Spanish Hurricane Ready Business Toolkit](#)

Inland Flooding Toolkit

Most of the United States is at some risk for flooding, so it is important that organizations, businesses, and community groups understand the potential impacts.

- [Inland Flooding Ready Business Toolkit](#)
- [Spanish Ready Business Inland Flooding Toolkit](#)

Power Outage Toolkit

While a Power Outage may not seem as dangerous as a tornado or earthquake, they can still cause damage to homes, businesses and communities. Power Outages cost the U.S. economy \$20 billion and \$55 billion annually and continue to increase each year (CRS, 2012).

- [Power Outage Ready Business Toolkit](#)
- [Spanish Ready Business Power Outages Toolkit](#)

Severe Wind/Tornado Toolkit

It is not just in Tornado Alley. Most of the United States is at some risk for severe wind and tornadoes

- [Severe Wind Tornado Ready Business Toolkit](#)
- [Spanish Ready Business Severe Wind Tornado Toolkit](#)

Ready Business Workshop “How-To” Guide

This “How-To” guide explains how to plan for and deliver effective Ready Business workshops.

- [How-To Ready Business Toolkit](#)

Ready Business Videos

The Ready Business Program provides leaders with the tools to plan, take action, and become a Ready Business. The program addresses several key parts of getting ready, including Staff, Surroundings, Physical space, Building Construction, Systems, and Service. These videos briefly explain each concept.

- [Ready Business Program Staff/Employee Management Video](#)
- [Ready Business Program Physical Surroundings Video](#)
- [Ready Business Program Building Construction Video](#)
- [Ready Business Program Systems Video](#)

FAMILY PLAN

Make A Plan

Plan today. Your family may not be together if a disaster strikes, so it is important to know which [types of disasters](#) could affect your area. Know how you'll contact one another and reconnect if separated. Establish a family meeting place that's familiar and easy to find.

Step 1: Put a plan together by discussing the questions below with your family, friends or household to start your emergency plan.

1. How will I receive [emergency alerts and warnings](#)?
2. What is my [shelter](#) plan?
3. What is my [evacuation](#) route?
4. What is my [family/household communication plan](#)?
5. Do I need to update my [emergency preparedness kit](#)?
6. Check with the [Centers for Disease Control \(CDC\)](#) and update my emergency plans due to Coronavirus.
 - Get masks (for everyone over 2 years old), disinfectants, and check my sheltering plan.

Step 2: Consider specific needs in your household.

As you prepare your plan tailor your plans and supplies to your specific daily living needs and responsibilities. Discuss your needs and responsibilities and how people in the network can assist each other with communication, care of children, business, pets or specific needs like operating medical equipment. Create your own personal network for specific areas where you need assistance. Keep in mind some these factors when developing your plan:

- Different ages of members within your household
- Responsibilities for assisting others
- Locations frequented
- Dietary needs
- Medical needs including prescriptions and equipment
- Disabilities or access and functional needs including devices and equipment
- Languages spoken
- Cultural and religious considerations
- Pets or service animals

- Households with school-aged children

Step 3: Fill out a Family Emergency Plan

Download and fill out a family emergency plan or use it as a guide to create your own.

- [Emergency Plan for Parents](#) (PDF)

Step 4: Practice your plan with your family/household

Associated Content

- [Family Emergency Communication Guide](#) (PDF)
- [Family Communication Plan Fillable Card](#) (PDF)
- [Emergency Plan for Families](#) or (PDF)
- [Emergency Plan for Kids](#) or (PDF)
- [Emergency Plan for Commuters](#) (PDF)
- [Pet Owners](#) (PDF)
- [Family Emergency Communication Planning Document](#) (PDF)
- [Family Emergency Communication Plan Wallet Cards](#) (PDF)
- [Know Your Alerts and Warnings](#) (PDF)
- [Protect Critical Documents and Valuables](#) (PDF)
- [Document and Insure Your Property](#) (PDF)
- [Emergency Financial First Aid Kit](#) (PDF)
- [Consumer Financial Protection Bureau Disaster Checklist](#) (PDF)
- [Make a Plan](#) (Video)

EMERGENCY PROCEDURES

Follow instructions of authorities and use good judgment in the absence of instructions.

EVACUATE

- Leave using the nearest exit, or alternative if the nearest exit is blocked.
- Never use an elevator.
- Take personal belongings (keys, purse, wallet, cell phone), but do not delay your exit to retrieve items.
- Follow procedure to secure hazardous materials or equipment before leaving.
- Once outside, go to the designated assembly area.
- Do not reenter the building until instructed by authorities.

SHELTER IN PLACE

- Evaluate the situation and choose the most appropriate shelter location, for example:
 - Severe weather: room that does not have any windows.
 - Violence: secure, enclosed space, behind solid objects and away from doors.
- Follow procedures to secure hazardous materials or equipment before leaving.
- Move to shelter taking your personal belongings.
- Remain sheltered until instructed it is safe to leave.
- Monitor news sites for the latest information.

FIRE

- Activate nearest fire alarm using a manual pull station.
- Evacuate, notify others if smoke is present, stay low to the floor.
- If you are safe, report the incident to the Court Security Offices.

EXPLOSION

- Evacuate, if smoke is present, stay low to the floor.
- Watch out for falling debris: take cover and protect head.
- If you become trapped, tap on a wall or pipe to alert rescuers.
- If you are safe, report the incident to the Court Security Offices.

HAZARDOUS MATERIALS RELEASE

- Move away from the site of the hazard to a safe location.
- Alert others to stay clear of the area.
- Report the incident to the Court Security Offices.
- Notify emergency personnel if you have been exposed or have information about the release.

SUSPICIOUS OBJECT

- Do not touch or disturb the object.
- Report the incident to the Court Security Offices.
- Prepare to evacuate if instructed.

SUSPICIOUS PERSON

- Do not confront, stop or apprehend the person.
- Note the person's description and suspicious activity.
- Report the incident to the Court Security Offices.
- Provide details on the person and his/her direction of travel.

VIOLENT INCIDENT

- **RUN:** Evacuate if a safe route is available.
- **HIDE:** If it is unsafe to escape, hide in an area out of view.
 - Lock the door and block entry; stay behind solid objects away from doors.
 - Turn off lights and computers; silence cell phones.
- **FIGHT:** Prepare to defend yourself if necessary.
- When safe, contact the Court Security Offices with as much information as possible.

SEVERE WEATHER

- Determine how best to protect yourself from high winds and flooding.
 - Evacuate if told to do so.
 - Take refuge in a designated storm shelter, or an interior room for high winds.
- Listen for emergency information and alerts.
- Turn Around, Don't Drown! Do not walk, swim, or drive through flood waters.
 - Just six inches of moving water can knock you down, and one foot of moving water can sweep your vehicle away.

EARTHQUAKE

- If inside, stay there. Shelter in place - **drop, cover, and hold on**.
- If there is nothing to hide under, crouch near an interior wall and cover head.
- If outside, stay outside and move away from buildings, street lights, and utility wires.
- Only evacuate if additional hazards threaten your safety.

TSUNAMI

- Pay attention to the signals:
 - Very strong earthquake (it is difficult to walk, there are falling objects, damage to structures).
 - Long duration earthquake (1 minute or more).
 - A sudden sea level change.
 - Loud noise coming from the sea.
- Run to higher ground and/or away from the coast.
- Go to a third or higher floor.
- If possible, move to a tsunami designated assembly location.

MEDICAL EMERGENCY

- If illness or injury is serious, do not move the person.
- If appropriate and available, get someone trained in CPR or AED to help.
- Report the incident to the Court Security Offices.
- Send someone to meet emergency personnel outside and direct them to the person's location.
- Remain with the victim until emergency personnel arrive.

When reporting an incident, your location is:

FLOODS

The FEMA Flood Zone Map serves to help a person determine whether you work or reside in a moderate to high hazard flood zones.

FEMA Flood Zone Map: <https://www.floodpartners.com/products>



Flooding is a temporary overflow of water onto land that is normally dry. Floods are the most common natural disaster in the United States. Failing to evacuate flooded areas or entering flood waters can lead to injury or death.

Floods may:

- Result from rain, snow, coastal storms, storm surges and overflows of dams and other water systems.
- Develop slowly or quickly. Flash floods can come with no warning.
- Cause outages, disrupt transportation, damage buildings and create landslides.

IF YOU ARE UNDER A FLOOD WARNING, FIND SAFE SHELTER RIGHT AWAY

- Do not walk, swim or drive through flood waters. **Turn Around, Don't Drown!**
 - Just six inches of moving water can knock you down, and one foot of moving water can sweep your vehicle away.

- Stay off of bridges over fast-moving water.
- Depending on the type of flooding:
 - Evacuate if told to do so.
 - Move to higher ground or a higher floor.
 - Stay where you are.

HOW TO STAY SAFE WHEN A FLOOD THREATENS

Prepare NOW

- [Make a plan](#) for your household, including your pets, so that you and your family know what to do, where to go, and what you will need to protect yourselves from flooding and COVID-19.
- [Build a "Go Kit"](#) of the supplies you will need if you have to quickly evacuate your home.
- Know types of flood risk in your area. Visit FEMA's [Flood Map Service Center](#) for information.
- Sign up for your community's warning system. The [Emergency Alert System \(EAS\)](#) and [National Oceanic and Atmospheric Administration \(NOAA\)](#) Weather Radio also provide emergency alerts. Sign up for [email updates](#) and follow the [latest guidelines](#) about coronavirus from the Centers for Disease Control and Prevention (CDC) and your local authorities to prevent the spread of COVID-19.
- If flash flooding is a risk in your location monitor potential signs, such as heavy rain.
- Learn and practice evacuation routes, shelter plans, and flash flood response.
 - If you live in a storm surge flooding zone or a mandatory hurricane evacuation zone, make plans to stay with family and friends. Evacuate to shelters only if you are unable to stay with family and friends. Check with local authorities to determine which public shelters are open. Review your previous evacuation plan and consider alternative options to maintain social and physical distancing to prevent the spread of COVID-19.
 - Don't forget to include your pet in your emergency plan. Remember that some evacuation shelters [do not accept pets](#).
- Gather supplies, including non-perishable foods, cleaning supplies, and water for several days, in case you must leave immediately or if services are cut off in your area. The CDC recommends having at least 3 days' worth of supplies on hand, including one gallon of water per day for each person and pet. If you are able, set aside items like soap, hand sanitizer that contains at least 60 percent alcohol, disinfecting wipes, and general household cleaning supplies that you can use to disinfect surfaces you touch regularly. After a flood, you may not have access to these supplies for days or even weeks. Keep in mind each person's specific needs, including medication. Don't forget the needs of pets. Include extra batteries and charging devices for phones and other critical equipment.

- Being prepared allows you to avoid unnecessary excursions and to address minor medical issues at home, alleviating the burden on urgent care centers and hospitals.
- Not everyone can afford to respond by stocking up on necessities. If you can, make essential purchases and slowly build up supplies in advance so that you can leave longer time periods between shopping trips. This helps to protect those who are unable to procure essentials in advance of a disaster, like a flood or pandemic, and must shop more frequently. In addition, consider avoiding WIC-approved products so that those who rely on these products can access them.
- Purchase or renew a flood insurance policy. Homeowner's policies do not cover flooding. It typically takes up to 30 days for a policy to go into effect so the time to buy is well before a disaster. Get flood coverage under the [National Flood Insurance Program \(NFIP\)](#).
- Keep important documents in a waterproof container. Create password-protected digital copies.
- Protect your property. Move valuables to higher levels. Declutter drains and gutters. Install check valves. Consider a sump pump with a battery.

Survive DURING

- Depending on where you are, the potential impact, and the warning time given for flooding, go to the safe location that you have identified. If you are not able to shelter in place or with family or friends and must go to a public shelter, remember to bring items that can help protect you and others from COVID-19, such as hand sanitizer that contains at least 60 percent alcohol, cleaning materials, and two cloth masks per person. If you can, wash your face covering regularly. Children under 2 years old, people who have trouble breathing, and those who are unable to remove masks on their own should not wear them.
- If told to evacuate, do so immediately. Never drive around barricades. Local responders use them to safely direct traffic out of flooded areas.
- If you are [sick and need medical attention](#), contact your healthcare provider for further care instructions and shelter in place, if possible. If you are experiencing a medical emergency, call 9-1-1 and let the operator know if you have, or think you might have, COVID-19. If possible, put on a mask before help arrives. If staying at a shelter or public facility, alert shelter staff immediately so they can call a local hospital or clinic.
- Listen to EAS, NOAA Weather Radio or local alerting systems for current emergency information and instructions regarding flooding and COVID-19.
- Do not walk, swim or drive through flood waters. Turn Around. Don't Drown!
- Stay off bridges over fast-moving water. Fast-moving water can wash bridges away without warning.
- If your car is trapped in rapidly moving water stay inside. If water is rising inside the car get on the roof.

