

The Impact of Soft Skills on the Prevention of Medical Malpractice

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Speaker bio

Graham Billingham, MD, FACEP, FAAEM, Chief Medical Officer, MedPro Group
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Dr. Billingham has 25 years of experience as an emergency medicine physician. He speaks nationally on emergency medicine and has lectured in more than 200 continuing medical education courses on risk management, operations, patient safety, documentation, information technology, coding and billing, and malpractice prevention.



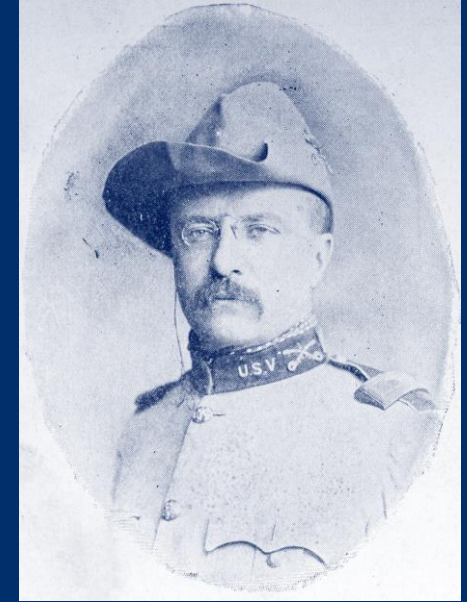
Dr. Billingham is especially gifted at gleaning patient safety and risk management lessons from claims and incidents. As MedPro's Chief Medical Officer, he is responsible for leading the company's Risk Solutions department and working with other leaders to support clinical risk, claims, underwriting, and sales efforts.

Prior to joining MedPro, Dr. Billingham served as president and CEO for EPIC RRG. He also served on the physician advisory boards of several technology companies and the American College of Emergency Physicians' Medical Legal Committee and Coding and Nomenclature Committee. He is emeritus chairman of the Emergency Medicine Patient Safety Foundation and has served on the Emergency Department Practice Management Association's Board of Directors.

Dr. Billingham also founded and served as medical director for the Center for Emergency Medical Education and was a co-founder of the National Emergency Medicine Board Review Course.

Wisdom

“Nobody cares how much you know,
until they know how much you care.”



— Theodore Roosevelt

Objectives

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

- Define and provide examples of soft skills
- Describe the physician selection and training processes and how they have evolved in recent years
- Understand the role of communication as a contributing factor in medical malpractice cases
- Discuss the impact of disruptive behavior on workplace culture and quality of care
- Explain the effects of burnout and empathy on staff retention and culture of safety
- Identify strategies for improving communication, teamwork, and behavior



Definition of soft skills

Soft skills are personal traits or attributes that characterize an individual's relationships with other people.

Soft skills are considered to be a complement to hard skills (knowledge and occupational skills).

In healthcare, hard skills refer to technical skills and medical decision-making skills.

Sociologists use the term soft skills to describe a person's emotional intelligence quotient (EQ).



COMMUNICATION



ADAPTABILITY



LEADERSHIP



TEAMWORK

Examples of soft skills

Empathy

Humility

Active listening

Communication

Honesty

Integrity

Leadership

Respect

Physician selection and training

Historically, medical schools have selected students who are high achievers, excel at exams, and are assertive and competitive.

Residency and fellowship training is rigorous, with long hours spent on learning the hard skills necessary to achieve technical excellence and medical decision-making.

Over the past decade, these processes have evolved.

The Medical College Admission Test[®] was updated in 2015 to include questions related to psychology, sociology, and reasoning.

The Accreditation Council for Graduate Medical Education has incorporated interpersonal skills, communication, and professionalism into its six core competencies and supporting specialty-specific milestones.

These criteria are now a requirement for completing residency training and obtaining medical licensure.



“A path to better outcomes and patient experience can be traced by how much attention physicians pay to cultivating these ‘soft’ yet crucial skills.”





Communication

The importance of communication



Communication is a critical contributing factor in 46% of malpractice cases.

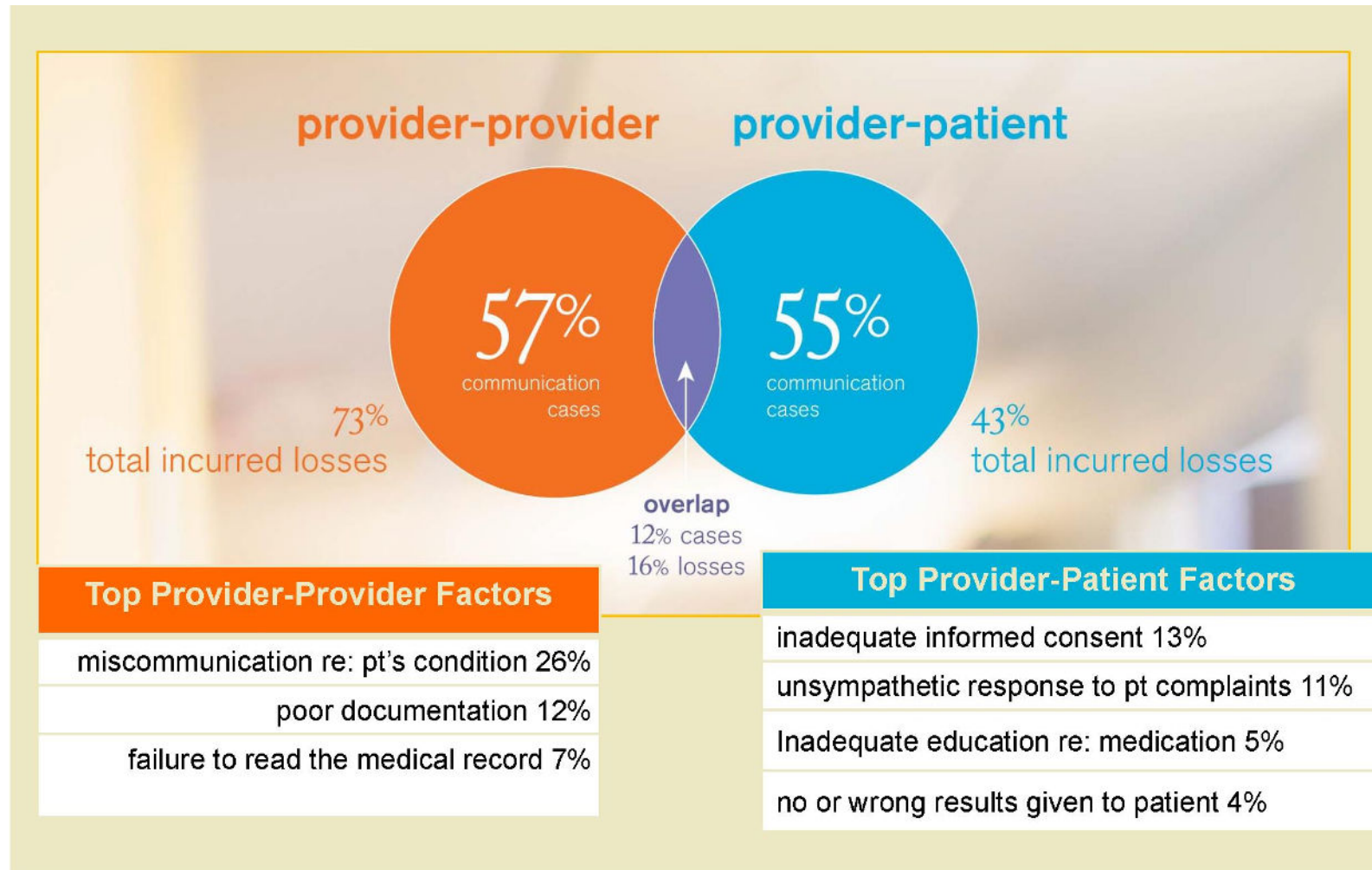
Inadequate or poor communication can occur among various members of the care team or between clinicians and patients.

