

HIGHLIGHTS FROM 3 RECENT SURVEYS THAT WILL HELP YOU ANTICIPATE ISSUES

Likelihood Of Future Events Project Outlook evaluated 235 possibilities, including:

1. Medical Triage: non-binding criteria developed for allocating & denying healthcare svcs on the basis of cost, availability & patient characteristics such as age, mental condition, mobility, prospects for long-term improvement, etc. 40 experts give this a 50% median probability of happening, as early as 1992.

2. Computer Buying Aids: micro-computer systems are widely used to guide consumers about key decisions in healthcare, major purchases, career planning, legal matters, etc. 111 experts give it 75% median probability, as early as 1992.

3. Instantaneous Voting: a communications network capable of conducting a nat'l referendum within a day is used to influence gov't regs. 93 experts assign median probability of 50% by 2006.

4. Productivity Pay: major unions agree to tie benefits to worker productivity. Median probability, 60% by 45 experts, as early as 1992.

5. Corporate Ethics: a self-policing function to enforce the ethical behavior (ethics manager) is added to the staffs of at least 25% of the largest US corporations. Median probability assigned by 57 experts, 50% as early as 1992.

CEO's Opinions Overwhelmingly they support budget cuts to reduce the federal deficit, totally reject the view that economic growth alone can solve the problem, finds survey conducted by Kellogg Grad School of Mgmt, NorthwesternU thru a grant from Burson-Marsteller. Of 120 responses: a) 76% say cut budget for nondefense items; b) 60%, cut the defense budget; c) 48%, initiate value added tax; d) 31%, initiate oil import tax; e) 18%, raise personal income taxes; f) 9%, initiate other tax.

Regarding deregulation, 58% feel it "has not gone far enough"; 31% feel it has. 10% say it has gone too far. 72% support legislation making takeovers more difficult. 75% say employers should have the right to test employees for AIDS. On South Africa, 86% disapprove of divesting, because it would cause black unemployment.

Survey On Religion & Public Life Highlights: Committee representing Protestants, Catholics, Jews & secularists interviewed 3,017 people nationwide.

¶Majority are willing to vote for presidential candidates of different faiths which are part of the Judeo-Christian heritage. Only 8% would refuse to vote for a Catholic; 10% for a Jew; 13% for a "born-again Baptist." These numbers are down from a '58 survey, showing increasing tolerance within these confines.

¶Traditional moral values are expected. 65% are unwilling to vote for a homosexual presidential candidate (26% are willing); 43% are unwilling to vote for a married candidate who "has been having other love affairs" (43% are willing).

¶68% agree that "religious groups would have a legal right to get involved in politics," but 57% say "personally" they would prefer "to see organized religious groups stay out of politics."

¶51% prefer a "high wall of separation between church & state," while 32% favor "special steps" by gov't "to protect the Judeo-Christian heritage."

pr reporter

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LEGAL ISSUES, POTENTIAL RISK, LIABILITY OF PR ACTIVITIES HAS INCREASED;
ARE PRACTITIONERS AWARE OF MAJOR TROUBLE AREAS? INSURANCE NEEDED NOW?

Threat of lawsuits against practitioners has been discussed for years but only recently has come into focus. At least one malpractice suit has surfaced. Causes of increased risk are 1) litigious society; 2) hungry lawyers; 3) and, according to Sondra Byrnes, atty & 20-yr pr veteran for MichCon (Detroit), deeper involvement of pr in more complex areas (e.g., merger & acquisition, product liability).

Trouble Areas The bad news is: most practitioners have only an elementary understanding of legal areas applying to their practice. Most repeated problems, according to consultant Frank Walsh, who is also an attorney:

1. Invasion of Privacy. Expect more problems as screening & testing related to substance abuse, AIDS, increases. Even the basics are sometimes forgotten. Walsh claims lack of or inadequate consent release trips up many. Without "fair exchange," (in many cases, as small as \$1), signed release to use photo, name or likeness may be considered invalid.

Though there may be no problem 95% of the time, Walsh suggests extra caution a) if likeness will be used externally for purposes of trade; b) if it's a major piece (e.g., annual report, videotape) that would be costly to change or ditch; c) if it involves a new, unknown employee. Cites example of bank which used photos of employees in ad without consent release; was sued by employees, forced to pay damages. Even use in a primarily internal publication requires consent if the piece is planned for sales or other outside use.

"Wherever you stomp on employees' sensitivities -- be it with drug testing or publicity -- you run risks. You may win in court, but you always lose because the cost of litigation is so high and, from a public standpoint, because the organization gets a reputation." -- Sondra Byrnes

2. Copyright. Most problems center on employee/employer/vendor disagreement over who owns what. Courts have held that unless agreement in writing says otherwise, org'n which hires someone owns the property they produce.

Emergent Areas 3. Liability for information is potential Pandora's Box. In several cases, practitioners were held accountable for accuracy even though they didn't generate information. Point is: practitioner has increasing responsibility to verify the info. If it's important (has implications for financial decisions, healthcare, consumer products, makes claims to be biggest, #1, etc.), check it out.