- If trapped in a building go to its highest level. Do not climb into a closed attic. You may become trapped by rising floodwater. Only get on the roof if necessary and once there signal for help.

Be Safe AFTER

- Listen to authorities for information and instructions. Return home only when authorities say it is safe.
- Avoid driving except in emergencies.
- Be aware that snakes and other animals may be in your house. Wear heavy work gloves, protective clothing, and boots during clean up. Wear a mask and maintain a physical distance of at least six feet while working with someone else. Use an appropriate mask if cleaning [mold or other debris](#). People with [asthma and other lung conditions and/or immune suppression](#) should not enter buildings with indoor water leaks or mold growth that can be seen or smelled. Children should not take part in disaster cleanup work.
- Be aware of the risk of electrocution. Do not touch electrical equipment if it is wet or if you are standing in water. If it is safe to do so, turn off the electricity to prevent electric shock.
- Avoid wading in floodwater, which can be contaminated and contain dangerous debris. Underground or downed power lines can also electrically charge the water. There is no evidence that COVID-19 can be transmitted through water; however, you should avoid contact with floodwaters.
- Continue taking steps to protect yourself from COVID-19 and other infectious diseases, such as washing your hands often and cleaning commonly touched surfaces with disinfecting products.
- Use a generator or other gasoline-powered machinery ONLY outdoors and away from windows.
- Be available for family, friends, and neighbors who may need someone to talk to about their feelings. Many people may already feel fear and anxiety about the coronavirus 2019 (COVID-19). The threat of a flood can add additional stress. Follow CDC guidance for [managing stress during a traumatic event](#) and [managing stress during COVID-19](#). You may need to talk to someone about your feelings, too. Don't be afraid to reach out to friends, family, or professionals if you need help coping with your stress, anxiety, or sadness.

TORNADOES

Tornadoes can destroy buildings, flip cars, and create deadly flying debris. Tornadoes are violently rotating columns of air that extend from a thunderstorm to the ground. Tornadoes can:

- Happen anytime and anywhere;
- Bring intense winds, over 200 MPH; and
- Look like funnels.

IF YOU ARE UNDER A TORNADO WARNING, FIND SAFE SHELTER RIGHT AWAY

- If you can safely get to a sturdy building, then do so immediately.
- Go to a safe room, basement, or storm cellar.
- If you are in a building with no basement, then get to a small interior room on the lowest level.
- Stay away from windows, doors, and outside walls.
- Do not get under an overpass or bridge. You're safer in a low, flat location.
- Watch out for flying debris that can cause injury or death.
- Use your arms to protect your head and neck.

HOW TO STAY SAFE WHEN A TORNADO THREATENS

Prepare NOW

- Know your area's tornado risk. In the U.S., the Midwest and the Southeast have a greater risk for tornadoes.
- Know the signs of a tornado, including a rotating, funnel-shaped cloud; an approaching cloud of debris; or a loud roar—similar to a freight train.
- Sign up for your community's warning system. The Emergency Alert System (EAS) and National Oceanic and Atmospheric Administration (NOAA) Weather Radio also provide emergency alerts. If your community has sirens, then become familiar with the warning tone.
- Pay attention to weather reports. Meteorologists can predict when conditions might be right for a tornado.
- Identify and practice going to a safe shelter, while following the latest social and physical-distancing and other health safety guidelines from the Centers for Disease Control and Prevention and your local health authorities, in the event of high winds, such as a safe room built using FEMA criteria or a storm shelter built to ICC 500 standards. The next best protection is a small, interior, windowless room on the lowest level of a sturdy building.

- If you must go to a community or group shelter during severe weather, take hand sanitizer and disinfecting wipes to clean, disinfect, deodorize and remove allergens from surfaces.
- Try to keep a safe distance away from others in the shelter if at all possible.

Survive DURING

- Immediately go to a safe location that you identified.
- Take additional cover by shielding your head and neck with your arms and putting materials such as furniture and blankets around you.
- Listen to EAS, NOAA Weather Radio, or local alerting systems for current emergency information and instructions.
- Do not try to outrun a tornado in a vehicle.
- If you are in a car or outdoors and cannot get to a building, cover your head and neck with your arms and cover your body with a coat or blanket, if possible.

Be Safe AFTER

- Keep listening to EAS, NOAA Weather Radio, and local authorities for updated information.
- If you are trapped, cover your mouth with a cloth or mask to avoid breathing dust. Try to send a text, bang on a pipe or wall, or use a whistle instead of shouting.
- Stay clear of fallen power lines or broken utility lines.
- Do not enter damaged buildings until you are told that they are safe.
- Save your phone calls for emergencies. Phone systems are often down or busy after a disaster. Use text messaging or social media to communicate with family and friends.
- Be careful during clean-up. Wear thick-soled shoes, long pants, and work gloves.

SNOWSTORMS & EXTREME COLD

Winter storms create a higher risk of car accidents, hypothermia, frostbite, carbon monoxide poisoning, and heart attacks from overexertion. Winter storms and blizzards can bring extreme cold, freezing rain, snow, ice, and high winds. A winter storm can:

- Last a few hours or several days;
- Knock out heat, power, and communication services; and
- Place older adults, young children, and sick individuals at greater risk.

IF YOU ARE UNDER A WINTER STORM WARNING, FIND SHELTER RIGHT AWAY

- Stay off roads.
- Stay indoors and dress warmly.
- Prepare for power outages.
- Use generators outside only and away from windows.
- Listen for emergency information and alerts.
- Look for signs of hypothermia and frostbite.
- Check on neighbors.

HOW TO STAY SAFE WHEN A WINTER STORM THREATENS:

Prepare NOW

- Know your area's risk for winter storms. Extreme winter weather can leave communities without utilities or other services for long periods of time.
- Prepare your home to keep out the cold with insulation, caulking, and weather stripping. Learn how to keep pipes from freezing. Install and test smoke alarms and carbon monoxide detectors with battery backups.
- Pay attention to weather reports and warnings of freezing weather and winter storms. Sign up for your community's warning system. The Emergency Alert System (EAS) and National Oceanic and Atmospheric Administration (NOAA) Weather Radio also provide emergency alerts.
- Gather supplies in case you need to stay home for several days without power. Keep in mind each person's specific needs, including medication. Do not forget the needs of pets. Have extra batteries for radios and flashlights.

- Create an [emergency supply kit for your car](#). Include jumper cables, sand, a flashlight, warm clothes, blankets, bottled water, and non-perishable snacks. Keep the gas tank full.
- Learn the signs of, and basic treatments for, frostbite and hypothermia.

Survive DURING

- Stay off roads if at all possible. If trapped in your car, then stay inside.
- Limit your time outside. If you need to go outside, then wear layers of warm clothing. Watch for signs of frostbite and hypothermia.
- Avoid carbon monoxide poisoning. Only use generators and grills outdoors and away from windows. Never heat your home with a gas stovetop or oven.
- Reduce the risk of a heart attack. Avoid overexertion when shoveling snow.
- Watch for signs of frostbite and hypothermia and begin treatment right away.
- Check on neighbors. Older adults and young children are more at risk in extreme cold.

RECOGNIZE AND RESPOND

- Frostbite causes loss of feeling and color around the face, fingers, and toes.
 - Signs: Numbness, white or grayish-yellow skin, firm or waxy skin
 - Actions: Go to a warm room. Soak in warm water. Use body heat to warm. Do not massage or use a heating pad.
- Hypothermia is an unusually low body temperature. A temperature below 95 degrees is an emergency.
 - Signs: Shivering, exhaustion, confusion, fumbling hands, memory loss, slurred speech, or drowsiness
 - Actions: Go to a warm room. Warm the center of the body first—chest, neck, head, and groin. Keep dry and wrapped up in warm blankets, including the head and neck.

WILDFIRES

Wildfires can ruin homes and cause injuries or death to people and animals. A wildfire is an unplanned fire that burns in a natural area such as a forest, grassland, or prairie. Wildfires can:

- Often be caused by humans or lightning.
- Cause flooding or disrupt transportation, gas, power, and communications.
- Happen anywhere, anytime. Risk increases with in periods of little rain and high winds.
- Cost the Federal Government billions of dollars each year.

IF YOU ARE UNDER A WILDFIRE WARNING, GET TO SAFETY RIGHT AWAY

- Leave if told to do so.
- If trapped, call 9-1-1.
- Listen for emergency information and alerts.
- Use N95 masks to keep particles out of the air you breathe.

HOW TO STAY SAFE WHEN A WILDFIRE THREATENS

Prepare NOW

- Sign up for your community's warning system. The Emergency Alert System (EAS) and National Oceanic and Atmospheric Administration (NOAA) Weather Radio also provide emergency alerts. Sign up for [email updates](#) about coronavirus from the Centers for Disease Control and Prevention (CDC). Check AirNow.gov for information about your local air quality.
- Know your community's evacuation routes and find several ways to leave the area. Drive the evacuation routes while following the [latest guidelines](#) from the Centers for Disease Control and Prevention (CDC) and your state and local authorities to prevent the spread of COVID-19. Have a plan for [pets and livestock](#). Remember that some shelters [do not accept pets](#).
- Prepare for long-term social distancing by gathering emergency supplies. Include cleaning supplies, non-perishable foods, first aid supplies, and water. Consider gathering soap, hand sanitizer that contains at least 60 percent alcohol, household cleaning supplies, and masks to help slow the spread of COVID-19. Set aside supplies in case you must evacuate to your safe location. After a wildfire, you may not have access to these supplies for days or even weeks. Don't forget the needs of pets. Keep in mind each person's specific needs, including medication. Obtain extra batteries and charging devices for phones and other critical equipment. Being prepared allows you to address smaller medical issues at home, alleviating the burden on urgent care centers and hospitals.
 - Being prepared allows you to avoid unnecessary excursions and to address minor medical issues at home, alleviating the burden on urgent care centers and hospitals.

- Remember that not everyone can afford to respond by stocking up on necessities. For those who can afford it, making essential purchases and slowly building up supplies in advance will allow for longer time periods between shopping trips. This helps to protect those who are unable to procure essentials in advance of the pandemic and must shop more frequently. In addition, consider avoiding WIC-approved products so that those who rely on these products can access them.
 - If you already have one at home, set aside a respirator, like an N95 respirator, to keep smoke particles out of the air you breathe. Respirators are not meant to fit children. Due to COVID-19, it may be difficult to find respirators. While cloth face coverings, surgical masks, and dust masks provide protection from exposure to COVID-19, they will not protect you from smoke inhalation. To ensure that healthcare workers have access to N95 respirators, it is best to limit your exposure to smoke rather than buy respirators.
- Designate a room that can be closed off from outside air. Close all doors and windows. Set up a portable air cleaner to keep indoor pollution levels low when smoky conditions exist.
- Keep important documents in a fireproof, safe place. Create password-protected digital copies.
- Use fire-resistant materials to build, renovate, or make repairs.
- Find an outdoor water source with a hose that can reach any area of your property.
- Create a [fire-resistant zone](#) that is free of leaves, debris, or flammable materials for at least 30 feet from your home.
- Review insurance coverage to make sure it is enough to replace your property.
- Pay attention to [air quality alerts](#).

Survive DURING

- Evacuate immediately if authorities tell you to do so. If possible, bring items with you when you evacuate that can help protect you and others from COVID-19 while sheltering. Examples include hand sanitizer that contains at least 60 percent alcohol, cleaning materials, and two cloth masks per person to prevent the spread of infection.
 - If you are unable to stay with family and friends and must stay at a shelter or public facility, take steps to keep yourself and others safe from COVID-19. Wash your hands often, maintain a physical distance of at least six feet between you and people who are not part of your household, wear a mask. If you can, wash your face covering regularly. Masks should not be worn by children under 2 years old, people who have trouble breathing, and people who are unconscious, incapacitated, or otherwise unable to remove the covering.
- If trapped, then call 911 and give your location, but be aware that emergency response could be delayed or impossible. Turn on lights to help rescuers find you.
- Pay attention to any health symptoms if you have asthma, COPD, heart disease, or are pregnant. If you are sick and need medical attention, contact your healthcare provider for further care instructions and shelter in place, if possible. If you are experiencing a medical emergency, call 9-1-1 and let the operator know if you have, or think you might have, COVID-19. If possible, put on a cloth face covering before help arrives. If staying at a

shelter or public facility, alert shelter staff immediately so they can call a local hospital or clinic.