Active listening, having patience, and being aware of communication barriers (e.g., health literacy issues and cultural differences) are helpful techniques for improving patient comprehension.

It takes patient about 60 seconds to tell their stories; but clinicians will interrupt or redirect patients within the first 11–23 seconds of telling their stories.

Establishing rapport with patients is essential to gaining their trust and developing good doctor-patient relationships.

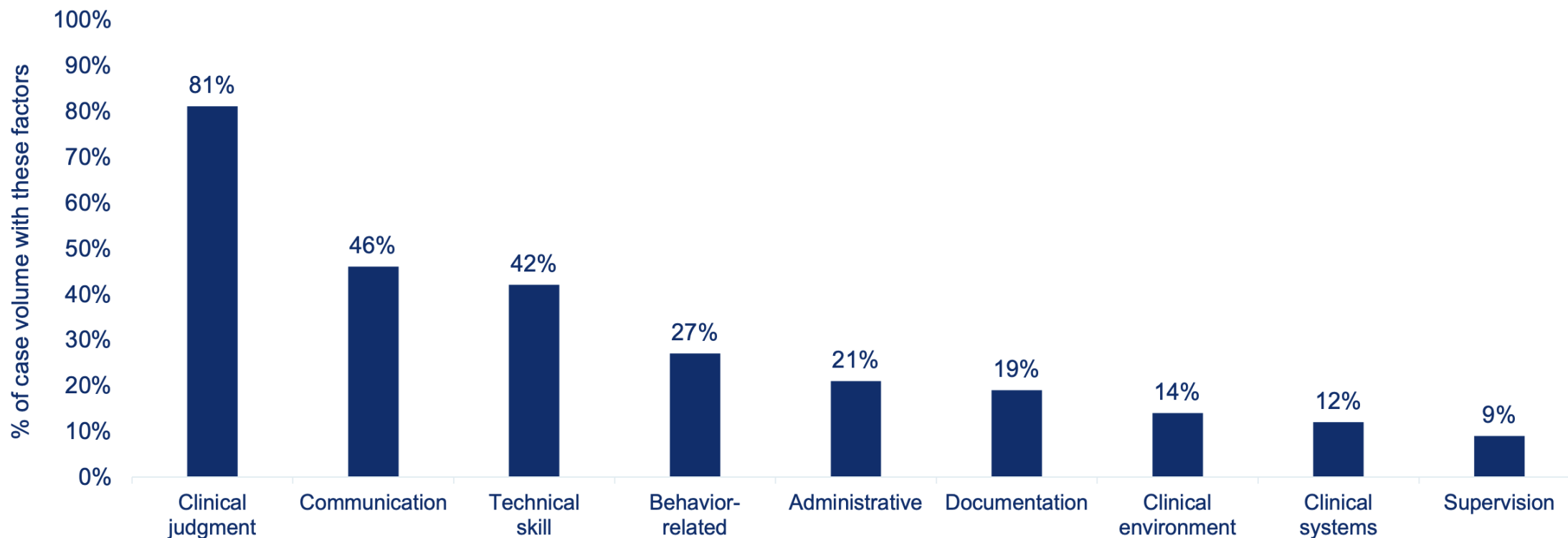
Provider–provider and provider–patient communication issues



Most common contributing factors* across all cases

Cases involving insufficient documentation and/or failure to follow administrative policies/procedures close with indemnity payments most often.

Defense is made more difficult when documentation of events/care provided is sub-par, and it is difficult to defend a failure to follow established policies/procedures.



Issues with communication

Poor communication with staff involved in patient care

Inadequate communication of pertinent clinical findings to radiologists and other providers

Lack of or delayed reporting of critical values

Physician/staff distractions or lack of teamwork

Care across multiple locations/providers

Health literacy issues



To help align expectations, it is critical that surgeons:

- Establish trust with their patients
- Take the time to clearly explain the risks and benefits
- Address patients' questions and concerns before *and* after the procedure
- Acknowledge the challenges of health literacy, communication barriers, and cultural perspectives



Behavior

Definitions

Inappropriate behavior

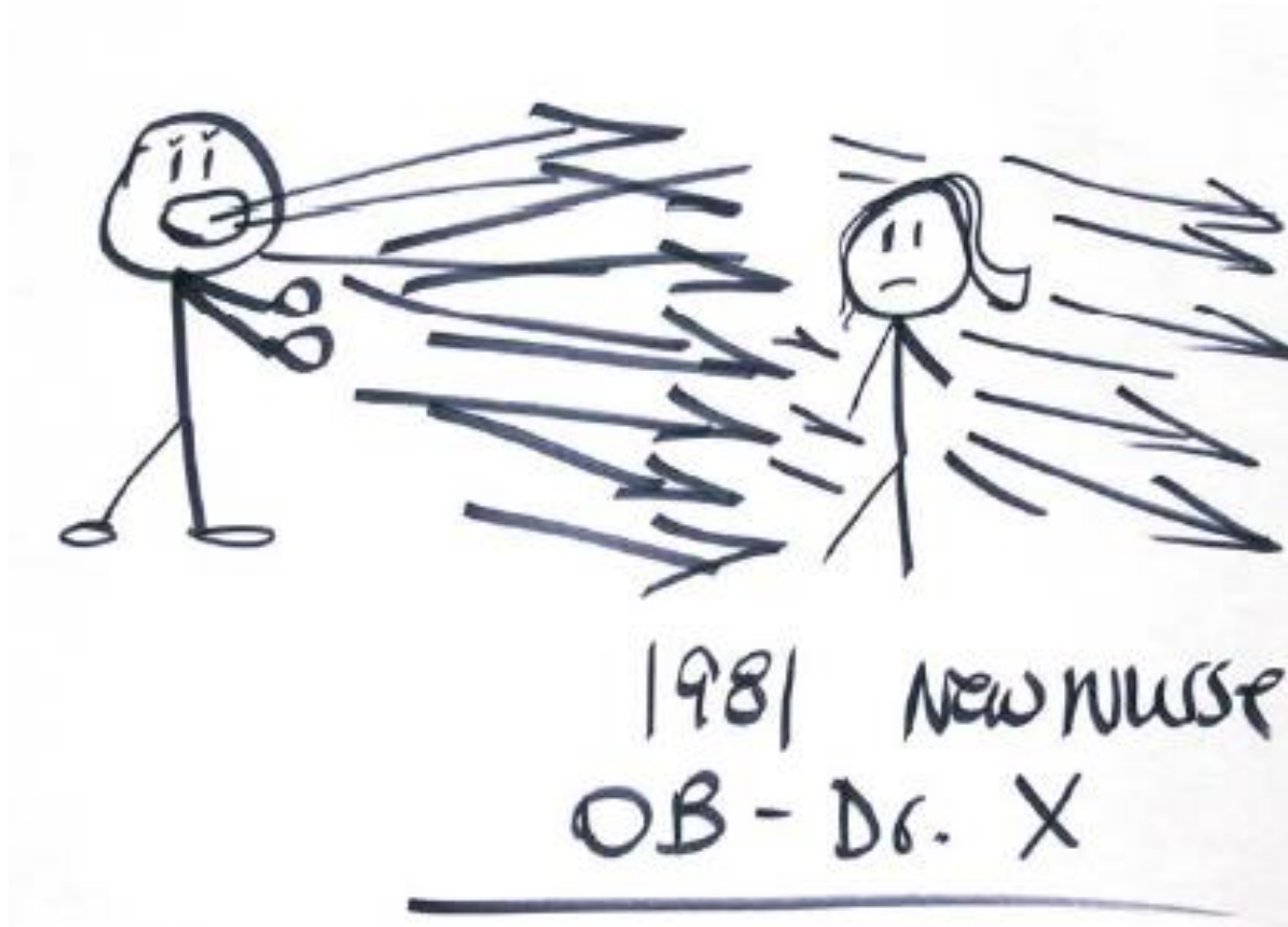
“Any conduct that is unwarranted and is reasonably interpreted to be demeaning or offensive . . . Persistent, repeated inappropriate behavior can become a form of harassment and thereby rise to the level of disruptive behavior.”

