

# Sexual Misconduct

Strategies to Minimize Risk

# Speaker Bio

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Christine has been involved in risk and quality management throughout her career, providing oversight of clinical education, epidemiology, safety, accreditation, risk management, quality improvement, and nursing.



She has experience in a range of care settings — including both inpatient and outpatient facilities, primary care, specialty care, dental care, and rehabilitation — and with various patient populations. These opportunities have enabled Christine to develop a strong understanding of the challenges and opportunities facing healthcare providers and organizations.

In her role at MedPro, Christine leads the development of new patient safety and risk management education for all lines of business, including physicians, dentists, healthcare professionals, facilities, hospitals, and senior care. She collaborates with the Patient Safety & Risk Solutions team, division leadership, continuing education committee members, and other key individuals within the organization to facilitate the delivery of high-quality educational programs.

Christine is a registered nurse and a certified professional in healthcare risk management (CPHRM). She earned her bachelor of science in nursing degree and master's degree from Nebraska Methodist College.

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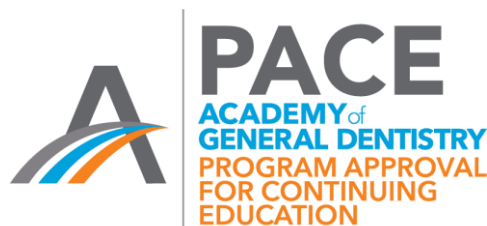
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# Objectives

At the conclusion of this program, participants should be able to:

- Describe the difference between sexual harassment and sexual misconduct
- Identify professional boundaries
- Implement risk-reduction strategies to reduce risk of sexual misconduct allegations
- Complete a self-assessment checklist