- Listen to EAS, NOAA Weather Radio, or local alerting systems for current emergency information and instructions.
- If you already have an N95 mask, use this to protect yourself from smoke inhalation. N95 masks also protect against the spread of COVID-19, however they should be reserved for healthcare workers. If are in a public cleaner air space or shelter, use a mask to help slow the spread of COVID-19.
- If you are not ordered to evacuate but smoky conditions exist, stay inside in a safe location or go to a community building where smoke levels are lower.





Be Safe AFTER

- Listen to authorities to find out when it is safe to return, and whether water is safe to drink.
- Avoid hot ash, charred trees, smoldering debris, and live embers. The ground may contain heat pockets that can burn you or spark another fire. Consider the danger to pets and livestock. When cleaning, wear protective clothing, including a long-sleeved shirt, long pants, work gloves, appropriate cloth face coverings or masks, and sturdy thick-soled shoes during clean-up efforts. These will protect you from further injury from broken glass, exposed nails, and other objects. Use appropriate masks or respirators and maintain a physical distance of at least six feet while working with someone else to protect yourself from COVID-19. When cleaning up ash, use a respirator to limit your exposure.
 - People with asthma and/or other lung conditions should take precautions in areas with poor air quality, as it can worsen symptoms. Children should not help with clean-up efforts.
 - Pay attention to any health symptoms if you or your children have asthma, COPD, heart disease, or are pregnant. Get to medical help if you need it.
- Continue taking steps to protect yourself from COVID-19 and other infectious diseases, such as washing your hands often and cleaning commonly touched surfaces.
- Send text messages or use social media to reach out to family and friends. Phone systems are often busy following a disaster. Make calls only in emergencies.
- Wear a [NIOSH certified-respirator](#) and wet debris down to minimize breathing dust particles.
- Document property damage with photographs. Conduct an inventory and contact your insurance company for assistance.
- Wildfires dramatically change landscape and ground conditions, which can lead to increased risk of flooding due to heavy rains, flash flooding and mudflows. Flood risk remains significantly higher until vegetation is restored—up to 5 years after a wildfire. Consider purchasing flood insurance to protect the life you've built and to assure financial protection from future flooding.
- Be available for family, friends, and neighbors who may need someone to talk to about their feelings. Many people may already feel fear and anxiety about the coronavirus 2019 (COVID-19). The threat of a wildfire can add additional stress. Follow CDC guidance for [managing stress during a traumatic event](#) and [managing stress during COVID-19](#). You

may need to talk to someone about your feelings, too. Don't be afraid to reach out to friends, family, or professionals if you need help coping with your stress, anxiety, or sadness.

EARTHQUAKES

Seven Steps to Earthquake Safety		
PREPARE		
Step 1	Secure your space by identifying hazards and securing moveable items.	
Step 2	Plan to be safe by creating a disaster plan and deciding how you will communicate in an emergency.	
Step 3	Organize disaster supplies in convenient locations.	
Step 4	Minimize financial hardship by organizing important documents, strengthening your property, and considering insurance.	
SURVIVE and RECOVER		
Step 5	Drop, Cover, and Hold On when the earth shakes.	
Step 6	Improve safety after earthquakes by evacuating if necessary, helping the injured, and preventing further injuries or damage.	

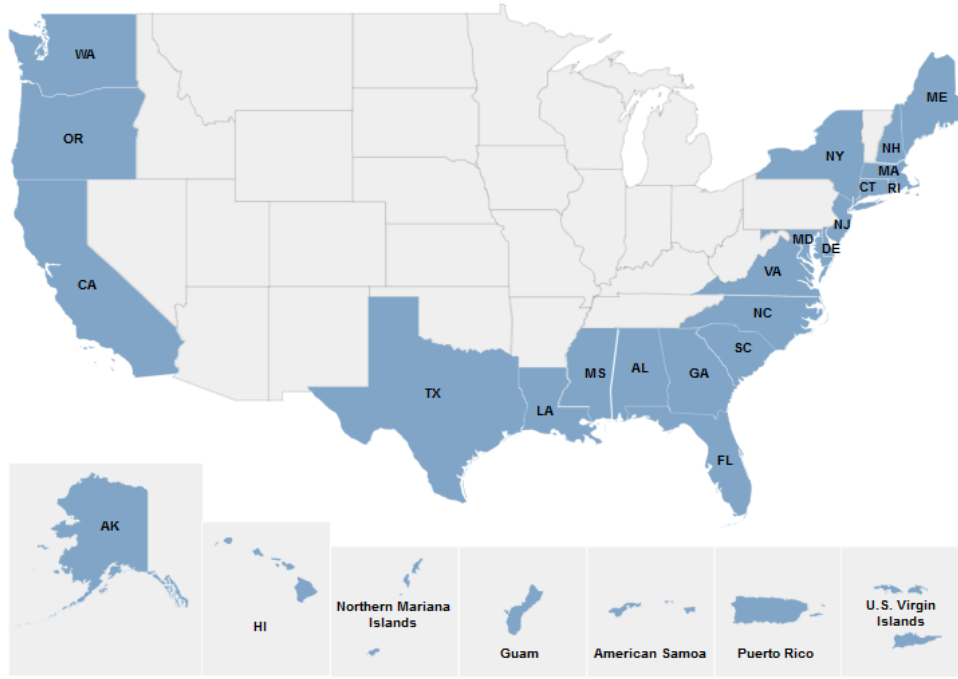
Step 7	Reconnect and Restore daily life by reconnecting with others, repairing damage, and rebuilding community.	
PROTECT YOURSELF. SPREAD THE WORD.		
 DROP!	<p>DROP where you are, onto your hands and knees. This position protects you from being knocked down and allows you to stay low and crawl to shelter if nearby.</p>	
 COVER!	<p>COVER your head and neck with one arm and hand</p> <ul style="list-style-type: none"> • If a sturdy table or desk is nearby, crawl underneath it for shelter • If no shelter is nearby, crawl next to an interior wall (away from windows) • Stay on your knees; bend over to protect vital organs 	
 HOLD ON!	<p>HOLD ON until shaking stops</p> <ul style="list-style-type: none"> • Under shelter: hold on to it with one hand; be ready to move with your shelter if it shifts • No shelter: hold on to your head and neck with both arms and hands. 	

TSUNAMIS

Tsunami Maps

In order to understand the potential for tsunami impacts on U.S. coastlines and help communities plan for the protection of life and property, NTHMP states and territories produce maps for their coastlines that identify tsunami inundation and evacuation areas. These maps are based largely on guidance produced collaboratively by members of the NTHMP to ensure consistent and accurate tsunami mapping of the Nation's coastline.

Click on individual states and territories to access popups with map links ([text links](#) are below).



- **Tsunami inundation maps** show the coastal areas that may be flooded by tsunami waves. Based on tsunami inundation models, these maps are used to create evacuation maps and guide tsunami-related emergency response and land-use planning.
- **Tsunami evacuation maps** show the coastal areas from which people must be evacuated to avoid harm from tsunami waves. These maps may also include evacuation routes and assembly areas.

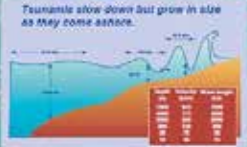
Note: New maps are in development for some areas, and all are updated as warranted. Revisit this page and the associated links for the most up-to-date maps.

Tsunamis on the move . . .

Tsunami . . . Are a series of long-wavelength, long-period ocean waves. They are not surfing waves. Come ashore for hours. The first wave may not be the largest. Are caused primarily by earthquakes occurring below or near the seafloor. Are less frequently caused by underwater volcanic eruptions, landslides, slumps, and meteorites.

Tsunami . . . Travel at jet airplane speeds in the deep ocean, but the waves are only a few meters high and cannot be felt aboard ships. When tsunamis hit shallow water, they slow and their height grows tremendously. Can reach 10m high or more, strike with devastating force, and quickly flood all low-lying coastal areas. Threaten life and property.

Tsunami slow down but grow in size as they come ashore.



Knowledge is Safety: Tsunami Warning Signs . . .

An earthquake is one of nature's tsunami warning signs. If you're at the beach and the ground shakes so hard you can't stand up, a tsunami may have been generated. Tsunami may be preceded by a rapid fall in sea level as the ocean retreats exposing fish and rocks on the sea bottom. A roar like an oncoming train may be heard as a tsunami rushes toward the shore.

What you should do . . .

After an earthquake, move quickly inland and to higher ground.


Tsunami from a local earthquake can strike in minutes, and before a tsunami warning is announced.

Tsunami from distant locations can take up to 24 hours to cross an ocean basin. Tsunami warnings will be announced advising coastal evacuation to safe shelters.


Learn to recognize nature's warnings. Heed official tsunami warnings. Stay away from rivers and streams.

If you see a tsunami, you may not be able to outrun it. Look for a sturdy, multi-storied, reinforced concrete building and climb to its highest floor or the roof. If there is no time, climb up and cling to a strong tree.

If you're swept up by a tsunami, look for something to help you stay afloat, and to protect you from dangerous floating debris like houses, cars, and trees.



For more info, visit www.tsunamiwave.info International Tsunami Information Centre



Tsunami Safety Rules

1

Always be prepared, a tsunami may occur anytime

- Prepare a family emergency plan
- Prepare a safety backpack
- Identify the evacuation zones and the Assembly locations
- Identify evacuation routes



2

Pay attention to any of these warning signals

- Very strong earthquake (it is difficult to walk, there are falling objects, damage to structures)
- Long duration earthquake (about 1 minute or more)
- Official message by sirens, commercial radio, television, NOAA radio
- Sudden sea level change
- Loud noise coming from the sea

3

In case of an earthquake protect yourself

- Drop
- Cover
- Hold on



4

Move away from evacuation zones (in preference order depending on your location)

- Run to higher ground and / or away from the Coast
- Go to a fourth floor or higher
- Climb a tree
- Run to an assembly point
- If time permits, vessels should navigate offshore to waters 100-400 meters deep.



5

Stay outside of the evacuation zone until Authorities indicate the danger has passed, this may take many hours.



<http://tsunami.gov>

<http://www.srh.noaa.gov/srh/clwp>

<http://redsismlca.uprm.edu/>

NTI-IMP-DOC/NOAA-NWS Award # NA16NWS4670038
Not endorsed by NOAA



ShakeOut plus Tsunami Evacuation-WalkOut Drill

Add a tsunami evacuation drill to your ShakeOut Drill

First, find out if you live, work or play in a tsunami hazard area:

- Use the links listed below to find out where tsunami hazard zones occur.

CGS website: <http://www.tsunami.ca.gov>

CalEMA MyHazards <http://myhazards.calema.ca.gov/>

- Information from either of these websites can help you identify the tsunami hazard area in your community and help you prepare. If you are located just outside of a tsunami hazard area, you might consider working with your community to see what kind of assistance you might be able to provide for potential evacuees.



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Add a Tsunami Evacuation Drill to your planned ShakeOut Drill

- For ShakeOut, it is important to register in advance for the event, and on the day of ShakeOut participate in the **Drop-Cover-Hold On** drill. Prior to ShakeOut, use the links above to determine if you are in a tsunami hazard area. If you are, you can add an organized tsunami evacuation drill that will follow the Drop-Cover-Hold On.
- To prepare for the drill, **identify** if there is an evacuation plan in place for your site. Contact your building manager, school district, and/or city or county offices of emergency services to find out the recommended procedures. Additionally, the maps at www.tsunami.ca.gov and <http://myhazards.calema.ca.gov/> can lead you to links to local, regional, state, and national information sources.
- If there is no tsunami evacuation plan in place for your building, **learn** what the recommended tsunami evacuation routes are in your city, county and region. Some cities and counties have this information available online.
- Identify an area outside the tsunami hazard zone where you can safely relocate (school, church, parking lot).
- Walk your evacuation route prior to the drill. Make sure there are no potential hazards that may prevent you from using this evacuation route safely.