Disruptive behavior

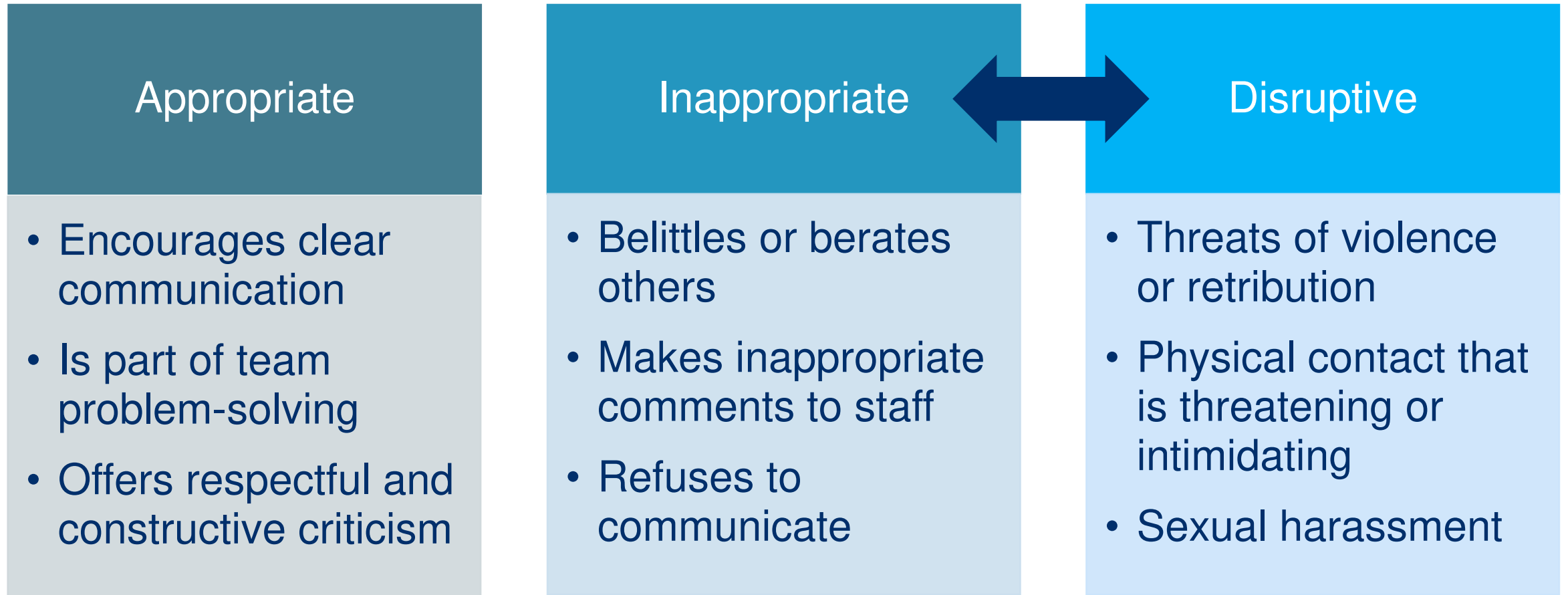
“Any abusive conduct, including sexual or other forms of harassment, or other forms of verbal or nonverbal conduct that harms or intimidates others to the extent that quality of care or patient safety could be compromised.”



Discouraging disruptive behavior



Behaviors



Disruptive behaviors

Passive

- Incomplete charting
- Avoidance
- Failure to answer calls
- Frequent absences
- Chronic tardiness
- Getting behind
- Refusing to help

Passive aggressive

- Excessive sarcasm
- Implied threats
- Inappropriate jokes
- Refusal to complete tasks
- Condescending language/tone

Aggressive

- Angry outbursts
- Raised voice
- Demeaning
- Intimidation
- Public criticism
- Physical aggression
- Physical violence

Disrespect is the most common disruptive behavior.

Prevalence and magnitude

American College of Physician Executives and QuantiaMD® survey results
(>840 physician and physician leader participants)

70% indicated physician disruptive behavior occurs monthly in their organizations

- 59% encountered degrading comments or insults
- 55% encountered failure to follow established protocols
- 54% encountered refusal to cooperate

26% engaged in disruptive behavior at least one time; two most common contributors were workload and learned behaviors

50% have seen patients change physicians or leave the practice

90% believe disruptive behavior affects patient care (always, sometimes)

