Northern New England Society for Healthcare Risk Management

Silent Threats, Lasting Consequences

Building Defenses Against Sexual Abuse and Molestation in Healthcare

PROCARE
Risk
Management
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Presenter

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Eagle Lake, Southwest Harbor, Maine
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Content organization supported by Claude AI (Anthropic). All clinical guidance reflects current healthcare risk management standards and presenter expertise.

Quick Assessment - Before We Begin

- Do you have a written opt-out chaperone policy?
- Can all your clinical staff define when chaperones are required?
- Do you document when patients decline chaperones?

Objectives of Today's Session

We Will Explore:

- **Evolving Insurance Landscape**: Trends in Sexual Abuse & Molestation (SAM) coverage and exclusions.
- **Legal & Regulatory Shifts**: How recent changes increase organizational liability.
- **Real-World Impact**: High-stakes consequences for healthcare institutions.
- **Prevention & Response Strategies**: Strengthening programs, reporting, and risk transfer for a highly protective SAM program.

SECTION 1:
Understanding the Landscape

Why This Matters NOW:

The Perfect Storm

Legal Reforms - Statutes of limitations eliminated for abuse claims

→ Cases from decades ago can be filed today

Societal Awareness - #MeToo movement increasing victim willingness to report

→ Victims who stayed silent for decades are coming forward

Insurance Crisis - Carriers adding SAM exclusions or dropping coverage entirely

→ Prevention programs now required for insurability

Settlement Amounts - Reaching unprecedented levels ($1B+ in single cases)

→ Both patient harm and institutional liability at stake

Statute of Limitations (SOL) -New England States

State	Adult Civil SOL	Minor Civil SOL	Statute	When Changed
New Hampshire	No limit	No limit	RSA 508:4-g	Sept 2020 - HB 705 eliminated all civil SOL
Vermont	3 years	No limit	12 V.S.A. § 522	2019 - eliminated for minors
Maine	6 years	No limit if victim under 16	17-A M.R.S. § 253	1991, 1999 - eliminated for minors under 16
Massachusetts	3 years	Age 53 (35 years from incident) or 7 years from discovery	M.G.L. c. 260, § 4C	Extended 2014
Rhode Island	7 years	Age 53 (35 years from incident) or 7 years from discovery	R.I. Gen. Laws § 9-1-51	2019 - extended to age 53
Connecticut	3 years	Age 51 (33 years from age 18)	Conn. Gen. Stat. § 52-577d	Extended over time; 2022 eliminated SOL for convicted abusers

Source: links under resources

SECTION 2:
Learn From Catastrophic Failures

Catastrophic Failures:
When Prevention Systems Don't Exist or Aren't Followed

Institution	Patients Harmed	Duration	Prevention Failures
Columbia University Medical Center	800+ victims	20 years	Complaints dismissed, no investigation, no action
Cedars-Sinai Medical Center	176+ victims	43 years	"Just his personality" - no boundary enforcement
Brigham & Women's Hospital	200+ victims	13 years	Patient complaints ignored, no supervision

Five System Failures That Enable Abuse:

- Complaints dismissed
- Power differential protected abusers
- No documentation
- Delayed or no action
- Siloed information

Pattern Recognition

The Same Story, Every Time

- What Juries See:
  - Multiple complaints → No action
  - "That's just how he is" → No accountability
  - High revenue provider → Special treatment
  - Staff concerns → Dismissed
  - Documentation → Missing

The Question They Ask: "Did you do ANYTHING to stop this?"

What Juries Want to Know

- Did you have policies **DESIGNED** to prevent harm?
- Did you **FOLLOW** them to protect patients?
- Did you **ACT** on red flags to stop ongoing harm?
- Could patient harm have been **PREVENTED** with better systems?
- The Question Behind the Questions:

Did you do everything reasonable to protect vulnerable patients?

Case Scenario - You Decide

Scenario:

- Dr. Smith, orthopedic surgeon, 15 years, generates $3M+ annually. Anonymous complaint: 'makes patients uncomfortable.' Vague, no specifics. Colleague says, 'He's just friendly, great revenue generator.

Questions:

- Do you investigate?
- What's your next step?
- What systems are in place?