After the Tsunami evacuation drill

- Coordinate in advance to have water or refreshments at the relocation site.
- Have a safety fair and invite local emergency response groups to share emergency preparedness information and resources.
- For school evacuations, at the relocation site plan interactive educational tsunami activities, distribute information pamphlets, and/or tell the story of Tilly Smith (see www.tsunami.ca.gov).



Know the warning signs

- A strong earthquake along the coastline is one of nature's tsunami warning signals. Do not stay in low-lying coastal areas after a strong earthquake has been felt.
- Tsunamis are sometimes preceded by a noticeable receding of sea level as the ocean retreats seaward exposing the seafloor. A roar like an oncoming train may sometimes be heard as the tsunami wave rushes toward the shore. These are nature's natural tsunami warning signals.
- When a tsunami is coming from a distant source, there will be official tsunami warnings that will be aired on radio and TV, and locally broadcasted in a variety of ways.
- A tsunami is not a single wave, but a series of waves. Do not return to an evacuated area until it is allowed by an official authority.



Understand how your community will broadcast official tsunami emergency information

- Official tsunami warnings may be broadcasted by radio, television, telephone, text message, door-to-door contact, NOAA weather radios, and/or outdoor sirens.
- During a tsunami emergency, give your local civil defense, police, and other emergency responders your fullest cooperation.
- All official warnings to the public must be taken very seriously, even if some are for non-destructive events. The tsunami of May 1960 killed 61 people in Hilo, Hawaii because some thought it was just another false alarm.

Be Prepared

- Look for the blue and white tsunami evacuation signs along the coast.
- Assemble a small evacuation kit or "to go bag" (essential documents, medications, flashlight, portable NOAA weather radio and batteries, water, snack, warm clothes).
- Prepare a reunification plan with your family. Decide when and where you will meet if you are separated. Designate an out of state relative or friend for the individuals in your family to call if it is not possible to meet at your reunification spot.
- Make plans for how to address any needs or disabilities you might have.

Contact Emergency Response Groups in Your Area

- Consider joining your Community Emergency Response Team:
www.csc.ca.gov/cc/cert.asp
- Find out if other organizations, agencies, or schools in your area are participating in a tsunami drill. Even if you are in an area that does not require evacuation, volunteer to work at relocation sites, comfort stations, or animal care facilities in your area. Learn what the potential needs of your community might be.
- Share ideas and coordinate resources. For example, your elementary school may need to evacuate to another school, church, or business; coordinate with them to work out details such as how to enter the site and where to assemble.

Important Online Resources

Official California Tsunami Hazard Zones:

CGS Tsunami Inundation Maps: <http://www.tsunami.ca.gov>

CalEMA MyHazards: <http://myhazards.calema.ca.gov/>

Tsunami Education:

CGS Tsunami Education: (K-12 curriculum, activity sheets, and booklets)

<http://www.tsuanmi.ca.gov>

International Tsunami Information Center: <http://itic.ioc-unesco.org>

About Tsunamis

CGS Tsunami: www.tsunami.ca.gov

NOAA: www.tsunami.gov

Preparing for earthquakes:

The Great California ShakeOut: <http://www.shakeout.org/>

Earthquake Country Alliance:

<http://www.earthquakecountry.info/roots/index.php>

Red Cross: <http://www.redcross.org/>

FEMA <http://www.fema.gov/earthquake>

Local County Offices of Emergency Services

HURRICANES

GATHER SUPPLIES FOR 10 DAYS

PREPARE FOR HURRICANE SEASON

Consider the area where you live and your family-specific needs.

A basic emergency supply checklist:



WATER – one gallon per person per day or 10 gallons per person



FOOD – at least a 10-day supply of non-perishable food per person



NON-ELECTRIC CAN OPENER



MEDICINE – prescription and over-the-counter



CASH – large and small bills



BATTERIES



CELL PHONE with chargers and a backup battery



FLASHLIGHTS or **SOLAR LAMPS**



RADIO – battery-powered or hand-crank



PROPANE GAS or **CHARCOAL** – for grilling



PAPER TOWELS moist towelettes, toiletries and garbage bags



PET FOOD and extra water



IMPORTANT FAMILY DOCUMENTS

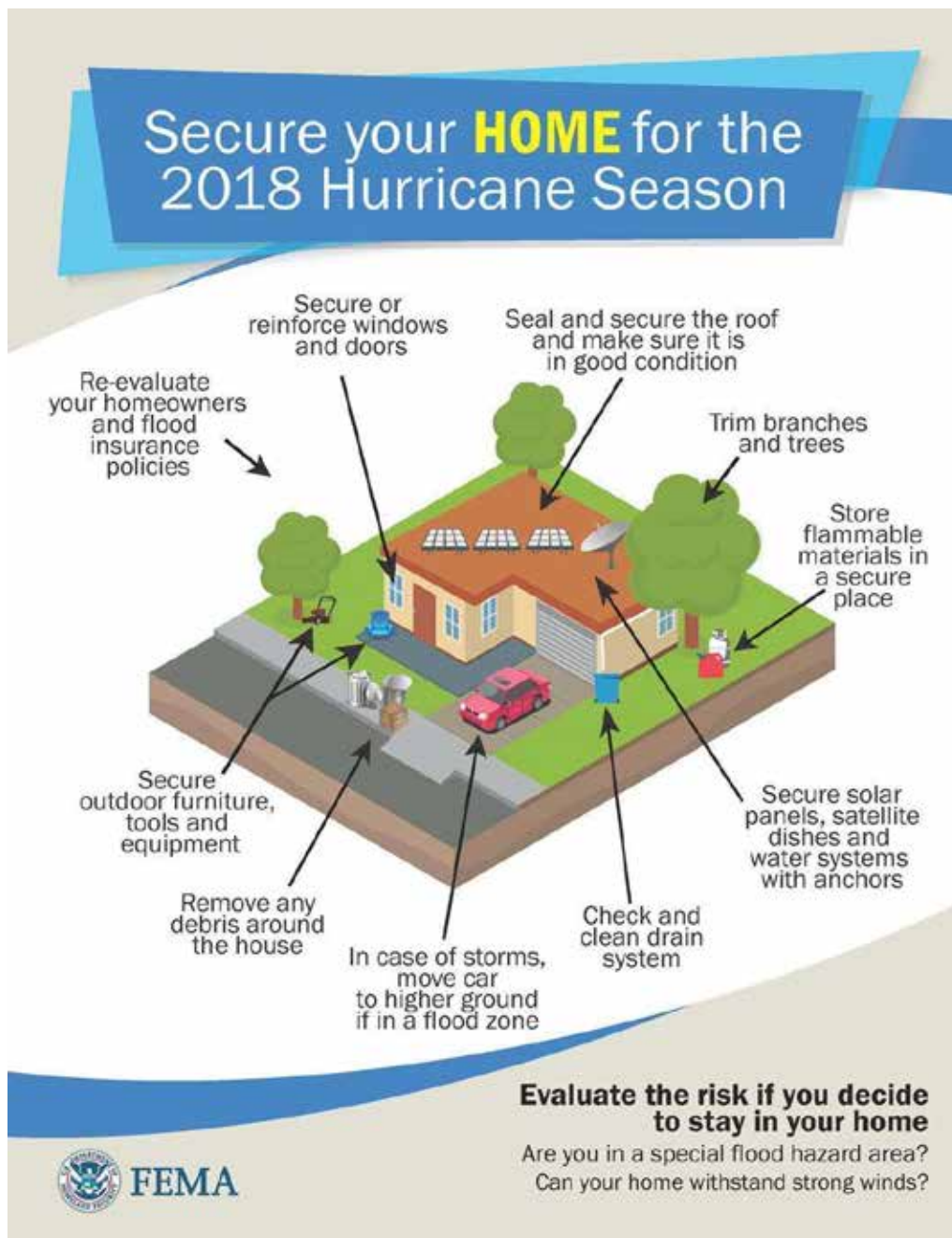


Recovery starts with preparedness!

For more information on hurricane season preparedness, visit Ready.gov for English or Ready.gov/es for Spanish.



FEMA



BE SAFE on the Coast!

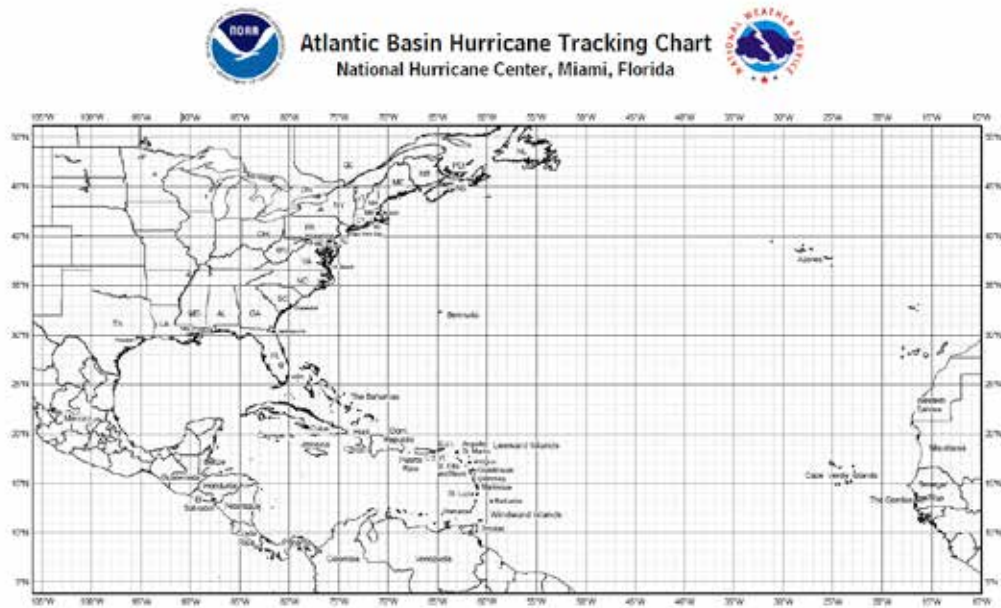
Coastal zones are scenic areas that everyone can enjoy. But when a hurricane comes ashore, it can cause dangerous storm surge. During hurricane season, residents on the coast can implement simple preparedness measures to ensure their homes and families are safe.

Follow these eight coastal preparedness steps for this year's hurricane season:

 STEP 1 Verify if your insurance policy covers floods. Visit floodsmart.gov for more information.	 STEP 2 Salt damage to windows and doors is common on the coast. Check and repair, if necessary. Also check drainage systems.	 STEP 3 Coastal areas can become especially windy during storms. Check surrounding areas for objects that may become airborne.	 STEP 4 If you own a boat, secure it or store it before the storm. Store fishing nets and other equipment.
 STEP 5 Identify key evacuation routes and shelters. Evacuate to high ground or inland when necessary.	 STEP 6 Storm surges can occur at any time during a hurricane. Plan and practice your family emergency plan.	 STEP 7 Keep an emergency kit available. Include water, food, a flashlight and other important supplies.	 STEP 8 Don't wait, evacuate! Return to your home once the area is declared as safe.

For more on hurricane preparedness, visit www.fema.gov/disaster/4339/hurricane-preparedness

ATLANTIC TRACKING MAP



COVID-19 AND FLU

How to Protect Yourself & Others

Older adults and people who have certain underlying conditions like heart or lung disease or diabetes are at increased risk of severe illness from COVID-19 illness. More information on [Are you at higher risk for serious illness](#).

Know how it spreads

- There is currently no vaccine to prevent coronavirus disease 2019 (COVID-19).
- **The best way to prevent illness is to avoid being exposed to this virus.**
- The virus is thought to [spread mainly from person-to-person](#).
 - Between people who are in close contact with one another (within about 6 feet).
 - Through respiratory droplets produced when an infected person coughs, sneezes or talks.
 - These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.
 - Some recent studies have suggested that COVID-19 may be spread by people who are not showing symptoms.

Everyone Should

Wash your hands often

- [Wash your hands](#) often with soap and water for at least 20 seconds especially after you have been in a public place, or after blowing your nose, coughing, or sneezing.
- It's especially important to wash:
 - Before eating or preparing food
 - Before touching your face
 - After using the restroom
 - After leaving a public place
 - After blowing your nose, coughing, or sneezing
 - After handling your mask
 - After changing a diaper

- After caring for someone sick
- After touching animals or pets
- If soap and water are not readily available, **use a hand sanitizer that contains at least 60% alcohol**. Cover all surfaces of your hands and rub them together until they feel dry.
- **Avoid touching your eyes, nose, and mouth** with unwashed hands.