Identified needs

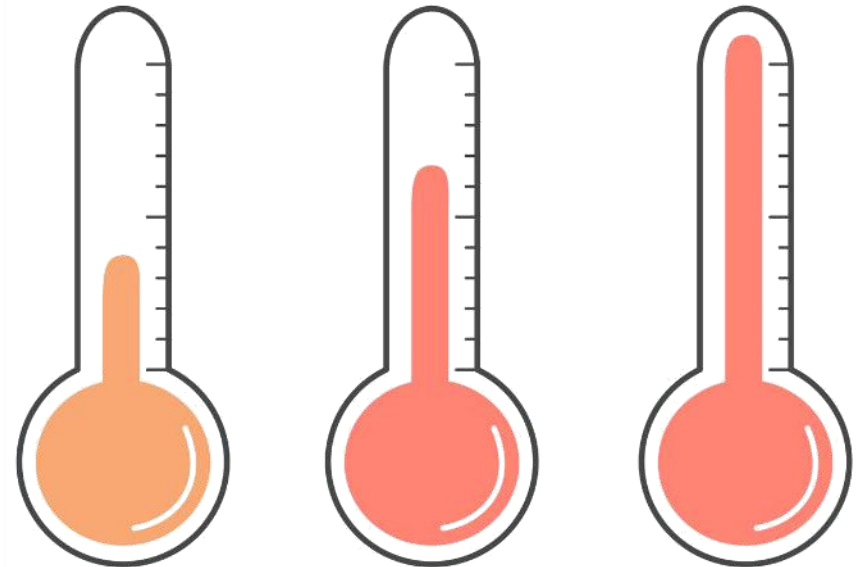
Confronting disruptive physicians

Enacting strategies for disciplining disruptive physicians

Improving culture and communication

Prevalence and magnitude (continued)

- The best estimate is 3%–5% of physicians present with disruptive behavior.
- In a physician executive survey:
 - 70% stated these disruptive behaviors are from the same physicians.
 - These behaviors are most common between a nurse or allied healthcare staff member and the physician.
 - 80% stated disruptive behavior is underreported due to fear of retaliation.
- The perception of physicians versus nurses.
- Inconsistency in resolving behavior.



Contributing factors to disruptive behavior

Psychiatric conditions

- Depression
- Bipolar disorders

Personality disorders

- Narcissism
- Paranoia
- Passive-aggressive personality disorder
- Borderline/mixed personality disorder

Occasional incident

- Substance abuse



Potential indicators of disruptive behavior

Frequent job changes

Employed in jobs inappropriate for their qualifications

Reluctant to provide references or permission to contact

History of voluntary or involuntary relinquishment of licensure or medical staff membership

History of limitation, reduction, or loss of clinical privileges

Excessive claims resulting in final judgments against them



History of investigations or disciplinary actions

Poor performance evaluations



Triggers contributing to disruptive behavior

Intrapersonal (affects job performance)

- Lack of competency or fatigue

Interpersonal (affects relationships)

- Lack of leadership
- Questioning providers about patient care
- Staff diversity

Organizational (inhibits interactions at work)

- Systems
- Processes
- Culture

Impact of disruptive behavior

According to The Joint Commission, disruptive behavior:

- Fosters medical errors
- Decreases patient satisfaction
- Increases preventable adverse events
- Increases the cost of care
- Drives away clinicians and others on the healthcare team



Medical errors

42%

More mistakes in diagnosis



Performance reduced when exposed to disruptive behavior

11%

-

14%

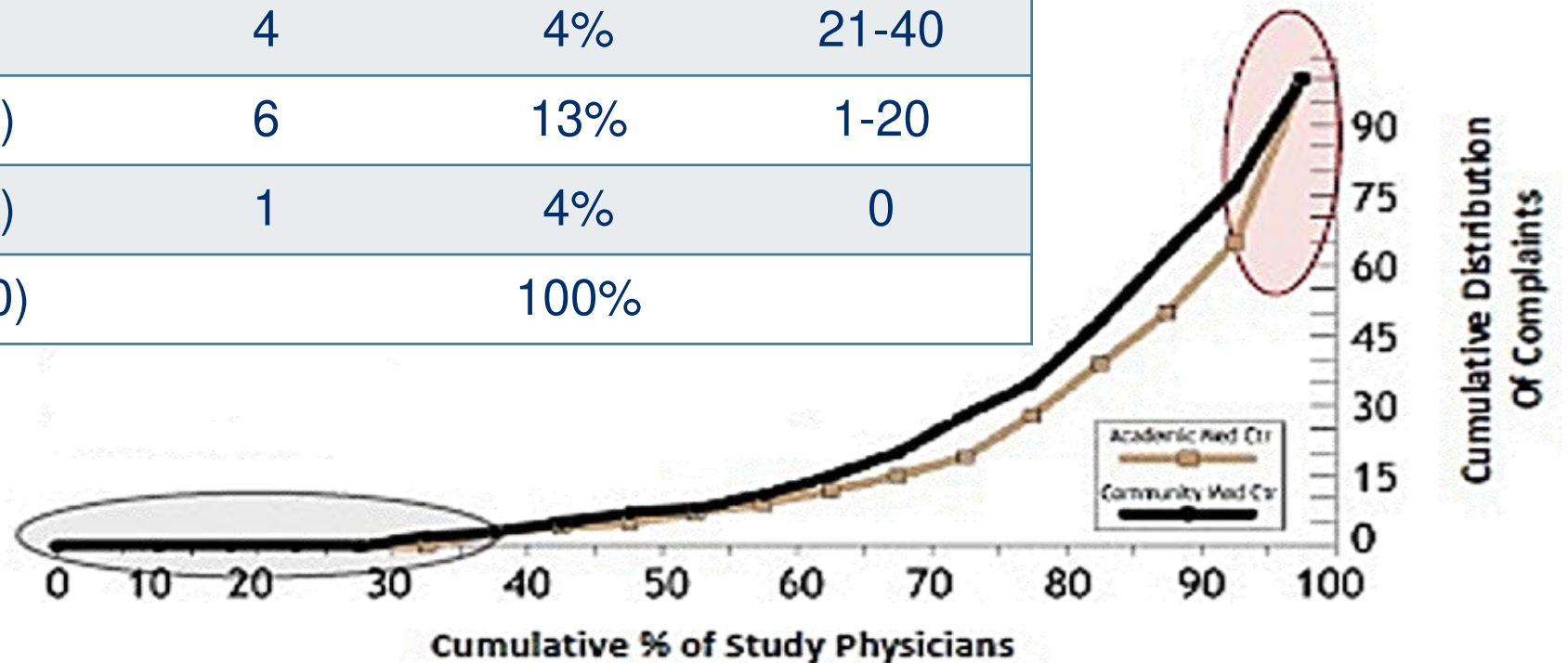
Higher risk of surgical and medical complications

31.7%

If more than four behavioral reports, had higher complication risk

Decrease in patient satisfaction

Predicted risk category	# (%) of physicians	Relative expense	% of total expense	Score (range)
5 (high)	51 (8)	73	50%	> 50
4	52 (8)	42	29%	41-50
3	76 (12)	4	4%	21-40
2	147 (23)	6	13%	1-20
1 (low)	318 (49)	1	4%	0
Total	644 (100)		100%	



Increase in malpractice claims

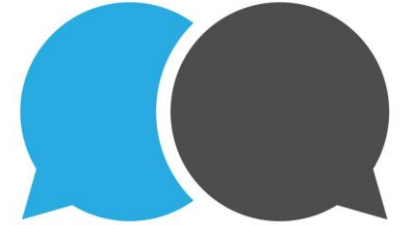
About 8% of physicians are sued annually.