# Definition of sexual misconduct

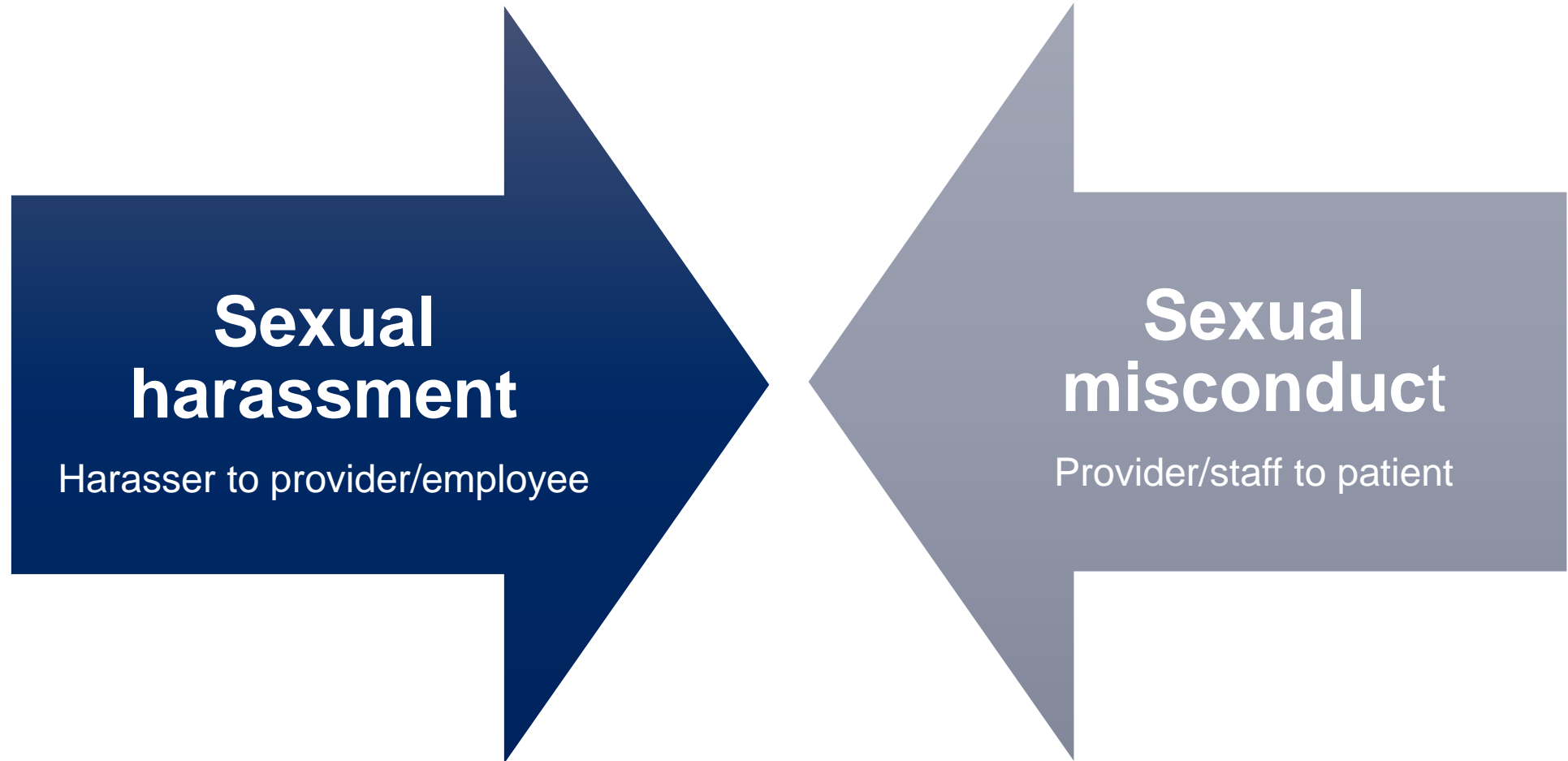


## Federation of State Medical Boards - Sexual Misconduct



- **Physician-patient relationships of a sexual nature**
- **Sexual thoughts, feelings, or gestures**
- **Verbal or physical**
- **Behaviors interpreted by a patient or surrogate as sexual**
- **Inappropriate and nontherapeutic**

# The difference



# Sexual misconduct consequences

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Patient safety

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Civil litigation

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Criminal litigation

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Board investigations and actions

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Reputation





## Case study

## Considerations

What would you have done if any of these situations were reported to you or you witnessed the behaviors?



Does the culture in your organization support reporting situations like these?



What risk-mitigation strategies do you currently have in place to ensure the safety of patients, providers, and staff?

# Case examples: sexual harassment and sexual misconduct

## Physician

Sexual harassment  
and sexual  
misconduct

- Physician made unwanted sexual advances toward female coworkers
- Inappropriate physical exam of female patients
- 3-state pattern

## Dentist

Sexual assault/abuse

- Sexual assault of patient when given nitrous oxide
- Patient woke up while dentist was attempting to have the patient perform oral sex
- Further investigation led to finding additional victims

# Case examples: sexual misconduct

## Physician assistant (PA)

Failure to provide  
chaperone when  
requested

- 50-year-old patient: PA fondled her, exposed himself, and barricaded patient in exam room
- Patient requested a nurse monitor before exam
- PA refused request

## Medical assistant and clinic

Negligent hiring

- 21-year-old medical assistant sexually assaulted patient
- Clinic had not done criminal background check or sexual predator search

# Pending case examples of sexual misconduct

## Dental assistant

Felony assault

- Patient's shirt was unbuttoned. Dental assistant kissed breasts and put hands down patient's pants
- DNA tests confirmed his DNA was present

## Orthopaedic surgeon and hospital(s)

- Touching sexual/private parts for personal gratification
- Failure to provide safe environment

- MD accused of touching numerous patients on breasts and vaginal area with ungloved hand
- All patients under anesthesia and as young as 13 years old
- Staff witnessed and reported "odd" behaviors



# Boundaries

# Professional boundaries

- ✓ **Diagnose and/or treat**
- ✓ **Dignity and respect**
- ✓ **Observe personal space**