Avoid close contact

- **Inside your home:** Avoid close contact with people who are sick.
 - If possible, maintain 6 feet between the person who is sick and other household members.
- **Outside your home:** Put 6 feet of distance between yourself and people who don't live in your household.
 - Remember that some people without symptoms may be able to spread virus.
 - [Stay at least 6 feet \(about 2 arms' length\) from other people.](#)
 - Keeping distance from others is especially important for [people who are at higher risk of getting very sick.](#)

Cover your mouth and nose with a mask when around others

- You could spread COVID-19 to others even if you do not feel sick.
- The mask is meant to protect other people in case you are infected.
- Everyone should wear a [mask](#) in public settings and when around people who don't live in your household, especially when other [social distancing](#) measures are difficult to maintain.
 - Masks should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance.
- Do NOT use a mask meant for a healthcare worker. Currently, surgical masks and N95 respirators are critical supplies that should be reserved for healthcare workers and other first responders.
- Continue to keep about 6 feet between yourself and others. The mask is not a substitute for social distancing.

Cover coughs and sneezes

- **Always cover your mouth and nose** with a tissue when you cough or sneeze or use the inside of your elbow and do not spit.

- **Throw used tissues** in the trash.
- Immediately **wash your hands** with soap and water for at least 20 seconds. If soap and water are not readily available, clean your hands with a hand sanitizer that contains at least 60% alcohol.

Clean and disinfect

- **Clean AND disinfect [frequently touched surfaces](#) daily.** This includes tables, doorknobs, light switches, countertops, handles, desks, phones, keyboards, toilets, faucets, and sinks.
- **If surfaces are dirty, clean them.** Use detergent or soap and water prior to disinfection.
- **Then, use a household disinfectant.** Most common [EPA-registered household disinfectants](#) will work.

Monitor Your Health Daily

- **Be alert for symptoms.** Watch for fever, cough, shortness of breath, or [other symptoms](#) of COVID-19.
 - Especially important if you are [running essential errands](#), going into the office or workplace, and in settings where it may be difficult to keep a [physical distance of 6 feet](#).
- **Take your temperature** if symptoms develop.
 - Don't take your temperature within 30 minutes of exercising or after taking medications that could lower your temperature, like acetaminophen.
- Follow [CDC guidance](#) if symptoms develop.

Protect Your Health This Flu Season

It's likely that flu viruses and the virus that causes COVID-19 will **both** spread this fall and winter. Healthcare systems could be overwhelmed treating both patients with flu and patients with COVID-19. This means getting a flu vaccine during 2020-2021 is more important than ever.

While getting a flu vaccine will not protect against COVID-19 there are many important benefits, such as:

1. Flu vaccines have been shown to reduce the risk of flu illness, hospitalization, and death.
2. Getting a flu vaccine can also save healthcare resources for the care of patients with COVID-19.

FINANCIAL PREPAREDNESS

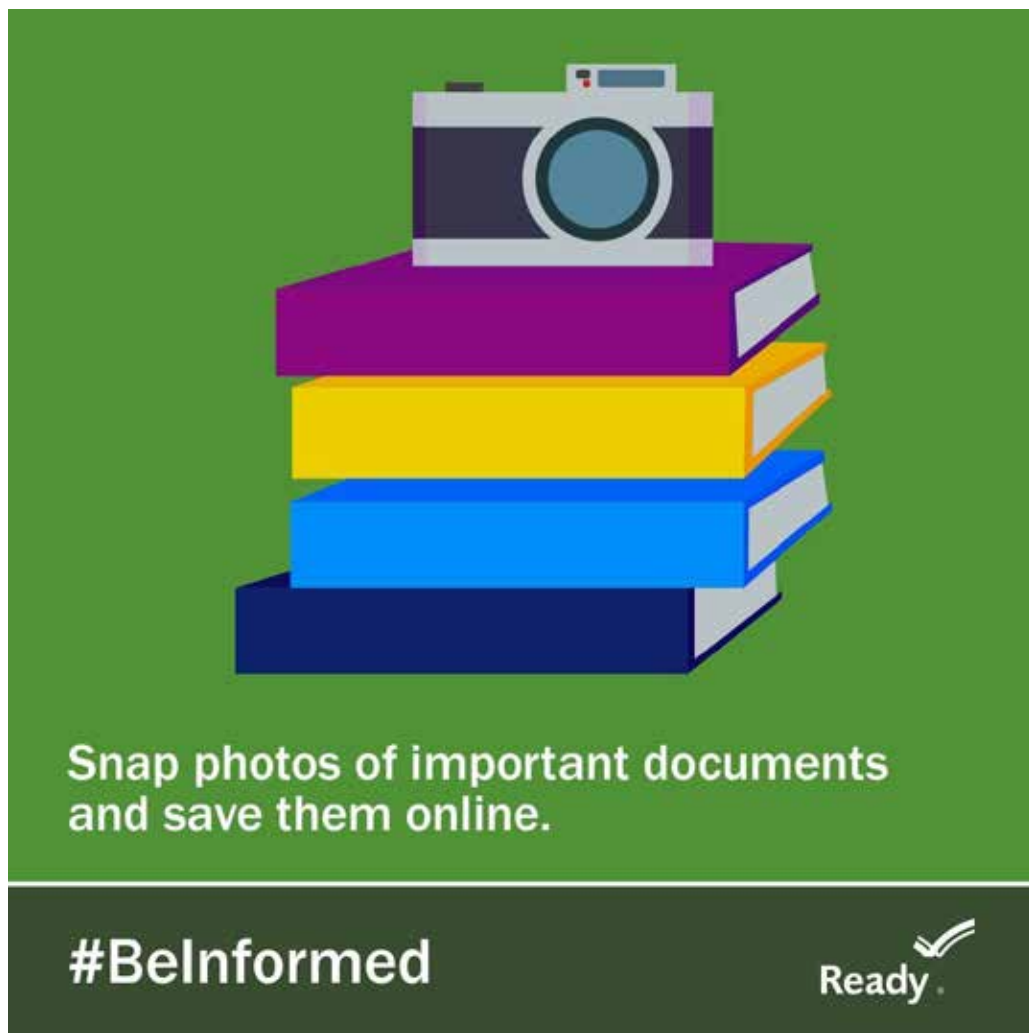




Flood insurance is a drop in the bucket compared to the cost of flood damage. Check your coverage today.

#BeInformed

Ready 





BE FINANCIALLY PREPARED FOR HURRICANE SEASON

Financial preparedness is an essential part of 2018 hurricane season planning. Being financially prepared means you should take several factors into consideration.



For more information on hurricane season preparedness and Puerto Rico's recovery from Hurricane Maria, visit fema.gov/disaster/4339.



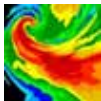
APPLICATIONS



1Weather:
Forecast
and Radar

Designed to provide you with essential info at a glance, but with in-depth weather data only a swipe or tap away, 1Weather is perfect for both casual users and serious weather watchers. Our iPad layout has been improved and now offers popover menus and scrollable cards.

Track and view weather forecasts and current conditions for "My Location" to get real-time updates wherever you go or add any location you choose. Weather supports millions of locations worldwide.



NOAA Weather app gives detailed information on coming storms and other weather patterns



WhatsApp
Messenger

WhatsApp Messenger is a FREE messaging app available for iPhone and other smartphones. WhatsApp uses your phone's Internet connection (4G/3G/2G/EDGE or Wi-Fi, as available) to let you message and call friends and family. Switch from SMS to WhatsApp to send and receive messages, calls, photos, videos, and Voice Messages.



FEMA

The FEMA App is the best option to receive emergency alerts and information so that you and your loved ones know what to do before, during and after disasters. This simple and easy-to-use app provides safety notifications, emergency preparedness tips, and disaster resources.



Emergency:
Alerts

Help keep your family safe in severe weather, manmade/natural hazards with Emergency by the American Red Cross. Monitor conditions in your area or area of loved ones, prepare your family and your home, check to see if loved ones are safe and let them know you're safe. - A must have for anyone who live in areas prone to severe weather or have loved ones that do.



Last Quake

A free mobile application dedicated to alerting populations and gathering testimonies in real-time when an earthquake occurs.

EMERGENCY PREPAREDNESS WEBSITES

American Red Cross	www.redcross.org/
FEMA	www.fema.gov/
National Weather Service:	www.weather.gov/
National Hurricane Center	www.nhc.noaa.gov/
Central Pacific Hurricane Center	www.prh.noaa.gov/cphc/
National Hurricane Center Blank Tracking Charts	www.nhc.noaa.gov/tracking_charts.shtml
US Geological Survey – Earthquake Hazards Program	earthquake.usgs.gov/
Earthquake Country Alliance	www.earthquakecountry.org/
The Tsunami Zone	www.tsunamizone.org/
National Suicide Prevention Lifeline	suicidepreventionlifeline.org/
Smart Traveler Enrollment Program	step.state.gov/
Ready.gov	www.ready.gov/
NOAA- Tsunami Warning System	ntwc.ncep.noaa.gov/
Centers for Disease Control and Prevention	https://www.cdc.gov/
World Health Organization	https://www.who.int/

SUGGESTED EMERGENCY PROVISIONS

Personal	Business
<ul style="list-style-type: none"> • Water (for at least 3 days) • Dried food • Can food • Flashlights and lanterns • Batteries • Battery operated radio/tv • Battery operated fan • Curtain liners and towels • Medications • Bags of ice • Liquid soap • Generator • Storm shutters • Surge protectors • Chargers • Extra battery for cell phone • Bucket • Cleaning supplies • Garbage bags • Cash • Clean clothing • List of emergency numbers • Important papers in a safe place such as Ziploc, plastic bags or safe • Hurricane/tornado map • Identification • Water-proof covers • First aid kit 	<ul style="list-style-type: none"> • Directions and maps to alternate facilities • Emergency Plans • Telephone rosters/contact information • External customers/stakeholders contact information • COOP personnel roster • Staff contact list • Staff emergency contact information • Vital records • Building floor plans • Equipment inventories • IT systems documentation • Organization and functions manual(s) • Laptop computer • Satellite phone • Badge/identification

SECURITY

SMART TRAVELER ENROLLMENT PROGRAM (STEP)

The [Smart Traveler Enrollment Program](#) (STEP) is a free service to allow U.S. citizens and nationals traveling and living abroad to enroll their trip with the nearest U.S. Embassy or Consulate.

Benefits of Enrolling in STEP

- Receive important information from the Embassy about safety conditions in your destination country, helping you make informed decisions about your travel plans.
- Help the U.S. Embassy contact you in an emergency, whether natural disaster, civil unrest, or family emergency.
- Help family and friends get in touch with you in an emergency.

ACTIVE SHOOTER

COPING

WITH AN ACTIVE SHOOTER SITUATION

- Be aware of your environment and any possible dangers
- Take note of the two nearest exits in any facility you visit
- If you are in an office, stay there and secure the door
- Attempt to take the active shooter down as a last resort

Contact your building management or human resources department for more information and training on active shooter response in your workplace.

PROFILE

OF AN ACTIVE SHOOTER

An active shooter is an individual actively engaged in killing or attempting to kill people in a confined and populated area, typically through the use of firearms.

CHARACTERISTICS

OF AN ACTIVE SHOOTER SITUATION

- Victims are selected at random
- The event is unpredictable and evolves quickly
- Law enforcement is usually required to end an active shooter situation



**CALL 911 WHEN IT
IS SAFE TO DO SO**

HOW TO RESPOND

WHEN AN ACTIVE SHOOTER IS IN YOUR VICINITY

1. EVACUATE

- Have an escape route and plan in mind
- Leave your belongings behind
- Keep your hands visible

2. HIDE OUT

- Hide in an area out of the shooter's view
- Block entry to your hiding place and lock the doors
- Silence your cell phone and/or pager

3. TAKE ACTION

- As a last resort and only when your life is in imminent danger
- Attempt to incapacitate the shooter
- Act with physical aggression and throw items at the active shooter

CALL 911 WHEN IT IS SAFE TO DO SO

HOW TO RESPOND

WHEN LAW ENFORCEMENT ARRIVES

- Remain calm and follow instructions
- Put down any items in your hands (i.e., bags, jackets)
- Raise hands and spread fingers
- Keep hands visible at all times
- Avoid quick movements toward officers such as holding on to them for safety
- Avoid pointing, screaming or yelling
- Do not stop to ask officers for help or direction when evacuating

INFORMATION

YOU SHOULD PROVIDE TO LAW ENFORCEMENT OR 911 OPERATOR

- Location of the active shooter
- Number of shooters
- Physical description of shooters
- Number and type of weapons held by shooters
- Number of potential victims at the location

MENTAL HEALTH

COPING WITH STRESS *after a DISASTER*



RECOGNIZING SYMPTOMS OF STRESS

PHYSICAL	MENTAL
<ul style="list-style-type: none"> - FATIGUE - POOR APPETITE/OVER EATING - HEADACHE - INSOMNIA 	<ul style="list-style-type: none"> - DIFFICULTY CONCENTRATING - ANXIOUSNESS - PROLONGED SADNESS - AGITATED, FRUSTRATED



SUPPORTING FAMILY MEMBERS

CHILDREN

- ♥ Talk about the experience when they're ready. Let them guide the conversation.
- ♥ Make sure they get accurate information from you, not rumors from peers.
- ♥ Limit TV and internet access to disaster images.