Odds of being sued at least once in one's career based on behavior:

- Does not consider suggestions — 5.99.
- Snaps at others when frustrated — 5.92.
- Does not pay attention — 4.97.
- Does not inform others of treatment plan — 4.86.
- Talks down to others — 4.28.



Empowering to report

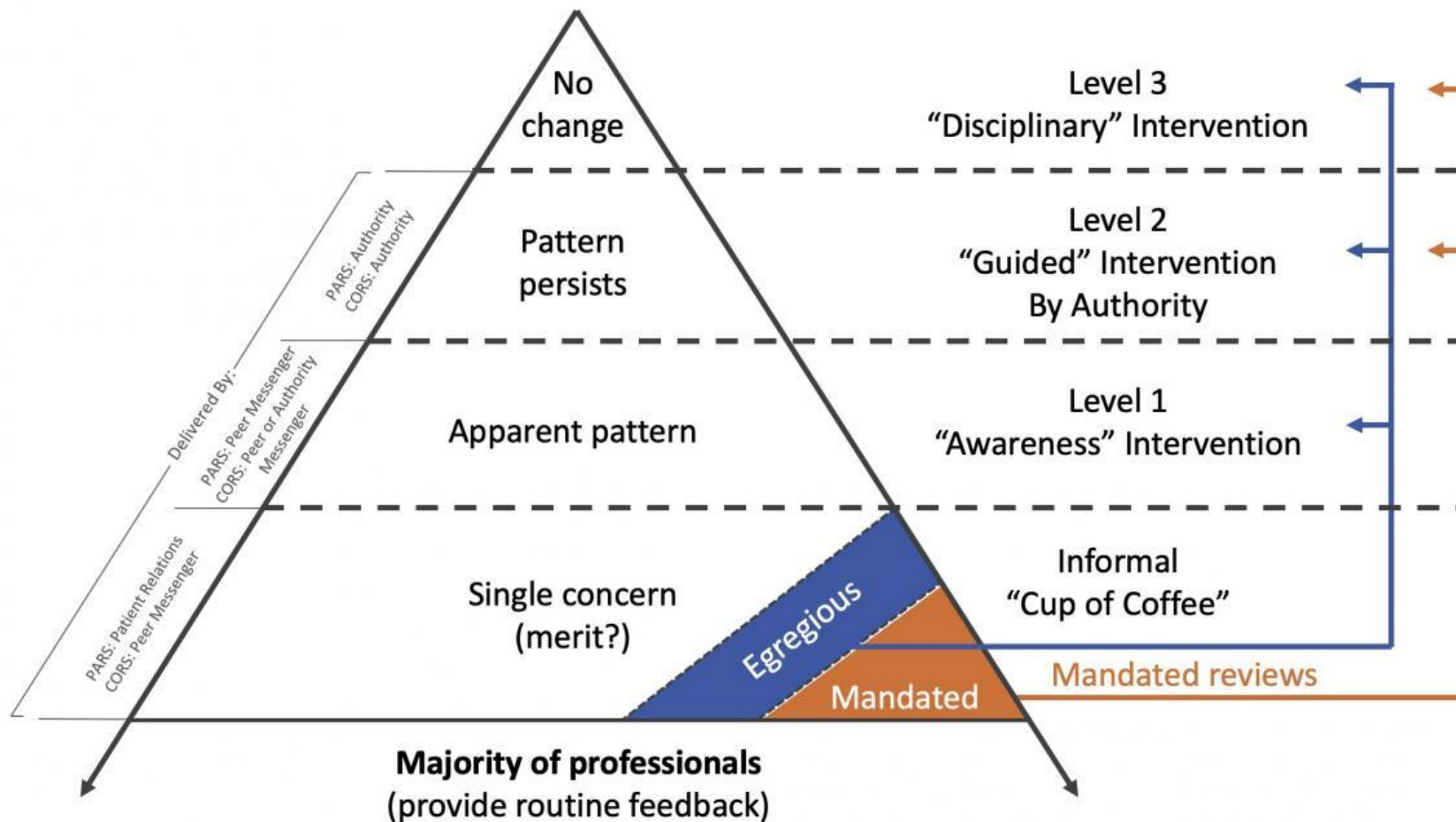


Peer messengers share behavior reports directly with recipients:

- Vanderbilt: Coworker observation reporting system (CORS) to report unsafe conduct and behaviors known to undermine teams
- 3% of medical staff (physicians and advanced practice professionals [APPs]) had pattern of CORS reports
- 71% of recipients with CORS patterns following peer messenger feedback were not named in any subsequent CORS reports (1-year follow-up period)

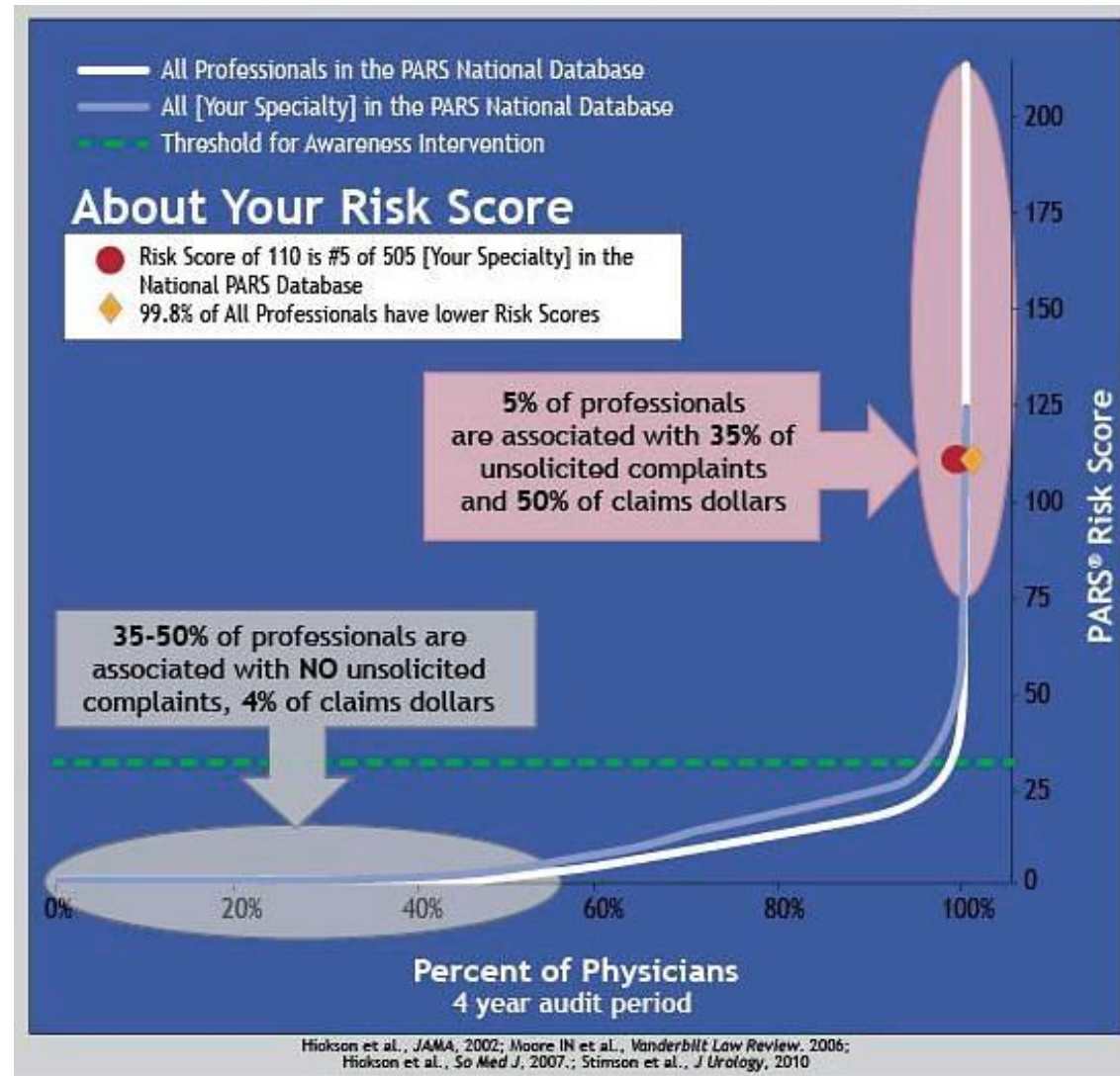
Peer messenger feedback is helpful in encouraging behavior self-regulation.

