

PRAESIDIUM

irwin siegel
agency

INSURANCE PROGRAMS & RISK MANAGEMENT

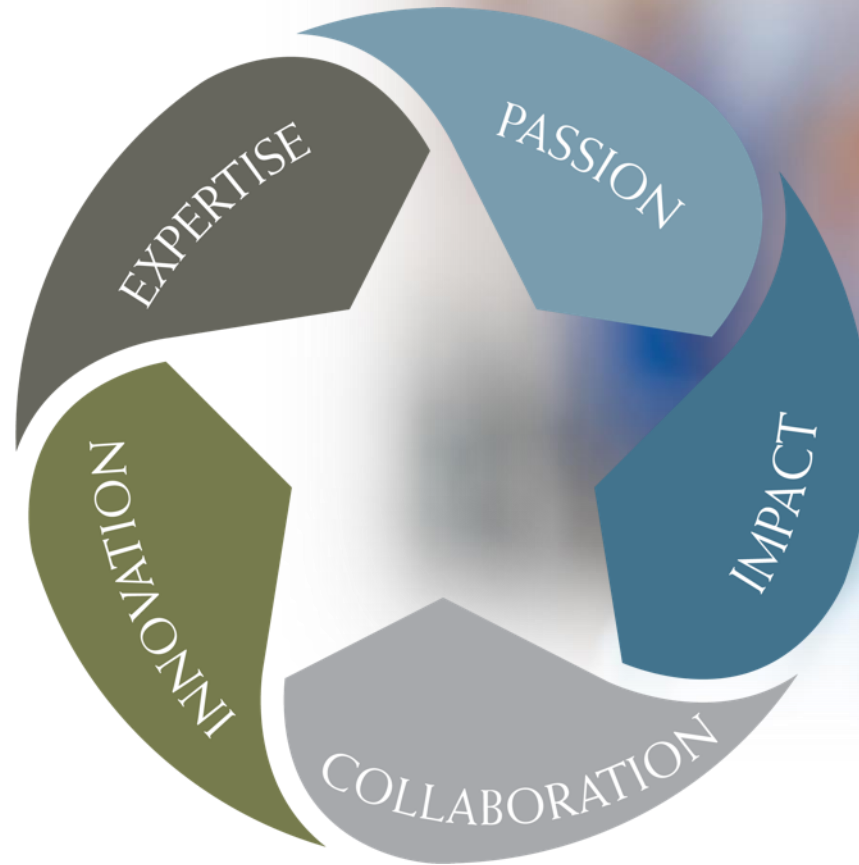
Managing Abuse Risk Within the Treatment Environment