OLDER ADULTS

- ♥ Uncertain living arrangements can be a concern after a disaster. Work with them to find a respectful solution that takes into account their desires and abilities.
- ♥ Double check their medical needs are met.
- ♥ Assist with disaster assistance applications as needed.



HOW TO GET HELP



TALK about your experiences, feelings & frustrations (friends, family, religious leaders, counselor, therapist, hotline).



CREATE NEW ROUTINES to help bring back a sense of normalcy.



TAKE CARE OF YOURSELF. Make sure you eat and exercise when you can.



HELP OTHERS. This can help you feel less alone and like you're doing good.



CALL LINEA PAS'S HOTLINE even if you just need someone to talk to. Professionals can connect you with services you need, anytime, 24/7. 1-800-981-0023.

CALL: Linea PAS 1-800-981-0023



The Lifeline
is **FREE**,
confidential, and
always available.

HELP
a loved one,
a friend,
or yourself.

Community crisis centers
answer Lifeline calls.



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Substance Abuse and Mental Health Services Administration
www.samhsa.gov

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NATIONAL
SUICIDE
PREVENTION
LIFELINETM

1-800-273-TALK (8255)

suicidepreventionlifeline.org

**Learn the
Warning
Signs.**



U.S. Department of Health and Human Services
Federal Occupational Health

Hurricane Disaster Relief

Our hearts go out to all those affected by the current hurricane season. Now, and in the days and weeks ahead, your Employee Assistance Program (EAP) understands that there will be a need for help, comfort and information. Please remember that there is support available to you and your family through your EAP. Log on to www.FOH4You.com or call your dedicated toll-free program number for help.

If you are in need of emergency services (shelter, clothing, food, money, etc.) contact one of the emergency hotlines listed in the Emergency Resources section at the end of this article. In addition, safeguard yourself and your family by taking the following tips into consideration:

- Listen to a portable radio for information on shelters, helpful resources and safety advisories. Be alert for tornadoes ("spin-off" storms).
- Stay out of and away from damaged buildings. Return home only when authorities say it is safe. Children should be constantly supervised.
- Be alert for potential hazards. Take extreme care when moving in an area damaged by a hurricane. It is possible that shattered glass, splintered wood or other sharp objects will be strewn around.
- Cooperate with authorities. Whether you're asked to relinquish phone lines, keep off emergency roads or given other directions, do your best to comply.
- Use caution when traveling. Major storms can create weakened roads or bridges, and broken or downed live power lines.
- Be cautious with food. When electricity is out, refrigerated foods can spoil quickly; throw out any food that is questionable. Frozen foods will typically last in a closed freezer for several days.
- Be cautious with drinking water. Hurricanes can contaminate local reservoirs. Radio reports will typically notify residents if tap water is safe to drink. Try to drink bottled water until you know for sure. On average, you need three gallons of water per family member per day. (Tip—you can obtain safe water by melting ice cubes.)
- Remember to help others who may require special assistance—infants, the elderly and people with disabilities.

Caring For Yourself

Disasters such as a hurricane can result in extreme emotions including stress, helplessness, fear, irritability, anger and depression. You may also suffer from nightmares, shock, loss of appetite and the inability to concentrate. All of these reactions and feelings are normal; but if you do not address them, you can jeopardize your health. If you or a family member is unable to cope, do not hesitate to get help. Many temporary shelters offer free counseling services to victims—or referrals to professionals who can provide further assistance. In addition, consider the following tips:

- Have realistic expectations and goals, and be patient with yourself.
- Reach out to supportive friends and family for comfort and guidance.
- Give yourself plenty of time to recover and rest.
- Try to maintain a nutritious diet to keep your energy up.
- Focus on your breathing—deep, slow breaths will help calm you.

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Join a support group. You can find support groups through your doctor, listed in your local newspaper or through local Red Cross chapters.

What To Do If Your Home Is Damaged Or Destroyed

When assessing the damage to your home, use extreme caution. Watch for hidden dangers: flooded areas, falling structures, sharp metal, fires, and other potential hazards. The following tips may help:

- If you smell gas or hear a blowing or hissing noise, you may have a gas leak. In this case, open a window and quickly leave. Turn off the gas at the outside main valve, if possible, and call the gas company from a neighbor's telephone or a pay phone. Note—If you turn off the gas, it must be turned back on by a professional.
- Clean up spilled medicines, bleaches, gasoline or other flammable liquids immediately.
- If you see sparks or broken or frayed wires, or if you smell hot insulation, call an electrician. You may need to turn off the electricity at the main fuse box or circuit breaker; however, if there is a lot of water on the ground, this may be hazardous, so have an electrician do it for you.
- If you suspect sewage lines are damaged, avoid using toilets and call a plumber. If water pipes are damaged, contact the water company and avoid using water from the tap.
- Consider hiring a reliable contractor—but beware of frauds who prey on disaster victims. Your best bet is to get a reference from friends, neighbors, or co-workers who have had improvement work done. Get written estimates from several firms. Ask for explanations for price variations. Don't automatically choose the lowest bidder. Be sure to get a signed contract from any contractor you agree to work with.

Home Owner's and Renter's Insurance

If you have insurance, make a detailed list of the damages and contact your insurance representative as soon as possible. If you aren't able to call from home, tell your agent where you can be reached—and try to be patient. Where there is extensive and widespread damage, insurance representatives usually handle claims on an as-needed basis, beginning with the most serious situations.

Property insurance typically protects against the financial loss due to damages incurred to real and/or personal property, but policies vary, and many have exclusions. For example, many policies do not cover damage caused by flooding, unless you have purchased additional flood coverage. Therefore, read your policy carefully and contact your agent with specific questions about coverage or the claims process.

In addition, the following tips may help:

- Take pictures of the damage—both to the house and your possessions—for insurance purposes.
- Make temporary repairs to prevent further damage from rain, wind or looting. If windows are broken, nail boards or staple-gun heavy plastic or tarps in their place.
- Keep all repair receipts for your insurance agent.

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Safeguarding Your Family and Yourself In The Future

To protect yourself, your family and your home from future disasters, consider taking the proactive steps listed at the beginning of this article now. If you are rebuilding your home, check local building codes and ordinances to find out about wind-resistant designs and reinforced masonry work that may help reduce the damaging effects of hurricanes in the future. The Red Cross and other organizations may also be able to provide safety tips that can help prepare your family in the event of future emergencies.

Resources Are Available

Additional information, self-help tools and other resources are available online at www.FOH4You.com. Or call us for more information, help and support. Counselors are available 24 hours a day, seven days a week to provide confidential assistance at no cost to you.



Employee Assistance Program

We care, just call.

1-800-222-0364

1-888-262-7848 TTY Users
www.FOH4YOU.com

EAP

This material was developed exclusively at private expense by Magellan Behavioral Health and its subcontractors and constitutes limited rights data/restricted computer software consistent with the provisions of FAR 52.227-14. Use of this material is authorized in connection with EAP services provided by Magellan Behavioral Health under contract no. HHSP23320075300DC and conveys no additional rights beyond those noted here.

In the Aftermath of a Traumatic Event: What to Expect



A traumatic event is likely to set off a chain of reactions that can be confusing, painful, and life-changing for an individual, group, or community.

Definitions

- Trauma—an experience that is emotionally painful, distressful, or shocking, which often results in lasting mental and physical effects
- Traumatic event—a life-threatening or shocking occurrence that is witnessed or experienced by an individual; it often involves:
 - A major change we don't choose
 - An intense loss we don't anticipate
 - A feeling of deep uncertainty which challenges our sense of being safe and in control
- Resilience—the ability to adapt in the face of tragedy, trauma, adversity, hardship, and ongoing significant life stressors

Time Lines

The Immediate Shock: Expected Reactions

- When a traumatic event occurs immediate responses often include shock and numbness, a sense of being overwhelmed and in disbelief, or even separated from reality.
- Whereas a stressor may cause some of the same reactions, the reactions to trauma will be of greater magnitude and intensity.
- Immediate reactions to a traumatic event may include both physiological and emotional symptoms:
 - Physical
 - Loss of appetite
 - Headaches, chest pain
 - Diarrhea, stomach pain, nausea
 - Hyperactivity or feeling edgy
 - Nightmares
 - Inability to sleep
 - Fatigue, low energy
 - Worsening of existent health conditions
 - Psychological or Emotional
 - Feeling stunned, numb, or overwhelmed
 - Reliving the event in your mind
 - Fear
 - Feeling helpless
 - Sadness and grief
 - Guilt
 - Anxiety
 - Self-blame and blaming others
 - Hyper-alertness
 - Denial
 - Isolation, withdrawal
 - Agitation
 - Concentration and memory problems

After the Immediate Shock: Day-to-Day Experiences

- As days turn into weeks, many people will guardedly begin to feel more like themselves. The intensity of some of the initial reactions will abate, and/or the duration of periods of feeling out-of-sorts will slowly decrease.

- There will still be times of intensity and periods when the experience is similar to how it felt right after the traumatic event, but generally, for most people, there is a slow but steady improvement in daily life. One thing that is particularly helpful in this process is having a strong support system.
- For some individuals, emotional and/or physical reactions will linger for a more extended period. There still may be a positive trajectory, but the process will be slower. Knowing how you react to stress in general may also give you guidance in understanding and accepting that you just need more time.
- Some individuals may continue to suffer from emotional and physical reactions that get in the way of their daily lives. It is crucial to pay attention to your reactions, and to listen to loved ones when they express concern. For example:
 - You may find it hard to concentrate at work, or you may find yourself consistently irritable at home, or your hyper-alertness never allows you to take a break.
 - You may find that you avoid places, people, or any possible external triggers of the event.
 - You may find that your symptoms extend to your physical health, including an inability to sleep well or a change in appetite.
 - You may begin isolating yourself.
 - You may begin to increase your use of alcohol and other drugs or begin engaging in other harmful behavior.
 - You may find yourself believing that it is pointless to reach out or that you do not need support.

Over the Long Run: Learning to Trust

- Resilience is a remarkable trait of human beings, and the reality is that most individuals will adapt and thrive beyond the traumatic event, and settle into a “new normal.”
- Initially this is hard to believe, and it is not something that is always helpful to hear in the throes of a tragedy. At the same time, knowing that people do recover, even though it may take a while, can be an important touchstone as time goes by.
- When a traumatic event occurs, there is a great loss of trust about what is “expectable,” about the routine of our everyday lives. The event is understandably momentous and looms large in the moment, and in the aftermath.
- With time, with support, and sometimes with outside help, the event shrinks in size, and most people can establish a new footing and grounding as they slowly begin to trust the environment once again.
- Those affected never forget and sometimes get overwhelmed (for example, on anniversary dates or when experiencing other losses), but ultimately it is entirely possible to learn to live once again in the present moment.

What to Expect: A Final Note

- From the initial event and onward, remember to reach out to family, friends, colleagues, communities and professionals. Indeed, social support may be the most crucial factor in building, promoting, and sustaining recovery and resilience.

Federal Occupational Health's (FOH) Employee Assistance and Work/Life Program is available 24/7 to provide support to federal employees. Professionally trained counselors can help minimize the impact of a stressful or disturbing event and help promote resilience. The program provides counseling, problem solving, coaching, and support to assist employees and their family members with a wide range of issues or concerns. Contact us today to learn more.