Promoting professionalism pyramid



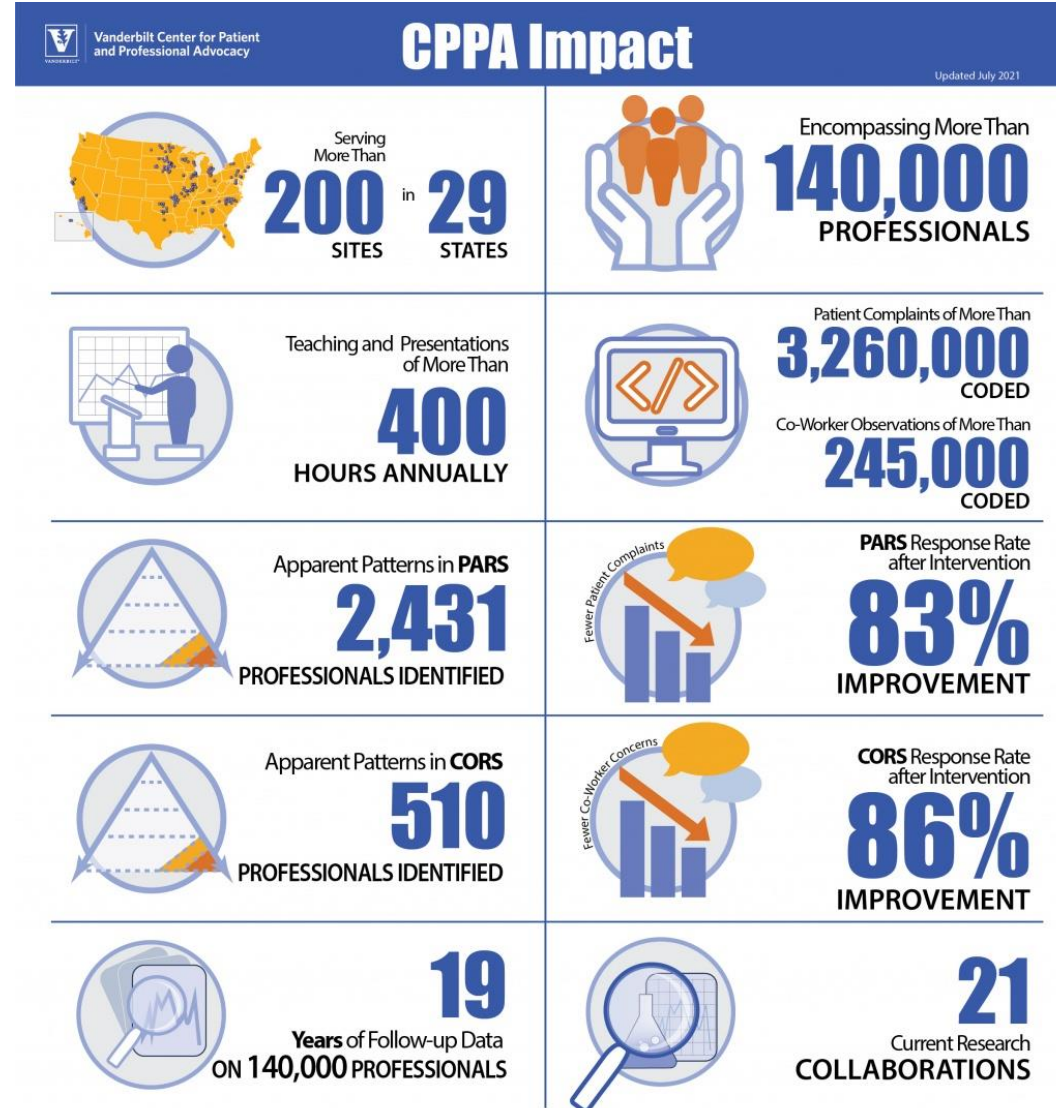
Adapted from: Hickson GB, Pichert JW, Webb LE, Gabbe SG. A complementary approach to promoting professionalism: Identifying, measuring, and addressing unprofessional behaviors. *Acad. Med.* 2007 Nov;82(11):1040-1048.

Patient Advocacy Reporting System® (PARS®) national data sample



Hickson, G.B., et al. (2007). Patient complaints and malpractice risk in a regional healthcare center. *Southern Medical Journal*, 100(8), 791-796. <https://doi.org/10.1097/SMJ.0b013e318063bd75>; Moore, I., Pichert, J., Hickson, G., & Federspiel, C. (2006). Rethinking peer review: Detecting and addressing medical malpractice claims risk. *Vanderbilt Law Review*, 59(4), 1,175-1,206. Retrieved from <https://scholarship.law.vanderbilt.edu/vlr/vol59/iss4/6/>; Hickson, G.B., et al. (2002). Patient complaints and malpractice risk. *JAMA*, 287(22), 2,951-2,957; Vanderbilt Center for Patient and Professional Advocacy. The Patient Advocacy Reporting System® (PARS®) Program. Retrieved from www.vumc.org/patient-professional-advocacy/pars-program

Center for Patient and Professional Advocacy: 2021 impact report





Burnout & empathy

Burnout



Burnout affects interpersonal skills, job performance, career satisfaction, psychological health, and communication.

Burnout, workload, and COVID-19-related stresses were associated with intent to reduce hours or leave.

Approximately 1 in 3 physicians, APPs, and nurses surveyed intend to reduce work hours.

1 in 5 physicians and 2 in 5 nurses intend to leave their practice altogether.