**Sexual or romantic relationships**

**Inappropriate exam/procedure or exams/procedures done inappropriately**

**Flirtatious behavior**

# Crosses professional boundaries

## Passive

- Sexual attraction to a patient
- Anticipation (sexual in nature) of patient's office visit
- Share personal problems with patient
- Hugs

## Passive aggressive

- Sexually provocative social media communication
- Sexting
- Inappropriate sexual jokes and comments
- Not offering a chaperone when indicated
- Hugs

## Aggressive

- Sexual assault
- Sexual favors in exchange for drugs
- Inappropriate touching
- Inappropriate sexual examinations not related to treatment or diagnosis

Romantic involvement with a patient is unethical.





# **Risk-mitigation strategies**

# General considerations

## Guidelines

- Patient needs (minor, special needs, etc.)
- Draping
- Undressing/dressing privately
- Consent
- Chaperone
- Cultural considerations- patient and organizational
- Explanations before and during exam/procedure
- Hiring processes
- Incident investigation

# Chaperone policy goals

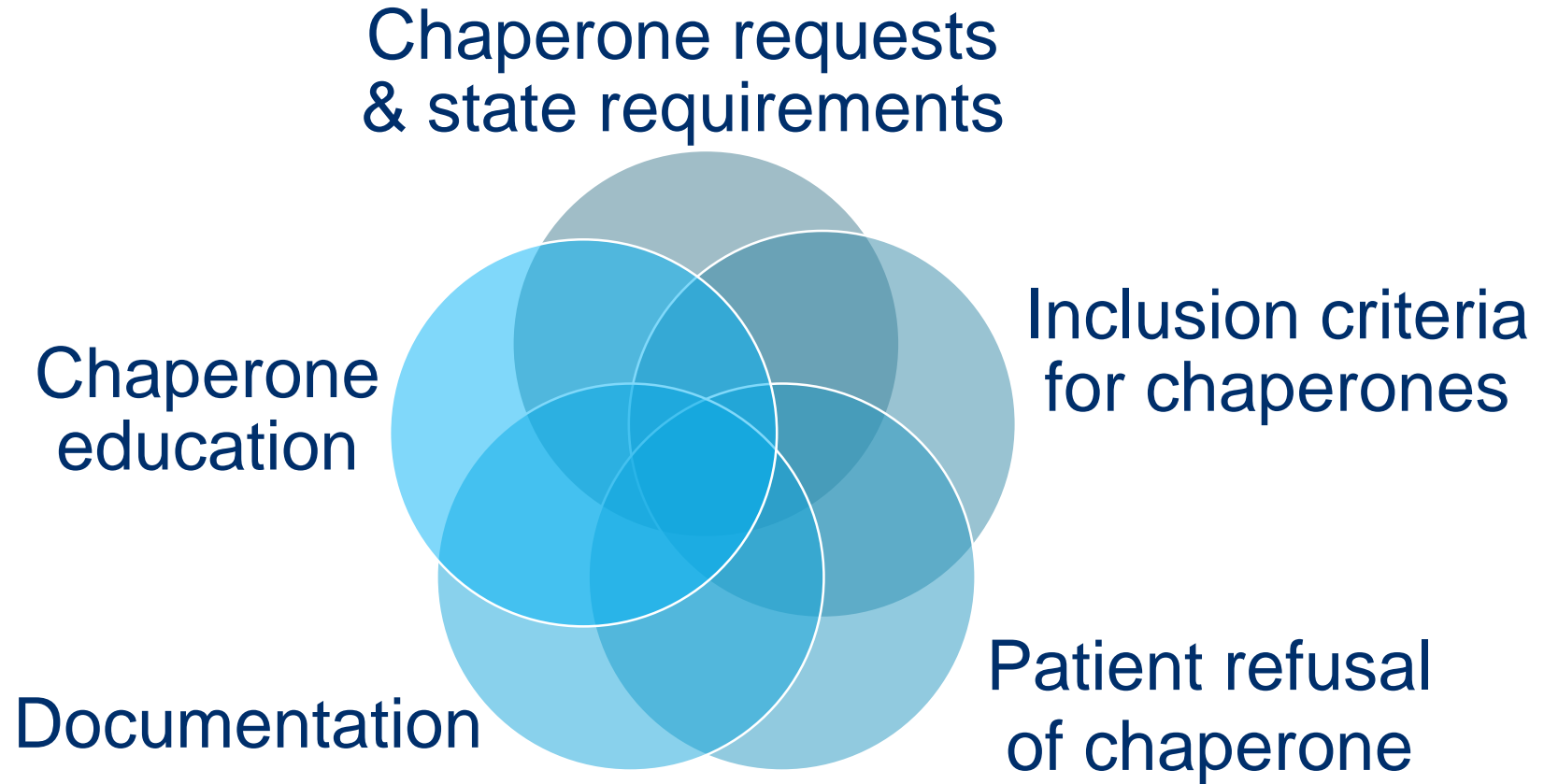
Provide a consistent, standard, and safe care environment for patients, providers, and staff.