4. Commercial Speech. Tho courts had historically restricted corporate speech, trend in past decade was more liberal. Now, one case indicates Supreme Court may be tightening up again. Could mean curtail- ing of rights for controversial products & services, e.g., pharmaceuticals. Alcohol next big one, predicts Walsh. (Plaintiffs will have a heyday with Surgeon General's pronouncement that smokers are drug addicts.)

"As pr practitioners, we all have a responsibility to be current on financial pr legal issues, firstly because rulings in this area can be transferred or applied to other areas, and secondly, because that's where we seemingly are taking our biggest hits on ethical issues. When it involves ethics, then the whole profession is involved, and if we don't know what's wrong, we can't change." -- Frank Walsh

5. Financial Reporting. Tho very specialized & directly affecting only a narrow range of practitioners, it can have broad implications, suggests Walsh. If courts can rule on kinds & timing of information essential to making financial decisions, "it's an easy jump to other areas of pr where public is dependent on certain kinds of information," (e.g., research relevant to product safety, public right to know about chemical use, etc.).

Malpractice: Is This The Tip Of An Iceberg?

Recent case of a Boston firm charged with this worried some that it might trigger a rash of such suits. Yet NYC Atty Harold Suckenic who specializes in law relating to pr says, "There is no such thing as pr malpractice. To prove malpractice or negligence, you have to have a profession with accepted standards and practices. How are you going to prove this against a pr firm when you can't show any established knowledge or skill that they can deviate from?"

In pointing out that courts don't recognize pr as a profession, Suckenic adds, "In the eyes of the law, practitioners are not even seen as experts," noting that press releases can be subpoenaed as evidence without presence of pr expert to explain.

But Byrnes isn't surprised by idea of pr malpractice. "To think we can act in any way we like and not be subject to scrutiny is ridiculous. As we get into more complex situations we should be held accountable just like any other profession."

One problem: legal & medical professions have more clearly defined protocols; pr doesn't, and may never due to complexity of field.

Do Practitioners Need Liability Insurance?

Insurance industry uses terms malpractice, liability, errors & omissions interchangeably (tho Suckenic sees E&O covering simplistic, mechanistic failure to perform according to agreement, hence different from malpractice).

Only a few firms have bothered with liability insurance, reports Terry McCarthy, chrm, Counselors Academy. Cost is prohibitive for small firms. Response to Academy survey indicated members not interested if costs too high. One reason for high cost is that underwriters tend to lump pr with advertising, which has bigger universe & much higher risk pool.

One insurance broker specializing in professional liability says very few carriers write this kind of coverage for pr firms. Cost for minimum coverage (\$.5M) ranges

from \$2500 to \$30,000. Market research capabilities add exposure. Yankelovich, Skelly & White is being sued for erroneous projections of marketshare. Impact is that American Mktg Assoc expects market research costs to quadruple to cover legal fees & malpractice insurance.

Some worry that development of this insurance would only increase litigation since some attys work on contingency & like to know pool of funds is available. Interestingly, some clients are beginning to require counseling firms to hold E&O insurance, indemnifying client. This could have impact on fee schedules.

Lack Of Concise Information Source Makes It Tough To Keep On Toes

Most well-known reference book, Public Relations Law by Mort Simon, is 20 years old, out-of-print, written for lawyers, too expensive to update. In its place, Found'n for Pub Rels Research & Educ will publish this summer a monograph by Walsh. Specifically directed to practitioners, The Law and Public Relations will address major areas every practitioner should know about: privacy, copy right, advertising & corporate speech, defamation, financial pr including dis- closure, insider trading.

CALIFORNIA HEALTHCARE POLL SURVEYS BELLWETHER STATE

SRI/Gallup conducted 2nd annual study -- phone survey of 1,008 heads of households during Jan. Some findings:

Issues 1. 70% say medical care is a right; 23% a privilege. 62% say gov't should be responsible for the medical care costs of people who can't afford it. Gov't is paying hospitals too little (say 60%) for treatment of senior citizens on Medicare.

2. But only 20% say cost is the most important healthcare issue today; 31% say AIDS. 55% believe gov't is doing too little to solve the AIDS epidemic. 57% say gov't should pay for care of indigent or uninsured AIDS patients.

3. 82% favor an increased tobacco tax to pay healthcare costs for those who can't afford it; 82% favor increased tax on alcohol; 64% favor mandatory employer-paid health insurance. In contrast, 60% oppose increased sales tax.

Attitudes/Behaviors

4. Smoking declined significantly among 18-24 yr olds, from 28% in '86 to 19% today. Overall it remained stable at 1/4 of population. 45% of all smokers have tried to quit in the past year.

5. 20% say they often get depressed, up from 16% in '86. 48% report a lot of stress in their lives.

6. Only 36% strongly agree they are generally happy, down from 65% in '86. '88 respondents also reported significantly less excitement about their future, lower perceptions of financial security and less belief that their occupation is exciting & fulfilling than in '86. Among blacks, only 9% strongly agree they are financially secure, down from 28% in '86.

7. 61% drink alcohol; 7% say drinking has been a problem for them. 19% have experimented with drugs (27% men, 11% women). Of these, 15% indicate drugs have been a problem for them. Unprecedented levels of both drinking (66-69%) & drug experiment- ation (32-35%) were recorded in young age groups (18-24 & 25-34).