WE CARE, JUST CALL
FEDERAL OCCUPATIONAL HEALTH
Employee Assistance Program (EAP)
(800) 222-0364 | (888) 262-7848 (TTY)
WWW.FOH4YOU.COM

After a Loss: Tips for Managers

The Employee Assistance Program (EAP)

The competing demands of life at work and at home can take a toll, both emotionally and physically. Family or relationship concerns, conflicts at your job, financial troubles, emotional issues, or life-event stressors—adopting a child, caring for an aging loved one, or even sending a young adult off to college—can severely test your sense of balance and well-being.

Federal Occupational Health (FOH) EAP and Work/Life Program is available 24/7, 365 days a year to provide free, confidential, and voluntary support to federal employees. Professionally trained counselors can help minimize the impact of a stressful or disturbing event and help promote resilience. The program provides counseling, problem solving, coaching, and support to assist employees and their family members with a wide range of issues or concerns. Contact us today to learn more.

Services are offered as a **FREE** benefit from your federal employer for you and your family members. Services are voluntary and confidential within the limits of the law.

The quickest and best way to contact EAP is by calling:

1-800-222-0364

TTY: 1-888-262-7848

Help is also available online:

FOH4YOU.com

In the workplace, as elsewhere, loss is a fact of life. The death of an employee can have a strong impact on the workplace as a whole, and on individual staff members as well. A manager or supervisor is often seen as the face of the workgroup, someone who has the information, who is integral to communication, and who “holds the fort” when things get tough.

A loss in the workplace can be tough for a manager, not only because of the personal feelings he or she has about the death of a colleague, but because the manager must continue to lead during a time when many may be experiencing a variety of emotions. Most managers and supervisors have little training or experience managing an employee group after the death of an employee.

Here are some guidelines for your role as manager or supervisor of a team:

- Share what information you can. Depending on the circumstances of the death, you may be prohibited from sharing certain information with staff. Acknowledge that you may only be able to offer some information, and then be direct about what you can tell the staff. Letting them know whether it’s okay to extend sympathies to the family, or attend a service, may be just what is needed.
- Communicate directly and regularly.
 - Gather as a group as you share the news or initial information about what is known.
 - Continue to look for opportunities to communicate. This may take the form of a brief gathering or check-in every day or so for a short time, or an occasional email with information about services, where to send condolence notes, or even information about how the Employee Assistance Program (EAP) can help employees who are having a difficult time.
 - Be available. Have an open door policy and take walks around the office to informally chat with staff and see how they’re doing.
- Expect less productivity from your employees in the immediate short term. When people experience a loss, especially when there has been no advance preparation, they may experience a shock to the system, much as a person whose body is injured goes into shock. The acute phase usually abates after a few days or so, but for some, this may go on a bit longer.
- In the immediate aftermath, encourage employees to take care of themselves. Suggest they have conversations among themselves, or eat lunch together, or go on a brief walk. If at all possible, allow administrative leave for employees who choose to attend a funeral or services.



The Employee Assistance Program (EAP)



PSC



FEDERAL
OCCUPATIONAL
HEALTH

- Some people may want to take leave for a few days; if it's available to them and it is not an undue hardship for the office, allow this to happen. The same applies to telework if there's an agreement in place.
- Some people may be just fine and continue to come to work and be productive. Accept this approach—the person may not have had the same kind of relationship with the deceased colleague, or the person may prefer to grieve privately, and not as part of the work community.
- Your office may benefit from a one-time one hour voluntary “grief group,” facilitated by an EAP counselor. Informally poll your employees—some groups jump at the chance, while others see no need. If there seems to be enough employee interest, discuss this with an EAP representative to understand the objectives and see if such a meeting could be helpful.
- At any time, feel free to call and consult with an EAP counselor to help you navigate the situation. This is not about using the EAP for counseling—although you may want to do that, too. This is about a supervisor consultation where you can discuss some of the guidelines in this handout, and get suggestions about how to handle the very human feelings and reactions that emerge in a workgroup at a time like this. The EAP is available 24 hours a day, 7 days a week.

A death in the workplace often requires more than usual from a supervisor. Clarity and flexibility are paramount in this time of relative uncertainty, and a solid supervisor presence,

along with an awareness of what could be helpful for staff, can help mitigate the difficulty of a loss. For your own support, do not hesitate to consult with the EAP about questions and concerns you have as your workgroup experiences the aftermath of a loss.

Federal Occupational Health's (FOH) Employee Assistance and Work/Life Program is available 24/7, 365 days a year to provide free, confidential, and voluntary support to federal employees. Professionally trained counselors can help minimize the impact of a stressful or disturbing event and help promote resilience. The program provides counseling, problem solving, coaching, and support to assist employees and their family members with a wide range of issues or concerns. Contact us today to learn more.

For more information, we suggest that you read the handout entitled *After a Loss: What to Expect*. It can be helpful to get some understanding of what not only your staff, but what you, may be experiencing. We also recommend the handout entitled *After a Loss: Supporting a Grieving Colleague or Friend*, which will give you some parameters about how to respond and suggest some actions appropriate to your role.

**The quickest and best way to
contact EAP is by calling:**

1-800-222-0364

TTY: 1-888-262-7848

Help is also available online:

FOH4YOU.com

Dicta

BY HON. MILDRED CABÁN

What Are Lawyers to Do After a Major Disaster?



Hon. Mildred Cabán
U.S. Bankruptcy Court
(D. P.R.); San Juan

Hon. Mildred Cabán has been a bankruptcy judge for the District of Puerto Rico since 2010. She was previously a partner at Goldman Antonetti & Córdova P.S.C. in San Juan. She participates in educational programs for bar organizations and speaks on financial literacy matters to students of all age groups as an avid CARE volunteer.

A disaster, whether natural or man-made, can happen to anyone, at any time or place. A lawyer could be faced with the reality of property damage, no electricity or no internet connection. Along with trying to resume business activities, there might be concerns with obtaining basic provisions such as water, food and fuel. Many lawyers in the District of Puerto Rico faced these hardships and much worse during the wake of Hurricane Maria. Some were temporarily displaced due to lack of necessities in order to protect and to provide for their families. Others helped each other during the crisis.

I hope that no one suffers the fury of a weather phenomenon or encounters an unexpected man-made emergency. The reality is that we are not immune to emergencies. While we might not be able to prevent disasters, we can take measures to protect our families, property and workplace. Are you ready? Is your workplace prepared? Do you know your ethical responsibilities before and after a disaster strikes?

After the devastating hurricanes and wildfires of 2017, the Standing Committee on Ethics and Professional Responsibility of the American Bar Association (ABA) released a formal opinion on ethical obligations related to disasters in order to help lawyers understand their duties when a disaster strikes.¹ Communication is one of the starting points for recovery in the aftermath of a disaster. The opinion reminds lawyers of their duty to communicate with clients. Rule 1.4 of the ABA Model Rules of Professional Conduct requires that “[a] lawyer shall ... keep the client reasonably informed about the status of the matter” and “promptly comply with reasonable request for information.”² Model Rule 1.3 mandates that lawyers shall act with reasonable diligence and promptness in representing clients. After a disaster occurs, the federal courthouse and the clerk’s office might be temporarily inaccessible. The courts generally issue orders suspending or extending deadlines, including prescriptive and pre-emptive periods. Hearings may have to be rescheduled due to the emergency conditions. The rules do not allow lawyers to be disconnected

from their clients and their cases, even after a disaster has occurred.

To avoid becoming a disconnected lawyer, the ABA Opinion recommends that lawyers maintain a paper list of current clients and their contact information, and keep this information stored in a manner that is easily accessible. Lawyers cannot rely solely on having the information in the computer or “in the cloud” because telecommunications could fail or systems can be damaged in a disaster: “If Internet access to files is provided through a cloud service, the lawyer should (i) choose a reputable company, and (ii) take reasonable steps to ensure that the confidentiality of client information is preserved, and that the information is readily accessible to the lawyer.”³ By the same token, lawyers cannot just have the information on paper due to the possibility of water, wind or fire damage. The key to preserving clients’ data is redundancy by having important information stored electronically and on paper. Another tip for maintaining communication is to include the lawyer’s emergency contact information in the fee agreement or engagement letter.

Prior to any disaster, lawyers need to protect documents, funds and other property that are held for clients or third parties.⁴ Client files and documents might be lost or destroyed in an impacted area. Responsibilities will depend on the status of the affected clients and the nature of the stored document. There is a duty to communicate with current and former clients regarding the loss of documents with intrinsic value, such as original executed wills.⁵ When a current or former client requests information about their documents (whether having intrinsic value or not), the lawyer must be forthcoming and answer honestly.⁶ The ABA Opinion recommends that lawyers “should consider returning all original documents and documents with intrinsic value created by the lawyer as a result of the representation to clients at the end of the representation” in order to avoid making reasonable efforts to reconstruct lost documents of intrinsic value.⁷

³ ABA Opinion at 4.

⁴ ABA Model Rule 1.15(a).

⁵ See Model Rules of Prof’l Conduct R. 1.4 (2018); N.Y. City Bar Ass’n Formal Op. 2015-6 (2015).

⁶ N.Y. City Bar Ass’n Formal Op. 2015-6 (2015).

⁷ ABA Opinion at 9.

¹ ABA Comm’n on Ethics and Prof’l Responsibility, Formal Op. 482 (2018) (hereinafter, the “ABA Opinion”).

² Unless expressly stated otherwise, all references to “Rule” or “Model Rule” shall be to the ABA Model Rules of Professional Conduct as amended by the ABA House of Delegates through 2018.

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Dicta: What Are Lawyers to Do After a Major Disaster?

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Even under dire circumstances, like power and telecommunication failures, lawyers must “make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of the client,” as required by Model Rule 1.6(c). Competent representation means that a “lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology,” as espoused in Comment 8 of Model Rule 1.1. Lawyers must keep up with technology as it impacts their law practice and thus cannot afford to stay in the dinosaur era.

If the law office or the lawyer suffers damages or injuries from a disaster that impacts the ability to represent clients, then the lawyer may have to withdraw from those legal representations. Model Rule 1.16(a)(2) or (b)(7) requires withdrawal of legal representation when “the lawyer’s physical or mental condition materially impairs the lawyer’s ability to represent clients” or for “other good cause.” Part of the recovery stage is assessing the needs of the client for immediate legal services and the lawyer’s ability to provide those services on a timely basis.

Displaced lawyers who are considering practicing law outside their jurisdiction need to proceed with caution. The ABA Model Rule on Provision of Legal Services Following Determination of Major Disaster indicates that a displaced lawyer “may provide legal services in [another] jurisdiction on a temporary basis ... if permitted by the highest court of the ... jurisdiction.”⁸ However, this rule has not been adopted in all jurisdictions. For example, after Hurricane Harvey in 2017, the Texas Supreme Court adopted certain requirements that were like the ABA Model Rule.⁹

On the other side, lawyers from unaffected jurisdictions who may want to provide legal services to survivors may do so, but only if they are allowed by the affected jurisdiction’s laws and rules or by order of the highest court. The

ABA Opinion provides some guidance regarding *pro bono* representations of survivors through a nonprofit bar association, *pro bono* program, legal services program or any other entity designated by the courts in the impacted jurisdiction. Lawyers should remember that they are still bound by rules on advertising and solicitation, even in the aftermath of a disaster.¹⁰

During difficult and literally dark times, lawyers need to keep calm and be optimistic. Do not become hardened and bitter. Be civil to your opponent, especially if you have all the benefits of electricity, internet and no damages, but your opponent does not. Six weeks after Hurricane Maria, our courthouse was reopened for hearings. In the first case on the calendar, all the attorneys appeared, and they had filed a joint motion. After discussing the issues of the case, I thanked them for being prepared under the horrific circumstances that we all faced. The lawyers then began to explain their individual circumstances of either not having electricity, internet or both. They thanked the one attorney who had these vital services and opened his office to the attorneys to discuss the case and file their joint motion. In another case, a chapter 7 trustee was grateful to his fellow trustee who allowed him to work from his office so that he could fulfill the responsibility of administering his bankruptcy estates. On that day and many other days, my face beamed with joy and pride at the civility displayed by the members of the bar in our district.

Therefore, before any disaster happens, lawyers need to have a plan to continue with their law practices and protect client files. If there is a plan in place, please be sure to update and practice it. After surviving a traumatic experience, lawyers must comply with ethical responsibilities by maintaining competence and diligence in providing legal services to clients who are suffering, too.