Accommodate those with physical, psychological, and cultural reasons why chaperones may be requested or needed.

Protect and enhance the patient's comfort, safety, privacy, security, and dignity during sensitive examinations or procedures. Provide assistance with the exam as appropriate.

Protect providers and staff against unfounded allegations of improper behavior.

# Chaperone guidelines



# Chaperone guidelines

## Patient notice

- Post signs
- Verbally offer chaperone
- Ask for chaperone preference on patient intake form
- Explain in brochure
- Provide acknowledgment form

# Chaperone guidelines

## Inclusion criteria

When should you provide chaperone:

- State Board requirements
- Patient, staff, or provider request
- Applicable regardless of gender of staff, provider, or patient
- Required vs. recommended

# Chaperone guidelines

## Inclusion criteria

### Specific situations to consider:

- Sensitive exams, procedures, or treatments: breasts, vagina, genitalia, and rectum
- Cognitively impaired
- Minors
- History of sexual abuse/assault
- Unusually anxious about an exam or treatment
- Cultural considerations
- Patient is sedated
- Any reason that you hesitate to move forward without a chaperone

# Chaperone guidelines

## Patient refuses

- Refuses provider/staff-requested chaperone
  - Provider agrees, staffing changes or refers and considers termination
- Refuses gender of staff chaperone
  - Accommodates if and when possible
  - Reschedules
  - Refers (gender not employed) and considers termination