ABOUT PRAESIDIUM

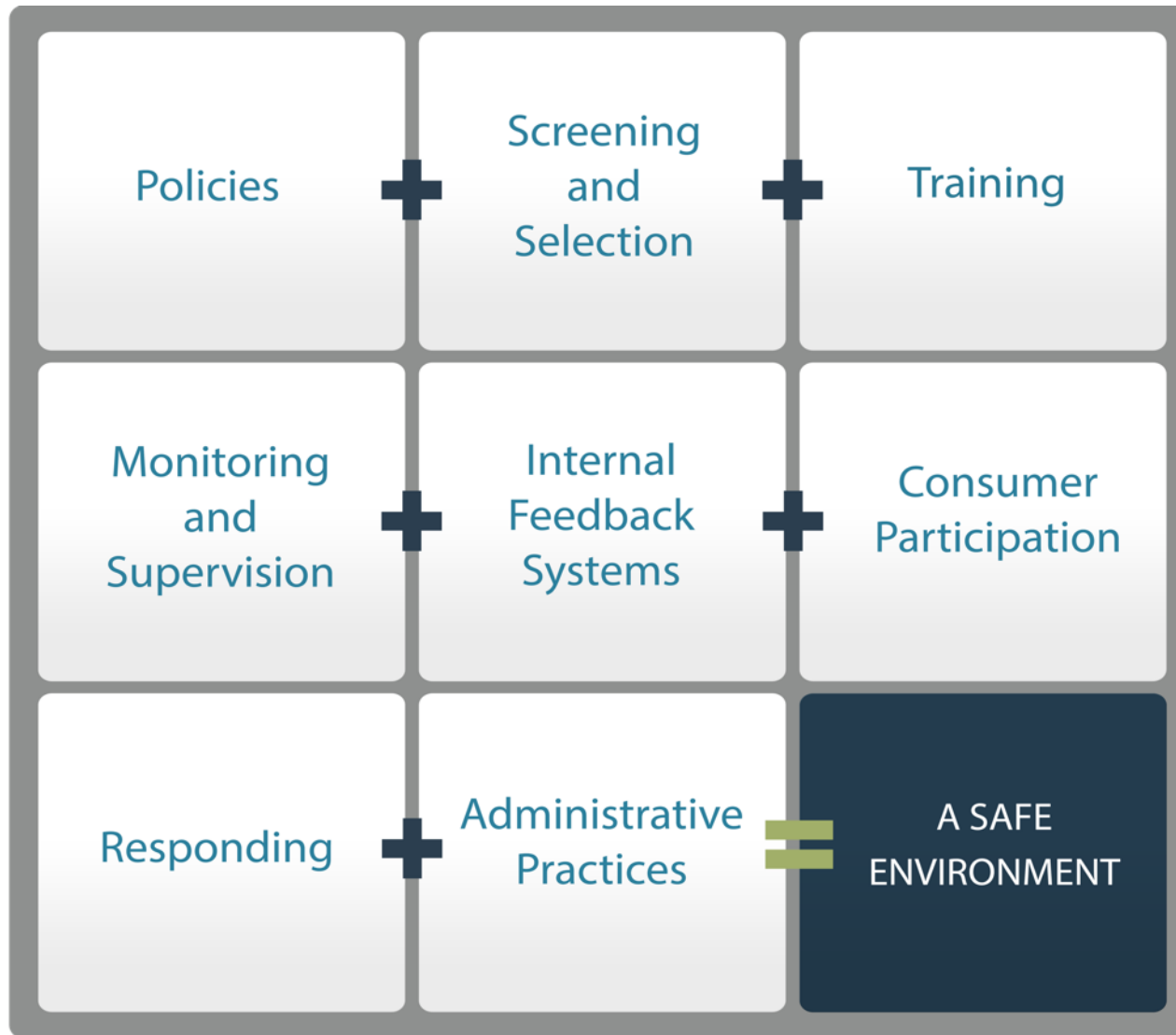
Our mission is to help you protect those in your care from abuse and to help preserve trust in your organization.

Praesidium is a **leading innovator** of scientifically-based solutions designed to transform the way organizations approach the prevention of sexual abuse. For **over 30 years**,

Praesidium's expertise, consulting, and solutions have helped **foster safer environments** for children, vulnerable adults, staff, volunteers, and all parties involved.



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THE PRAESIDIUM SAFETY EQUATION®

OBJECTIVES

- Acknowledge risk factors and the power imbalance within the provider-patient relationship
- Explore trends in the legal landscape, risk management, and insurance perspectives
- Recognize boundary crossing behaviors & sexual misconduct within the treatment environment
- Identify best practices for providers in mitigating risk
- Enforce boundaries through patient education
- Create a climate for reporting and effective response systems

RISKS INHERENT

IN TREATMENT PROGRAMS



BOUNDARY
CROSSINGS



SEXUAL HARASSMENT
OR MISCONDUCT



FALSE ALLEGATIONS &
MISUNDERSTANDINGS

A woman with long dark hair, wearing a grey and white striped sweater and dark pants, is sitting on a hospital bed. She is looking out a large window that offers a view of a city and a forested hillside. In the background, there is a medical monitor on a stand and a green hospital chair. The room has a white ceiling with a light fixture. The image is partially obscured by a large, light grey diagonal graphic element that runs from the top left towards the bottom right.

DEFINING THE PROBLEM

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Behavior, whether physical or verbal, which exploits the relationship between provider and patient; an abuse of power and a violation of patient trust.



There is no therapeutic rationale for sexual behavior between provider and patient.



The burden of recognizing misconduct and avoiding exploitation is always on the physician.



Patients and their families may also engage in sexual misconduct towards providers and towards other patients.

SEXUAL HARASSMENT

- Any inequality in status or power
 - Interference with work performance or influencing professional advancement
 - Abuses of rights or trust
 - Creating an intimidating or hostile work environment
 - Jeopardizing patient care.
- Sexual relationships between medical supervisors, educators, or mentors and their trainees/students are always unacceptable. When a student interacts with a supervisor in any manner other than as trainee to mentor, a boundary violation may occur.