SECTION 3:
Insurance Requirements & Risk Transfer

What Insurers Want to Know

- Requirements for Coverage:
  - Written SAM prevention program
  - Mandatory chaperone policies
  - Boundaries training and policies
  - Background checks including Sexual Offender Registry (all 50 states)
  - Annual staff training on red flags
  - Incident reporting protocol
  - Documentation audits

- Without These Programs:
  - High-risk specialties: 30-200% premium increases
  - Organizations with incidents: May become uninsurable
  - Some carriers: Excluding SAM coverage entirely

Available Resources

Your Carrier/Broker/Agent Wants to Help

- Many offer:
  - Risk assessment tools
  - Template policies
  - Training materials
  - Loss control consultants
  - Risk management funds for risk assessments or program development

SECTION 4:
Build Your Prevention Program

Creating Culture of Accountability -
Culture Eats Policy for Breakfast

- Cultural Elements:
  - Leadership commitment visible
  - No tolerance for boundary violations
  - Psychological safety to report concerns
  - Swift response to allegations
  - Transparency about prevention efforts
  - Regular training and communication
  - Recognition for upholding standards

- Warning Signs of Toxic Culture:
  - "That's just how he is"
  - Fear of reporting concerns
  - Protecting high-revenue providers
  - Dismissing patient complaints
  - No consequences for policy violations

Essential for SAM Prevention

Must-Have SAM Protection Elements:

- Chaperone Policy (opt-out with documentation,, patient education, staff training)
- Red Flag & Bystander Training (recognition and intervention)
- Reporting & Investigation Protocol (clear pathways, retaliation protection)
- Background Screening (pre-employment and ongoing)
- Audit & Monitoring (compliance verification)

Each Policy Should Include:

- Clear definitions
- Specific requirements
- Roles and responsibilities
- Reporting mechanisms
- Consequences for non-compliance

Background Checks –
Beyond the Basics

- Beyond State Requirements:
  - National criminal background check
  - Sex offender registry (SOR) (all 50 states)
  - Office of Inspector General (OIG) / List of Excluded Individuals and Entities (LEIE) exclusion lists
  - Previous employer reference checks
  - Professional licensing verification
  - Social media screening (where legal)
- High-Risk Specialties Need Enhanced Scrutiny:
  - OB/GYN
  - Pediatrics
  - Sports Medicine
  - Physical Therapy
  - Behavioral Health

Re-screening: Every 2-3 years, especially for high-risk roles

The Foundation - Chaperone Policies

- Opt-OUT vs. Opt-IN:
  - ❌ Opt-IN: "Do you want a chaperone?" (Puts burden on patient)
  - ✓ Opt-OUT: "A chaperone will be present unless you prefer privacy" (Default protection)
- Why Opt-OUT is Standard of Care:
  - Power differential between provider and patient
  - Patients may not know they can request one
  - Creates default culture of transparency
  - Protects both patient AND provider

Defining Sensitive Exams:
When Are Chaperones Required?

- Always Require Chaperones:
  - Breast exams
  - Pelvic/genital exams
  - Rectal exams
  - Any exam requiring disrobing below the waist
  - Any exam of areas typically covered by clothing
- Consider Requiring:
  - First visits with new patients
  - Patients with history of trauma
  - Adolescent exams
  - Sports physicals
  - Any patient request

Key Principle: When in doubt, err on the side of having a chaperone

Who Can Be a Chaperone?

- Required Qualifications:
  - Trained staff member (not family/volunteers)
  - Completed SAM awareness training
  - Knows how to intervene appropriately
  - Can document and report concerns
  - Empowered to stop exams if needed
  - Background checked and screened

- NOT Acceptable:
  - ❌ Medical students (they're learners, not protectors)
  - ❌ Family members (conflicts of interest)
  - ❌ Untrained volunteers
  - ❌ Anyone subordinate to the provider being chaperoned

What Chaperones Must Know

Core Training Elements:

- Role and responsibilities - "I'm here to protect the patient AND provider"
- Red flag behaviors - What's concerning vs. normal practice
- How to intervene - "I need to speak with you outside the room"
- Documentation requirements - What, when, where to document
- Reporting protocol - Who to tell, when, how
- Patient communication - "I'm here for your comfort and safety"

Training Frequency:

- Annual refresher minimum
- Document completion for all chaperones

Documentation –
If It's Not Documented, It Didn't Happen

- What to Document:
  - Chaperone present (name and role)
  - Patient declined chaperone (reason if given)
  - Any concerns or red flags observed
  - Patient questions or concerns
  - Provider responses to concerns
  - Any deviations from standard protocol
- Where to Document:
  - Medical record (appropriate sections)
  - Separate incident reporting system
  - Chaperone log (some organizations maintain these)

Documentation is your legal defense. Period.

