



CSHRM

CALIFORNIA SOCIETY *for*
HEALTHCARE RISK MANAGEMENT

Sexual Misconduct and Abuse: What Risk Managers Need to Know

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- In complex circumstances, which present significant potential for an adverse event or litigation, CSHRM and the presenters recommend you consult directly with your corporate or personal counsel for professional legal guidance

What We Will Answer

What is sexual abuse and molestation?

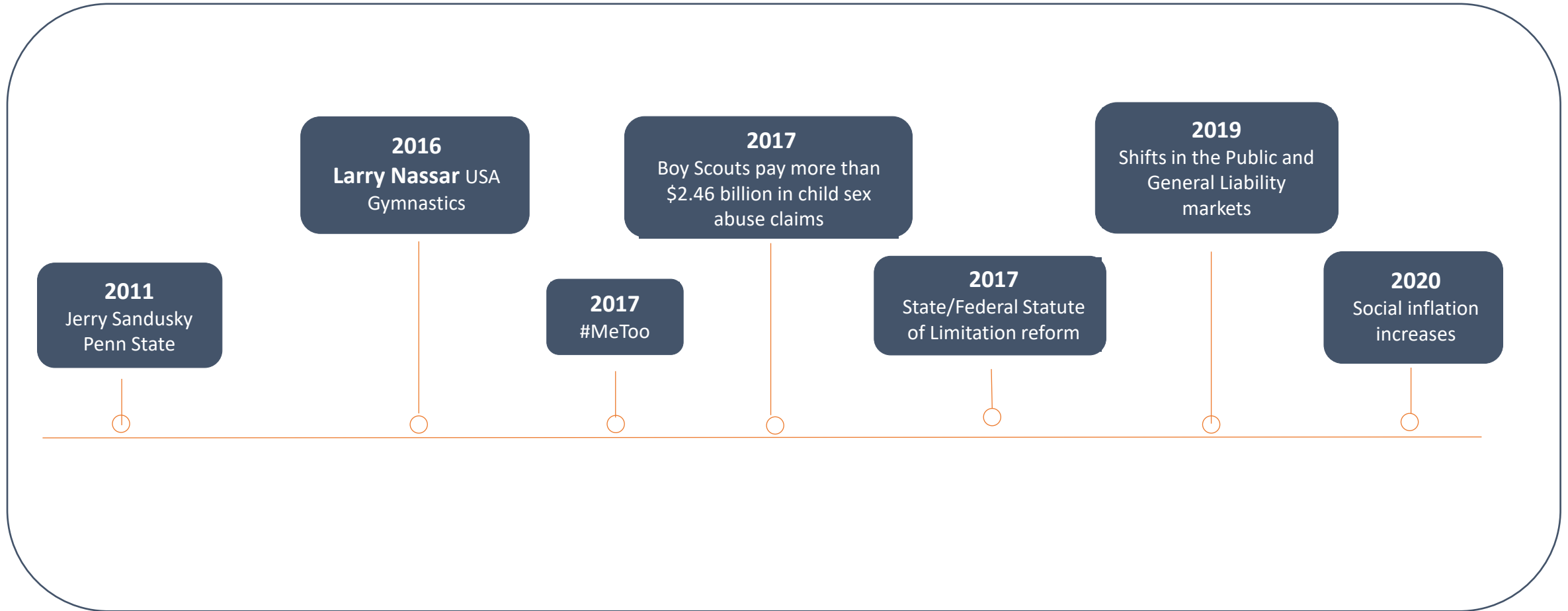
Why are we talking about it?

What's changed?

How is this insurable?

How can this affect my facility?

How Did We Get Here?



The Market Response

Capacity and claims trigger changes

Underwriting and pricing for the risk

Greater awareness & accountability

Demand for solutions

Those that have third-party exposure

Those that
have had
capacity cut
and need to
fill that limit
gap

Those that
have had
prior claims

Those that
have a
contractual
requirement

Those that
see value in
services

Understanding Risk Transfer



Prevention

Total immunity from risk is impossible, but effective risk management can reduce it, while reinforcing commitment to the highest standards of safety.