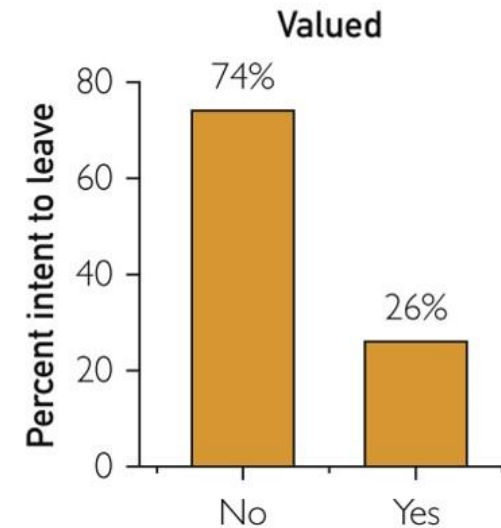
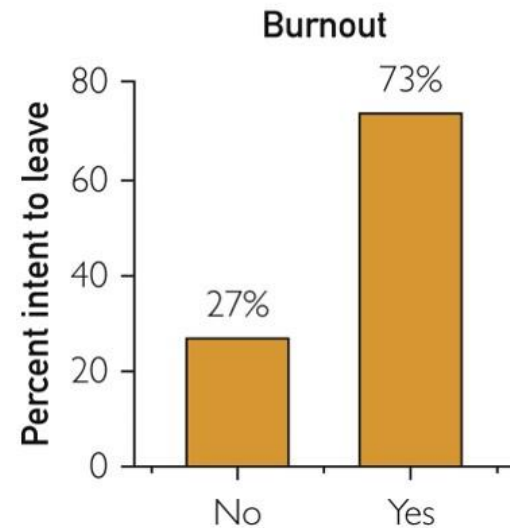
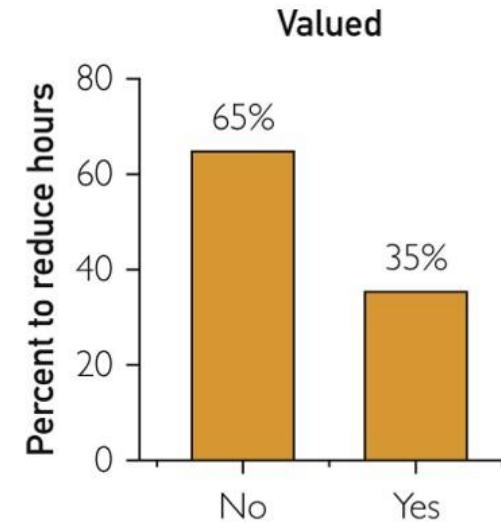
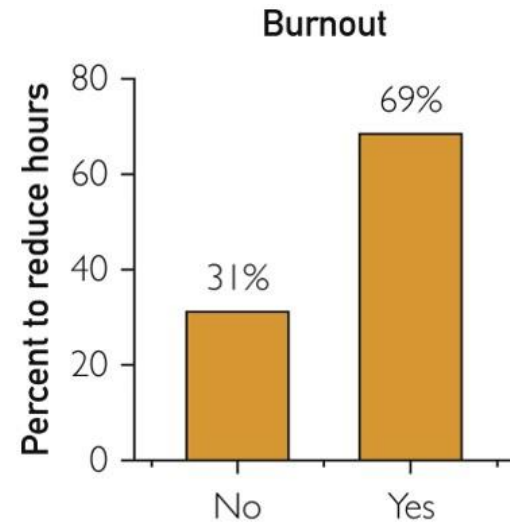
Burnout also contributes to medical errors and poor communication, both of which increase the risk of malpractice.

Reducing burnout and improving a sense of feeling valued may allow healthcare organizations to better maintain their workforces after the pandemic.

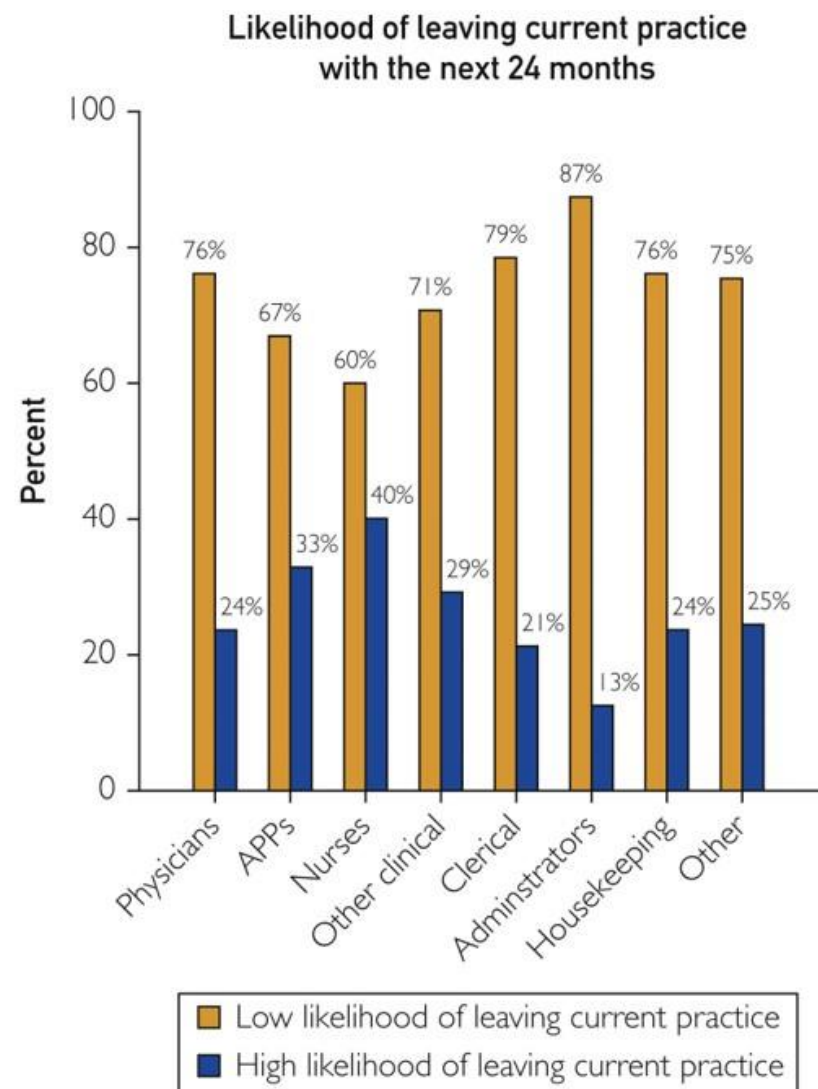
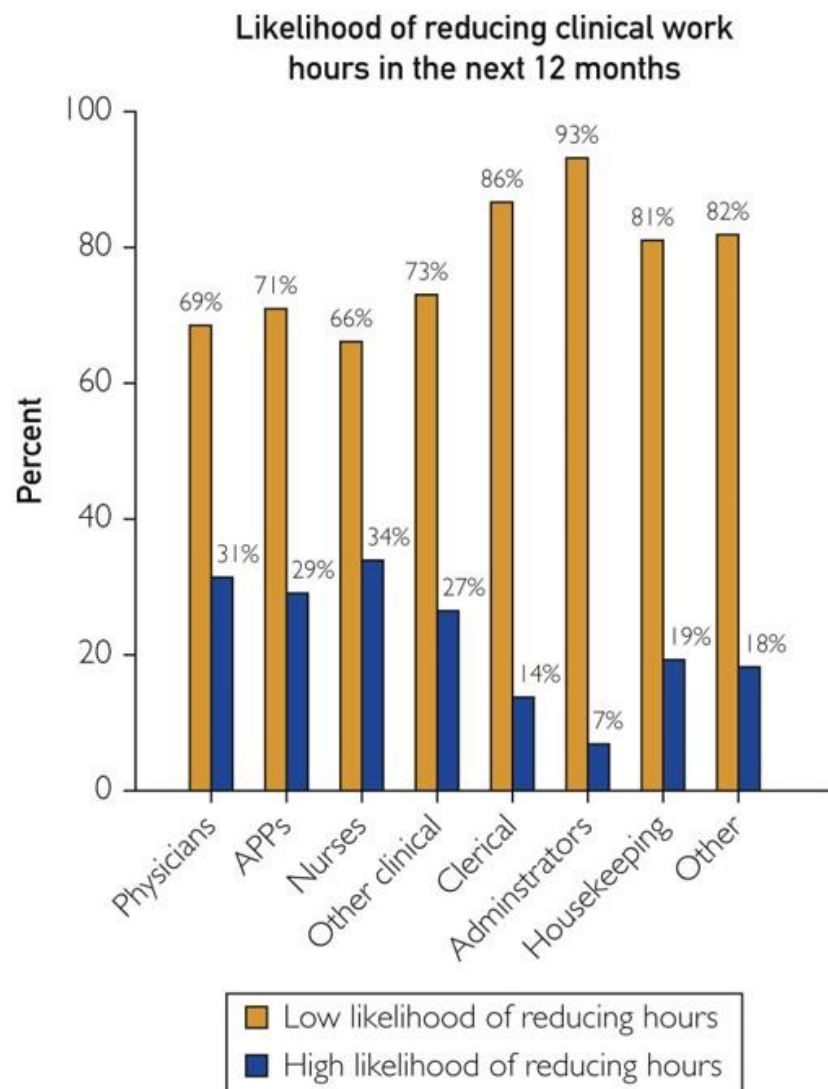
Soft skills training has been shown to help prevent burnout syndrome.