Multiple Reporting Pathways -
Remove Barriers to Reporting

- Why Power Differential Matters:
  - Patients fear retaliation
  - Staff fear career consequences
  - Medical hierarchy silences concerns
  - Cultural barriers exist
- Multiple Reporting Options:
  - Direct to risk management
  - Anonymous hotline
  - Patient relations
  - Compliance department
  - External reporting (state agencies)
  - Online reporting portal

Goal: Make reporting easier than staying silent

Investigation Protocol –
When You Receive an Allegation

- Immediate Steps (24-48 hours):
  - Document the allegation
  - Notify risk management and legal
  - Consider administrative leave
  - Preserve evidence
  - Assign independent investigator
  - Protect reporter from retaliation

- Investigation Team:
  - Independent investigator (not direct supervisor)
  - HR representative
  - Risk management
  - Legal counsel (as appropriate)

Key: Thorough, fair, documented

Special Protections
Vulnerable Populations

- Pediatric-Specific Requirements:
  - Parents cannot serve as chaperones
  - Patients cannot opt out (parents may, but document carefully)
  - Additional supervision for providers seeing pediatric patients
  - Age-appropriate patient education
  - Enhanced screening for providers in pediatric specialties
- Other Vulnerable Populations:
  - Cognitively impaired patients
  - Non-English-speaking patients
  - Patients with trauma history
  - Unconscious/sedated patients

Vulnerability requires additional protection

Patient Education –
Empowerment is Prevention

- What Patients Should Know:
  - What to expect during sensitive exams
  - Their right to a chaperone
  - Their right to stop an exam
  - How to report concerns
  - What questions to ask

- Education Methods:
  - Pre-visit materials
  - Exam room posters
  - Website resources
  - Patient portal messages
  - Verbal explanation by chaperone

Informed patients are empowered patients

Red Flag Behaviors

Purpose: Identify concerning patterns ***BEFORE*** patients are harmed

- Individual Provider Warning Signs:
  - Insisting on privacy/dismissing chaperones
  - Extending appointments unnecessarily
  - Commenting on patient appearance/body
  - Excessive "friendly" behavior
  - Requesting specific patients
  - Off-hours appointments with vulnerable patients
  - Resistance to supervision
- Response Protocol:
  - Document immediately
  - Report to designated SAM committee
  - Confidential investigation
  - No retaliation for reporting

Key Principle: Staff must be empowered to report concerns without fear of retaliation.

Operationalizing Red Flags

How to Turn Warning Signs Into Action

Staff Training Requirements:

- Annual red flag recognition training for all clinical staff
- Role-playing scenarios for intervention practice
- Clear definitions vs. normal clinical behavior

Action Protocols:

- Document observation immediately (date, time, specific behavior)
- Report within 24 hours to SAM prevention committee
- No confrontation of provider by reporting staff
- Interim safety measures while investigating

Early Intervention Examples:

- Provider repeatedly dismisses chaperones → Mandatory chaperone order
- Patient discomfort reports → Supervised observations
- Boundary concerns → Immediate HR review

Audit Your Prevention Program

- What to Audit:
  - Chaperone documentation compliance
  - Background check completeness
  - Training completion rates
  - Incident reporting and response times
  - Policy awareness among staff
  - Patient education material distribution
  - High-risk provider monitoring
- Audit Frequency:
  - Annual minimum, quarterly for high-risk areas
- Use Findings to Improve:
  - Audit results should drive system improvements

You can't manage what you don't measure

SECTION 5:
Implementation Roadmap

Building Your SAM Prevention Program: A Roadmap

Phase 1- Develop Your Team:

- Risk manager
- Patient safety officer
- Quality/PI specialist
- Compliance officer
- Education specialist
- Clinical representation

Phase 2 - Planning Your Mission

- Establish organizational values
- Create reporting strategy
- Develop deployment timeline
- Commit to safety culture