Be safe, keep calm, maintain a healthy disposition, and work ethically — before and after a disaster. **abi**

⁸ ABA Model Court Rule on Provision of Legal Services Following Determination of Major Disaster, at 1-2 (2007).

⁹ Amended Emergency Order After Hurricane Harvey Permitting Out-of-State Lawyers to Practice Texas Law Temporarily, Misc. Docket No. 18-9029, issued by the Supreme Court of Texas on Feb. 26, 2018.

¹⁰ ABA Model Rule 7.3. See *The Florida Bar v. Wolfe*, 759 So.2d 639 (Fla. 2000) (lawyer suspended for one year for soliciting clients by passing out brochures in affected areas in wake of tornadoes).

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Cyber-U

By ELIZABETH B. VANDESTEEG

Technology and Legal Ethics: A User's Manual (Part II)

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As was discussed in Part I,¹ use of technology has become a vital and inescapable component of the practice of law. Society's now-ubiquitous reliance on technology has required the legal industry to augment the ethical standards that attorneys must uphold in order to maintain fundamental protections for their clients and their clients' information. These ethical standards are applicable to all attorneys equally, but they are particularly relevant for bankruptcy attorneys, who are custodians of a host of personally identifiable information (PII)² and other sensitive and confidential information.

Part II of this article will focus on the specific ethical obligations and practical standards set forth in two recent American Bar Association (ABA) ethics opinions governing the storage and transmittal of client data, as well as the necessary steps that lawyers and firms must take to protect against, and notify clients of, any unauthorized access to client information.

Securing Communication of Protected Client Information

On May 11, 2017, the ABA Standing Committee on Ethics and Professional Responsibility issued Formal Opinion 477R, "Securing Communication of Protected Client Information." Acknowledging that law firms are high-quality targets of hackers, the purpose of Formal Opinion 477R was to address "how a lawyer should comply with the core duty of confidentiality in an ever-changing technological world."³

The ABA's conclusion is that "[a] lawyer generally may transmit information relating to the representation of a client over the internet without violating the Model Rules of Professional Conduct where the lawyer has undertaken reasonable efforts to prevent inadvertent or unauthorized access." How, then, should one determine what steps are "reasonable" to prevent unauthorized access to client information? Formal Opinion 477R expressly

states that it is "beyond the scope" of the opinion to expressly dictate what may constitute "reasonable steps" to protect client data, but it provides the following "considerations as guidance":

1. *Understand the nature of the threat:* A lawyer must consider the sensitivity of the client's information and whether the information is at a higher risk for cyberattack (e.g., trade secret or financial information); higher-risk scenarios require greater efforts to protect.⁴

2. *Understand how client confidential information is transmitted and where it is stored:* A lawyer must understand the law firm's technological landscape in terms of how electronic communications are created, where client data is stored, and how and by whom the data can be accessed.⁵

3. *Understand and use reasonable electronic security measures:* A lawyer should understand the various options that exist to protect electronic information and implement appropriate measures to protect client data and communications. This could include the use of secure internet access methods (secure Wi-Fi or virtual private network); complex passwords; firewalls; anti-malware/antivirus software; regular security patches and updates; encryption; and multifactor authentication.⁶

4. *Determine how electronic communications about clients' matters should be protected:* A lawyer and client should discuss what levels of security will be required for electronic communications, recognizing that communications might be at varying levels of sensitivity and could require different degrees of protection.⁷

5. *Label clients' confidential information:* A lawyer should mark client communications as "privileged and confidential" in order to put any unintended recipient on notice of the intent for the communication to remain confidential.⁸

6. *Train lawyers and nonlawyer assistants in technology and information security:* Applying ABA Model Rules 5.1 and 5.3, lawyers must establish policies regarding, and train employees on the use of, secure methods of communication with clients and reasonable measures for the storage of and access to client data and communications.⁹

1 Elizabeth B. Vandesteeg, "Technology and Legal Ethics: A User's Manual (Part I)," XXXVIX ABI Journal 2, 12, 49-51, February 2020, available at abi.org/abi-journal (unless otherwise specified, all links in this article were last visited on Feb. 26, 2020).

2 PII is defined as "[a]ny information about an individual, including any information that can be used to distinguish or trace an individual's identity, such as name, Social Security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linkable to an individual, such as medical, educational, financial, and employment information." "Personally Identifiable Information," IAPP Resource Center, available at iapp.org/resources/article/personally-identifiable-information.

3 ABA Comm. on Ethics and Prof'l Responsibility, Formal Op. 477R, at 2 (2017).

4 *Id.* at 6.

5 *Id.*

6 *Id.* at 6-7.

7 *Id.* at 7-8.

8 *Id.* at 8.

9 *Id.* at 9.

7. *Conduct due diligence on vendors providing communication technology:* A lawyer must take reasonable steps to analyze potential vendors who will be involved in the transmittal or storage of client data or communications. Lawyers should consider reference checks and vendor credentials; vendor security policies and hiring practices; use of confidentiality agreements; and availability of legal fora in the event of violations of the vendor agreement.¹⁰

From the perspective of a cybersecurity attorney, these “considerations” are the framework of a basic information security program. The creation and implementation of a thoughtful and deliberate information security program, as evidenced by and set forth in a written information security policy evidencing its terms, is a best practice that every law firm should follow. Simply put, an information security policy is a company’s documented statement of rules and guidelines that need to be followed with respect to the security of company data. For a law firm, an information security policy should expressly apply to client data, and it should detail the administrative, physical and technical safeguards in place to provide reasonable protection of client information.

Lawyers’ Obligations After an Electronic Data Breach or Cyberattack

Data loss and hacking are now commonly discussed in terms of “when” and not “if.” Even an attorney who has taken reasonable steps to protect client data and communications may well nonetheless be the target of a cybersecurity incident or data breach involving client information. How should an attorney ethically handle and respond to such an event?

On Oct. 17, 2018, the ABA Ethics Committee issued Formal Opinion 483, “Lawyers’ Obligations After an Electronic Data Breach or Cyberattack.” Formal Opinion 483 “picks up where Opinion 477R left off, and discusses an attorney’s ethical obligations when a data breach exposes client confidential information.¹¹ It sets forth both obligations related to the detection of and response to a cybersecurity incident, as well as specific notice requirements to clients.

For purposes of Formal Opinion 483, a data breach occurs when “material client confidential information is misappropriated, destroyed, or otherwise compromised, or where a lawyer’s ability to perform the legal services for which the lawyer is hired is significantly impaired.”¹² But not every data breach will result in an ethical violation — only those where “a lawyer does not undertake reasonable efforts to avoid data loss or to detect cyber-intrusion, and that lack of reasonable effort is the cause of the breach.”¹³

Reasonable Efforts to Prevent a Data Breach

In the first instance, lawyers have an obligation to monitor for data breaches.¹⁴ They must monitor firm technology and resources connected to the internet, as well as external

data sources and external vendors who might access or provide services involving client data.

Lawyers and law firms should also proactively develop a detailed incident response plan (IRP) before a breach occurs, so that appropriate and coordinated steps might be taken immediately thereafter.¹⁵ While every lawyer’s IRP should be tailored to fit their office’s or firm’s specific practice, the fundamental goal of any IRP is to appropriately handle an incident through (1) preparation; (2) detection and analysis; (3) containment, eradication and recovery; and (4) post-incident activity.¹⁶

As part of the preparation phase, it is important to draft the IRP as a simple standalone document. It should designate and provide contact information for team members and their backups (a “breach response team”), together with the specific roles that each member will play in the event of a security incident, and at every stage of the incident.¹⁷ Best practices then encourage the breach response team to engage in “tabletop exercises” in order to test and practice the IRP procedures before a security incident happens.

After taking prompt action to contain and eradicate the breach, a lawyer is ethically obligated to “make all reasonable efforts to restore computer operations to be able again to service the needs of the lawyer’s clients.”¹⁸ The extent of such efforts, whether through restoration of existing systems or through implementation of new technology, will depend on the specific circumstances of the breach. Unless the lawyer or firm is trained in this area, it is best to outsource this process to trained experts to ensure complete recovery and prevent further breaches.

Attorneys must then make reasonable efforts to determine what actually occurred during the data breach. Ethical standards governing post-breach investigations require that the lawyer have enough information to both confirm that the breach has in fact been contained and evaluate the extent, if any, to which client data was accessed or lost.¹⁹ In addition, the post-breach investigation should be extensive enough to determine how the breach occurred in order to patch any and all vulnerable access points.

Obligations to Provide Notice of Data Breach

The Model Rules of Professional Conduct require that a lawyer must “keep the client reasonably informed about the status of a matter” and “shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.”²⁰ Formal Opinion 483 interprets these rules to impose an ethical obligation on a lawyer to communicate with current clients about a data breach.²¹

Current clients are entitled to notification when a data breach occurs that involves, or likely involves, material client

¹⁰ *Id.* at 9-10.

¹¹ ABA Comm. on Ethics and Prof’l Responsibility, Formal Op. 483, at 2 (2018) (“ABA Formal Op. 483”).

¹² *Id.* at 4. It is important to note that this definition is applicable only to determining whether attorneys have ethical obligations arising out of the applicable ABA Model Rules and Formal Opinions. This definition is not the one that might be applicable should a loss of client information also trigger notification requirements under various state or federal data-breach-response laws.

¹³ ABA Formal Op. 483 at 5-6.

¹⁴ *Id.* at 4-6.

¹⁵ *Id.* at 6 (citing Jill D. Rhodes & Robert S. Litt, *The ABA Cybersecurity Handbook: A Resource for Attorneys, Law Firms and Business Professionals* (2d ed. 2018)).

¹⁶ Nat’l Inst. of Standards and Tech., *Computer Security Incident Handling Guide*, at 21-45 (2012), available at nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-61r2.pdf.

¹⁷ ABA Formal Op. 483 at 6-7 (citing Steven M. Puiszis, “Prevention and Response: A Two-Pronged Approach to Cyber Security and Incident Response Planning,” *The Prof’l Lawyer*, Vol. 24, No. 3 (November 2017)).

¹⁸ *Id.* at 7.

¹⁹ *Id.* at 7-8.

²⁰ Model Rules of Prof’l Conduct R. 1.4(a)(3) and 1.4(b) (2019).

²¹ ABA Formal Op. 483 at 10-12.

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confidential information.²² Upon disclosing a breach to a client, a lawyer must provide enough information for the client to make an informed decision about what to do next, if anything, with respect to the present representation. This means that a lawyer must disclose to the client not only the occurrence of, but also the extent of, the unauthorized access to or disclosure of the confidential client information. Lawyers should be prepared to advise the client regarding the breach response plan, the efforts being taken to recover the client information, and any additional measures being implemented to increase data security and prevent future breaches.²³

Finally, and apart from ethical obligations, if a data breach involves unauthorized access to PII, whether of clients or others, a lawyer must examine potential notification obligations under various state and federal laws. All 50 states have adopted breach-notification laws, with differing definitions of “protected information” and “breach,” and differing standards for scope and requirements of notice.²⁴

²² As a matter of legal ethics, this notification obligation does not extend to former clients “in the absence of a black-letter provision requiring such notice.” Rather, lawyers are encouraged either to reach a specific agreement with the client about how to handle electronic information post-representation, or to adopt a general document-retention policy to reduce overall the amount of information retained of former clients. ABA Formal Op. 483 at 13.

²³ ABA Formal Op. 483 at 14-15.

²⁴ *Id.* at 15 (citing to Nat’l Conference of State Legislatures, Security Breach Notification Laws (Sept. 29, 2018), available at ncsl.org/research/telecommunications-and-information-technology/security-breach-notification-laws.aspx).

Conclusion

Lawyers are individuals governed by ethical obligations with respect to the confidential information entrusted to them by their clients. However, law firms are businesses, with the goal of making a profit for the partners or shareholders, and the interests of individual lawyers and the businesses they work for can sometimes conflict.

Fortunately, there is great overlap between best business practices and legal ethical obligations with respect to data security. To check both boxes, lawyers and their firms should be very deliberate in creating and implementing an information security program that appropriately protects a firm’s most valuable asset: its clients’ information and communications. This can only be done if lawyers take the necessary time to familiarize themselves with the technologies they use, implement set standards for how client data will be stored and accessed (through the use of a written information security policy), install preventive measures to protect against breaches, and know what to do if/when a breach occurs (through the use of an incident response plan). Failing to follow this protocol risks inviting otherwise-avoidable liability that can threaten a lawyer’s practice and reputation. **abi**

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