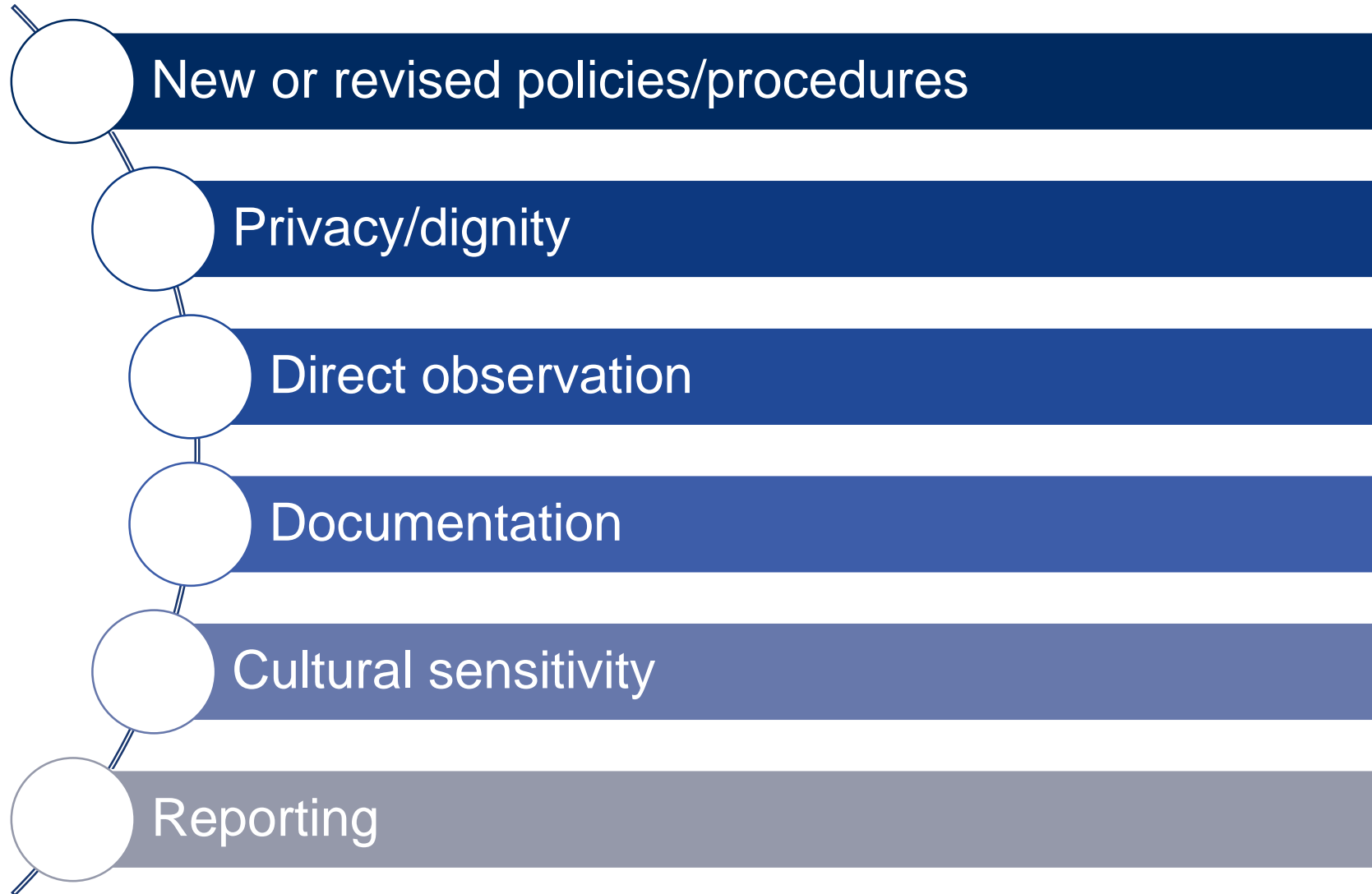


# Chaperone guidelines

## Document

- Date/time
- Patient, staff, or provider request
- Chaperone's name
- Exam, treatment, procedure directly observed
- Refusal, accommodations, interventions