Phase 3 - Train & Educate:

- Onboarding and ongoing training
- Active bystander training
- Patient advocates
- Provider boundary training

Phase 4 - Identify & Respond:

- Red flag recognition
- Vulnerable scenarios
- Investigation protocols
- Message management

Framework adapted from: OmniSure SAM Safety Materials

Resources and Support - You Don't Have to Do This Alone

Internal Resources:

- Risk management department
- Compliance department
- Human resources
- Medical staff office
- IT (for reporting systems)
- Communications (patient education)

External Resources:

- Insurance carriers (loss prevention services)
- Healthcare risk management associations
- Legal counsel specializing in healthcare
- Third-party SAM risk assessment firms
- State hospital associations
- Professional medical societies

SECTION 6:
Take Action Now

Next Steps: Your Action Plan

Phase 1 - Develop Your Team

1. Request meeting with executive leadership
2. Identify core SAM prevention committee members
3. Assign roles: risk manager, patient safety, quality, compliance, HR, clinical lead
4. Schedule first committee meeting

Phase 2 - Plan Your Mission :

1. Conduct staff knowledge assessment
2. Review existing policies and identify gaps
3. Connect with insurance carrier about coverage/requirements
4. Initiate SAM risk assessment
5. Develop deployment timeline

Phase 3 - Train & Educate:

1. Begin policy revision (chaperone, reporting, background checks)
2. Research background check enhancements
3. Develop training programs for staff and chaperones
4. Create patient education materials

Phase 4 - Identify & Respond:

1. Launch new policies organization-wide
2. Begin compliance auditing
3. Establish red flag monitoring system
4. Report progress to leadership

Key Takeaways:
Eight Essentials for Managing SAM Risk

The Problem:

1. Legal landscape has changed - Three New England states eliminated civil statutes of limitations for childhood sexual abuse
2. Insurance carriers are responding - Prevention programs are now requirements for coverage, not optional
3. Learn from catastrophic failures - Every billion-dollar case shows the same system failures
4. This is existential risk management - One incident can cost $3-8M+; prevention is the cheapest insurance

The Solution:

5. Opt-out chaperone policies are standard of care - Opt-in policies don't adequately protect given power dynamics
6. Documentation is your legal defense - If it's not documented, you can't prove it happened
7. Enhanced background screening is essential - State checks aren't enough; national + sex offender registry checks in all 50 states required
8. Create multiple reporting pathways - Power differentials prevent reporting; remove barriers

Assess Your Program – Key Elements Discussed Today

Prevention Infrastructure	☐ We have a written opt-out chaperone policy
	☐ All staff know when chaperones are required
	☐ Chaperones receive SAM-specific training
Screening & Monitoring	☐ We conduct national + SOR background checks (all 50 states)
	☐ We conduct annual compliance audits
Reporting & Investigation	☐ We have multiple confidential reporting pathways
	☐ We have clear investigation protocols
	☐ We protect reporters from retaliation
Culture & Leadership	☐ We educate patients about their rights
	☐ Leadership actively supports SAM prevention

Questions & Discussion

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Key Resources & Toolkits

Comprehensive SAM Prevention Resources:

► Sexual Abuse and Misconduct Toolkit – BETA Healthcare Group: https://betahg.com/risk-management-and-safety/sexual-abuse-and-misconduct-toolkit/

► Praesidium Insurance Carrier Benchmarking Report (2025): Sexual Abuse and Molestation Liability: https://bit.ly/SMLBenchmarking24

Implementation Resources:

► Gallagher – Role of Chaperones in Sensitive Healthcare Exams (PDF): https://www.ajg.com/-/media/files/gallagher/us/news-and-insights/2024/the-role-of-chaperones-in-sensitive-healthcare-exams.pdf

► OHSU – Chaperone Education Course Slides (PDF): https://www.oregon.gov/omb/Topics-of-Interest/Documents/OHSU%20Chaperone%20Education%20Course%20Slides.pdf

► OmniSure – Crucial Steps for SAM Safety in Healthcare: https://www.omnisure.com/crucial-steps-to-take-for-sexual-abuse-and-molestation-safety-in-healthcare/

Chaperone Policy Examples & Guidelines

Professional Association Guidelines:

► AAP News – Policy: Standardize Use of Chaperones: https://publications.aap.org/aapnews/news/32184/AAP-policy-Standardize-use-of-chaperones-for?autologincheck=redirected

► AMA Code of Medical Ethics – Use of Chaperones: https://code-medical-ethics.ama-assn.org/ethics-opinions/use-chaperones

► AWHONN Position Statement – Use of Chaperones during Sensitive Examinations: https://www.jognn.org/article/S0884-2175(21)00310-5/pdf

► JOGNN – Chaperone Policy Article: https://www.jognn.org/article/S0884-2175(21)00310-5/fulltext

Institutional Policy Examples:

► Notre Dame – Patient Guide to Sensitive Exams (PDF): https://uhs.nd.edu/assets/305767/university_health_services_patient_guide_to_sensitive_exams_8.5x11.pdf

► University of Michigan – Chaperones During Sensitive Examinations: https://www.uofmhealth.org/patients-visitors/patients/patient-rights/chaperones-during-sensitive-examinations

► Vassar College – Sensitive Exam Policy (PDF): https://offices.vassar.edu/health-service/wp-content/uploads/sites/44/2024/09/Sensitive-Exam-Policy-final-copy-2024.pdf

► Yale Health – Medical Chaperones for Sensitive Examinations: https://yalehealth.yale.edu/topic/medical-chaperones-sensitive-examinations-treatments-and-procedures

Professional Boundaries & Ethics

AMA Code of Medical Ethics:

► Sexual Harassment in the Practice of Medicine: https://code-medical-ethics.ama-assn.org/ethics-opinions/sexual-harassment-practice-medicine

► Romantic or Sexual Relationships with Patients: https://code-medical-ethics.ama-assn.org/ethics-opinions/romantic-or-sexual-relationships-patients

Institutional Obligations:

► Title IX Obligations for Hospitals and Academic Medical Centers: https://journalofethics.ama-assn.org/article/what-if-resident-or-medical-student-raped-hospitals-and-academic-medical-centers-title-ix/2018-01

Industry Analysis:

► Munich Re – Sexual Abuse in Healthcare: Business Risk Perspective: https://www.munichre.com/en/insights/business-risks/sexual-abuse-in-healthcare.html

Notable Cases Referenced:

► **Columbia University/Dr. Robert Hadden Settlement, 2024** $750M+ settlement for 800+ survivors: https://www.americanbar.org/groups/health_law/news/2025/5/750m-settlement-survivors-former-ob-gyns-sexual-abuse/

► **Cedars-Sinai Medical Center/Dr. James Brock Litigation, 2020-2024** 176+ victims over 43 years: https://www.lawsuit-information-center.com/dr-barry-brock-sex-abuse-lawsuit.html

► **Brigham & Women's Hospital/Dr. Richard Todd Prosecution, 2019-2023** 200+ victims over 13 years: https://www.lawsuit-information-center.com/dr-derrick-todd-sex-abuse-lawsuits.html

► **Memorial Hermann Healthcare System/David Shrader Settlement, 2023** Hidden restroom cameras: https://www.beckershospitalreview.com/legal-regulatory-issues/memorial-hermann-former-manager-sued-over-hidden-restroom-cameras/

► **SSM Health/Dr. Anthony Spiegel Federal Investigation, Ongoing** Multiple patient abuse allegations: https://www.beckershospitalreview.com/legal-regulatory-issues/ssm-hospital-physician-sued-for-alleged-patient-abuse/

Reporting Requirements & Statutes

Federal Reporting Requirements:

- CMS – Quality, Safety & Oversight Manual: Mandatory Reporting of Abuse and Neglect (Chapter 24)

New England State Statutes (Civil Sexual Abuse Claims)

- **Connecticut** Conn. Gen. Stat. § 52-577d and § 52-577e
- **Maine** 17-A M.R.S. § 253 – Gross Sexual Assault
- **Massachusetts** M.G.L. c. 260, § 4C – Civil Statute of Limitations
- **New Hampshire** RSA 508:4-g – Civil Actions Based on Sexual Assault
- **Rhode Island** R.I. Gen. Laws § 9-1-51 – Actions Based on Sexual Abuse of a Child
- **Vermont** 12 V.S.A. § 522 – Actions for Childhood Sexual or Physical Abuse H.330 (2019)