The Scope of the Problem

DIFFICULT TO QUANTIFY

- Patient victims may choose not to report sexual abuse to anyone
- Providers often fail to report their own mistreatment
- Institutions prefer to handle these instances privately, in-house
- 2018 Medscape survey - 27% of physicians have been sexually harassed by a patient
- 2014 meta-analysis in Academic Medicine - 60% of medical trainees had experienced sexual harassment or discrimination during their training, more than half of which from patients and patients' family members

CONTINUUM OF MISCONDUCT

- ✔ Failing to get patient consent.
- ✔ Failing to provide sufficient explanation or medical justification for an exam or treatment.
- ✔ Comments or gestures that are sexually inappropriate, embarrassing, demeaning, or disregard privacy and confidentiality.
- ✔ Expression of thoughts or feelings that are sexual in nature.
- ✔ Grooming behaviors (gift-giving, special treatment, and self-disclosure) to gain a patient's or parent/guardian's trust and compliance.

CONTINUUM OF MISCONDUCT

- ✔ Inappropriate physical contact
 - ✔ Failing to use gloves.
 - ✔ Contact for reasons other than examination or treatment
 - ✔ Contact when patient has refused or withdrawn consent
 - ✔ Sexual contact, even if the patient initiates or consents.
- ✔ Offering medical services or treatments, or drugs, in exchange for sexual favors.
 - ✔ Assault by physical force, threats, or coercion.

SLIPPERY SLOPE

Allowing patient to
use office phone to
call a friend

Confiding personal health
issues to a patient

Physically consoling
a patient

Buying Girl Scout cookies
from a patient's child

Accepting follow request from
patient's family on social
media

RISK FACTORS

FOR PATIENTS

- ✔ Inherent imbalance of power, authority, and vulnerability between the professional and patient.
- ✔ Patients typically are experiencing some degree of physical and/or emotional distress.
- ✔ Treatment professionals have specific knowledge and training that patients rely on to gain relief.
- ✔ Patients may have to submit to physical examinations as part of this process.
- ✔ The flow of sensitive information is typically one-sided from patient to employee.

RISK FACTORS

FOR PROVIDERS

- ✔ Inherent imbalance of power and authority between supervisor/educator and trainee.
- ✔ Culture which prioritizes hierarchy and chain of command.
- ✔ Historical lack of diverse representation.
- ✔ Intense work environments; burnout.
- ✔ Isolated work environments; one-on-one interactions.
- ✔ Patients with vulnerabilities; cognitive or emotional impairment; poor boundaries
- ✔ Dual professional & personal relationships

Risk Factors

OF HIGH-RISK ADULTS

- ✔ Over-identifying with a patient or provider
 - ✔ Not recognizing when you have favorites
 - ✔ Provider overly protective of patient
 - ✔ Nothing thinking you're at risk
 - ✔ Unable to maintain proper boundaries
 - ✔ Unable to accept or give support
 - ✔ Resistant to feedback; rigid or inflexible
- ✔ Experiencing stress, anxiety, depression
 - ✔ Coping with personal loss
 - ✔ Experiencing interpersonal problems
 - ✔ Using drugs and abusing alcohol
 - ✔ Facing rejection or disappointment
 - ✔ Feeling unappreciated or unrewarded



BEST PRACTICES IN PATIENT CARE

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BOUNDARIES

THE INSTITUTION SHOULD DEFINE

- ✓ Physical interactions
- ✓ Verbal discussions
- ✓ Electronic communications and social media
- ✓ Incidental and nonincidental contact outside treatment setting
- ✓ Favoritism
- ✓ Gift giving and receiving

BOUNDARIES

TO PROTECT YOURSELF

- Open & constant patient communication, especially
 - During intimate exams
 - With minor or impaired patients
- Consent to start, stop, delay and refuse treatments
- Sensitivity and respect for patient's privacy, comfort, modesty, & dignity
 - Avoid watching patient dress/undress
 - Utilize appropriate coverings
- Avoid physical contact beyond what is required for medically necessary exams

- Chaperones for all sensitive exams
- Use gloves when performing intimate exams
- Avoid behavior or statements that may be interpreted as sexual, unrelated to treatment:
 - Comments about the body
 - Comments about sexual preference, problems, history, behavior, or performance
 - Talking about own sexual behaviors and preferences
- Treat all patients equally

ELECTRONIC COMMUNICATIONS AND SOCIAL MEDIA

- ✔ Apply the same code of conduct from in-person encounters to online behaviors.
 - ✔ Utilize only professionally owned, HIPAA-compliant channels for communication and virtual visits (e.g. practice-owned portals and email accounts).
 - ✔ Never post identifiable patient information online.
 - ✔ Do not search for or research patients online.
- ✔ Separate personal & professional online identities
 - ✔ Email and social media accounts
 - ✔ Professional sites used only to promote patient care, research, education, professional goals, and networking, not for social interactions
 - ✔ Routinely monitor your online presence, both personal and professional, for accuracy and appropriateness.