# Education





# Investigation

# Case: provider displaying inappropriate behavior

/// Patient complains about provider displaying inappropriate behavior

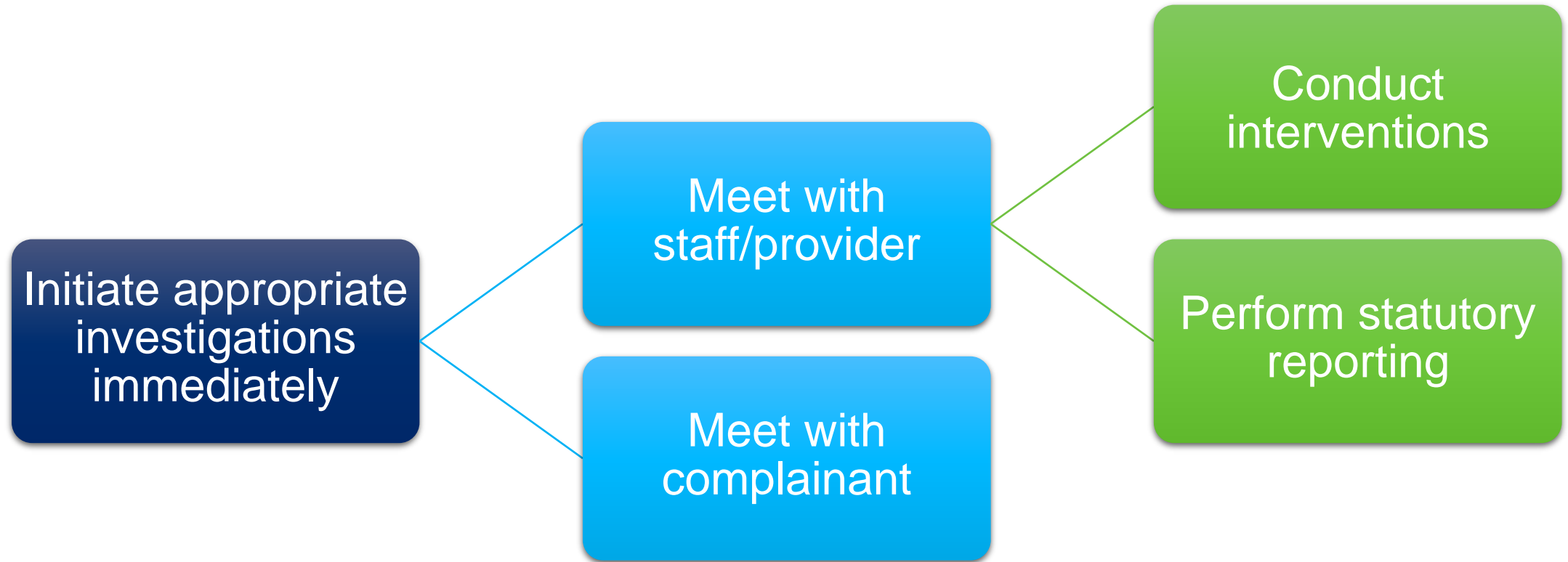


“I am concerned. Dr. Jones makes me feel uncomfortable. He is rubbing up against me, telling dirty sexual jokes.

Today, I came in for a chest cold and he examined my breasts which seemed very odd.

I don't want you to say anything to anyone but want to be changed to a different doctor.”

# Complaint allegation investigation



# Addressing complaints

## Investigate

- Identify and train key person to investigate all complaints
- Interview patient and staff involved

## Employment actions

- Suspend or place on leave
- Require chaperone
- Limit or reschedule duties/workload

## Reporting

- Notify authorities as requested or needed
- Notify Professional Liability (PL)/Employment Practices Liability (EPL) carrier
- Complete statutory reporting as required

# Risk strategies summary

Develop policy and procedure on background checks, chaperones, investigations, and sexual misconduct



Educate staff and providers



Inform the patient a chaperone is available



Provide a chaperone at patient, provider, or staff request





Immediately investigate allegations



Conduct appropriate interventions including reporting requirements

# Self-assessment checklist

Yes	Risk-reduction strategies
	A staff chaperone is present at the request of the patient, staff, or provider.
	A patient receives a detailed explanation before an exam or treatment.
	I leave the room while the patient is undressing and ensure appropriate draping during an exam or treatment.
	I separate my professional life from my personal life.
	I have reviewed and follow my organization's Code of Conduct and Chaperone Policy and Procedure.

Yes	
	I limit my physical patient contact to that which is needed to conduct a diagnostic examination or treatment.
	I do not engage in sexual jokes or gestures or other unprofessional behavior.
	I immediately report to my manager any patient complaint or concern regarding a staff's inappropriate contact or behavior.
	I do not engage in romantic patient relationships either in person or through digital media (social networking, texting, email, etc.).
	An incident investigation process is in place to address sexual misconduct allegations.



# Summary

- We all have a role in creating a safe experience for our patients.
- Efforts to provide a safe environment include a culture that promotes professional boundaries.
- Mitigation strategies benefit the patient, the staff, and the providers.
- All complaint allegations require immediate investigation.



# Resources

[ACOG Sexual Misconduct](#)

[Addressing Sexual Boundaries Guidelines for State Boards](#)

[AMA Chaperones](#)

[MedPro Group Patient Safety and Risk Resources](#)

[Use of Chaperones in the Pediatric Patient](#)



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