Response

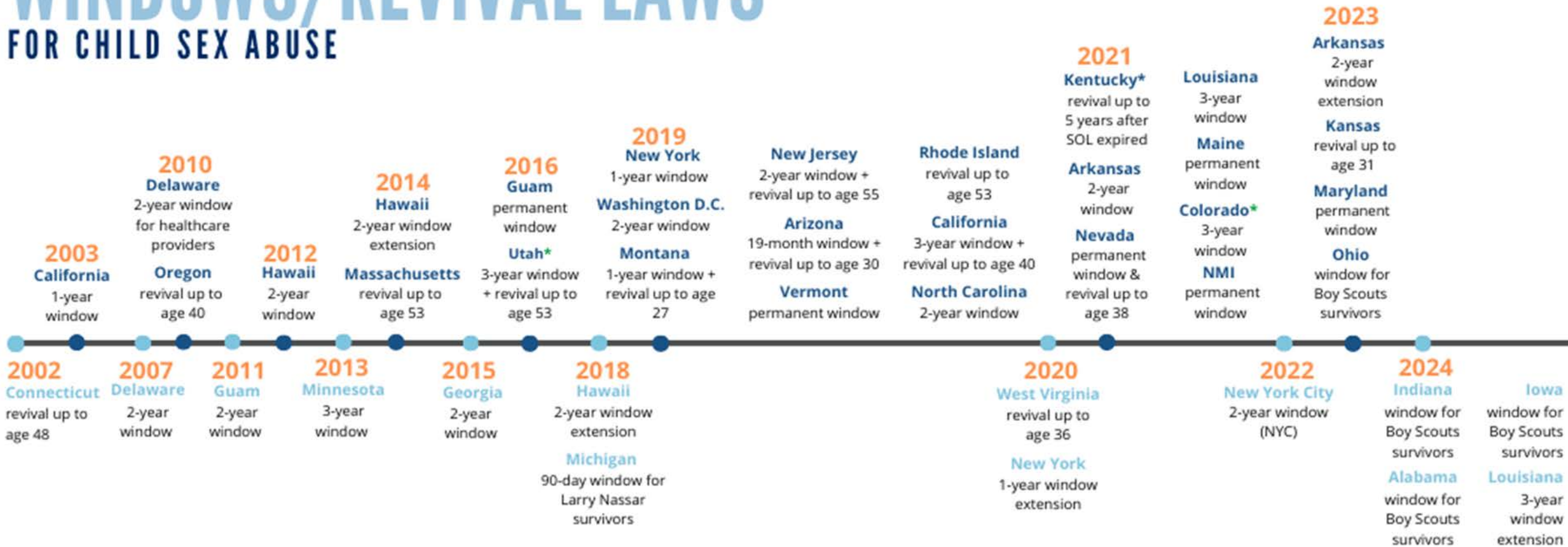
The nature and speed of the response is everything. If handled well, the response can limit the distress caused, as well as the risk of serious reputational and financial damage.



Insurance

Liability insurance including indemnity and defense cost for covered claims.

A BRIEF HISTORY OF WINDOWS/REVIVAL LAWS FOR CHILD SEX ABUSE



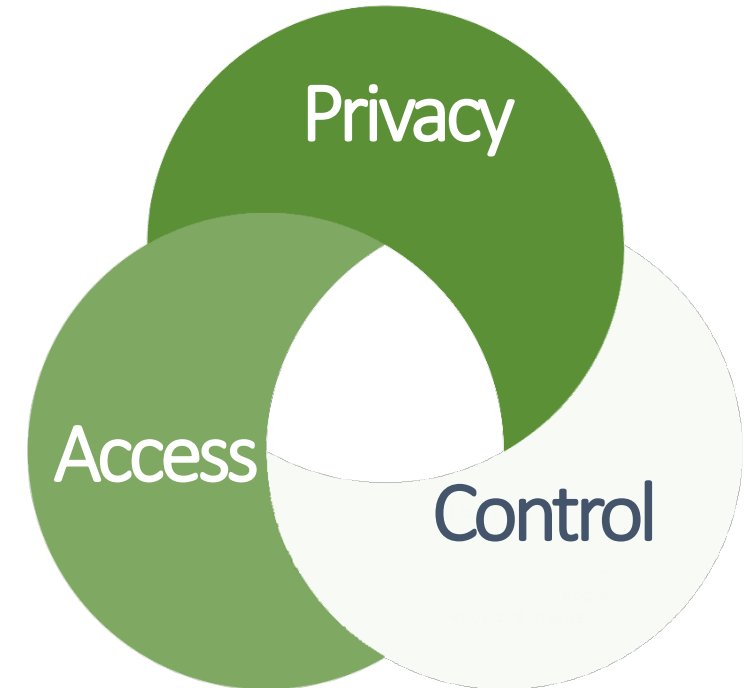
*See childusa.org/law/RevivalLawReport



www.childusa.org

CHILDUSA
The Sean P. McInmail Statute of Limitations Research Institute

- Background checks and National Sex Offender Registry checks
- Chaperones
- Abuse training
- Written policies defining risk and appropriate behaviors
- Incident and reporting procedures
- Rating on employee count and exposure units
- Retroactive date caps
- Venue considerations



Why is it Challenging to Manage Abuse Risk in Healthcare?

- Assume everyone understands and utilizes the highest professional ethics and boundaries with patients
- Assume exposures limited to professions with physical interaction
- High turnover
- Over rely on chaperone/assistant procedures in physical interactions
- Reporting barriers exist
- Limited supervision
- Staffing shortages
- Over rely on peer review and/or termination when concerns arise
- Complacency and compliance



- State law amendments focused on statutes of limitations
 - <https://www.ncsl.org/human-services/state-civil-statutes-of-limitations-in-child-sexual-abuse-cases>
 - <https://survivorspace.org/interactiv-e-map/>



Actual or alleged unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct, including bullying, of a sexual or non-sexual nature ...

Third Party Wrongful Act means any actual or alleged discrimination, including discriminatory or sexual harassment, by any of the Insureds against any natural person who is not an Insured Person ...

- Patients
- Employees of vendors / contractors
- Guests

- Potential coverage pitfalls:
 - Claims made policies
 - Known bad actors

California Claim Examples



- LA Unified School District authorizes \$500m to settle 370 claims
- \$4b in settlements from Los Padrinos Juvenile Hall claims
- \$116m for abuse at women's federal prison
- \$880m to settle claims against Archdiocese of Los Angeles
- \$2.38m to settle single-plaintiff claim against Barstow Unified Schools

Source: <https://www.lawsuit-information-center.com/california-sexual-abuse-lawsuits-and-settlements.html>

Questions and Answers