PATIENT EDUCATION

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CLIENT RIGHTS

- To be treated with consideration, respect, and dignity
- To be provided with privacy and confidentiality
- To know the names and credentials of people serving you
- To have a trained medical chaperone present at your request, and for all sensitive exams
- Open and constant communication about your care in terms you can understand
- To participate in decisions involving your healthcare
- To have access to your medical records
- To talk to someone about an experience that made you feel uncomfortable or provide general feedback about your experience with a provider
- Understand mandated reporting requirements of staff/providers



RESPONDING AND REPORTING

INAPPROPRIATE
BEHAVIORS FROM
PROVIDERS

INAPPROPRIATE
BEHAVIORS FROM
PATIENTS

SUSPICIONS OF ABUSE
AND MISCONDUCT

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THE CHALLENGE

- ✓ Competing demands
- ✓ Low frequency high effect
- ✓ A human problem; demonizing; scapegoating
- ✓ Complacency and compliance
 - “we all have advanced degrees”
 - “we’re all licensed”
 - “all of our staff undergo background checks”
 - “we know everyone here”

RESPOND IMMEDIATELY

- ✓ Respond to tremors not earthquakes
- ✓ Treat “near misses” as free lessons
- ✓ Don’t respond in isolation
- ✓ Use a continuum of responses

COMMON BARRIERS

TO RESPONDING

OVERRESPONSE
OR
UNDERRESPONSE

FEAR OF MAKING
A FALSE
ALLEGATION

FEAR OF
RETALIATION OR
OTHER
CONSEQUENCES

NO FORMAL
MECHANISM FOR
REPORTING

Creating a culture that encourages low-level concerns requires identifying these barriers and actively working to break them down. A one-time compliance training event will not eliminate these barriers to reporting.

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MANDATED REPORTING



Child Abuse



Elder Abuse



Dependent Adults



BENEFITS AND OUTCOMES OF TRANSPARENCY

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WHY?



How an organization responds after an incident can help facilitate or impede the healing process for survivors.



An apology can be an **essential part of the healing process** for survivors.



An apology may **reduce the organization's litigation timeframe and costs**.



IMPACT ON SURVIVORS



Communication builds **empathy** between transgressor and wronged party



Opportunity to hear **explanation for how** incident occurred



Restores a sense of **fairness and justice**. May facilitate trust and forgiveness



Outcomes are mitigated by survivor's assessment of offender's **intent** and level of **responsibility**

IMPACT ON INSTITUTIONS



Facilitate negotiations and thus result in quicker, more satisfying resolutions



Reduce litigation and malpractice payments



Transparency and information sharing increases trust and satisfaction both within organizations and with consumers



Uncover systemic errors and reduce likelihood for recurrence within your own and other organizations

COMMON FAILURES



- Not offering a chaperone to all patients
- Not obtaining informed consent to all sensitive examinations, treatments, or procedures
- Not providing patients with reporting information.



- Not publicizing and encouraging employee reporting processes
- Adverse actions against staff who reported red flags & suspicions of abuse.



- Failure to respond to allegations made by multiple sources despite widespread knowledge of alleged conduct.
- Failure to assess to take steps to prevent reoccurrence of the alleged conduct.



- Lacking data system to manage and identify allegations and misconduct

ROOT CAUSE ANALYSIS

UNDERTAKING AN INTERNAL INVESTIGATION

- ✓ Exploring what happened, why, and to what effect
- ✓ How you portray this information matters

- ✓ Do you have the right policies in place?
- ✓ Were staff properly screened?
- ✓ Were staff properly trained?
- ✓ Were there any gaps in monitoring and supervision procedures?
 - Monitoring of staff
 - Monitoring of consumers
 - Monitoring of facilities
- ✓ Were there any gaps in responding to policy violations or red flag behaviors?



QUESTIONS

- <https://tinyurl.com/Compassionate-Response>
- <https://tinyurl.com/SMLliabilitysurvey>

The background features a collage of three photographs: a woman with glasses in the top left, a man in a blue shirt in the middle left, and a woman in a striped shirt in the bottom right. These images are partially obscured by large, white, geometric triangular shapes that create a modern, architectural feel.

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INSURANCE PROGRAMS & RISK MANAGEMENT

STAY IN TOUCH

Ashley Anderson, MSW
Risk Consultant
AAnderson@praesidiuminc.com

PRAESIDIUM
817.801.7773
www.PraesidiumInc.com