Healthcare organizations also need early recognition programs aimed at raising awareness and coping with burnout symptoms through stress management and resilience enhancement trainings.

Burnout (continued)



COVID effect



Empathy

Empathy has been shown to decrease during medical education and training.

Empathy training has been shown to improve active listening, enhance communication, and decrease burnout.

Empathy training has been found to not only improve patient outcomes but also to decrease malpractice risk and improve physician and patient satisfaction.

“

“I had to re-learn to like patients after my residency program.”

”

“

“After empathy training, I feel that I like my work again, and instead of resenting all the demands, I'm remembering why I chose this profession in the first place.”

”



Solutions

Communication strategies

Knock before entering exam rooms.

Greet patients and introduce yourself (if needed).

Sit when you can, and maintain eye contact when talking to patients.

Be aware of nonverbal communication and cues.

Ask patients about their goals for the visit.

Don't interrupt while patients are talking.

Ask open-ended questions.



I've got a patient who needs to chat to someone...Have you got anyone who's completed the 'verbal communication with patients in a personal, supportive but not disempowering' course?

Communication strategies (continued)

Use layman's language and visual aids to ensure comprehension.

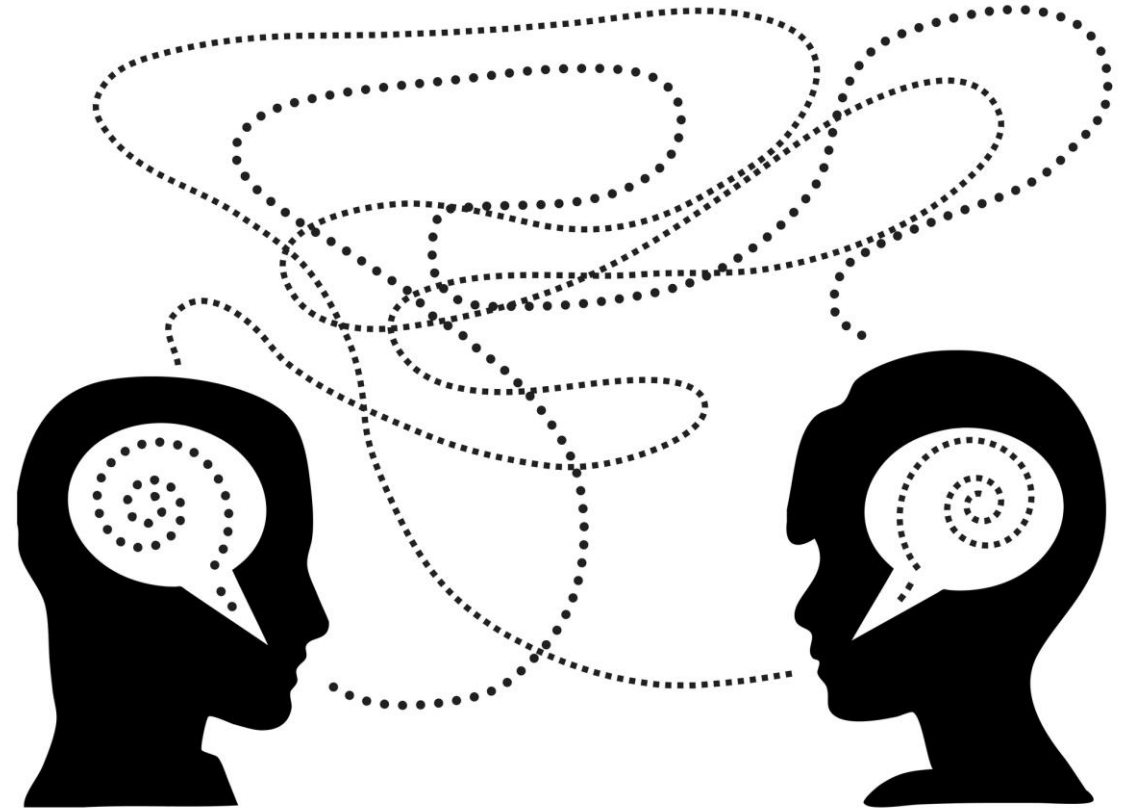
Provide plain-language follow-up instructions and educational materials.

Use the teach-back technique to ensure comprehension.

Encourage patients to voice questions and concerns.

Consider patients' personal and cultural preferences and values.

Use satisfaction surveys to gauge patient perceptions.



Risk strategies for surgical teams

Communication

- Clearly describe possible known complications of the surgery to the patient/family, including symptoms to watch out for during recovery.
- Discuss and document any proposed changes with the patient/family before a planned surgery, and explain unexpected outcomes or findings afterward.
- Verify patient/family understanding of written postoperative instructions, pain control, symptoms to monitor, bandage changes, use of supportive devices like crutches, and 24/7 contact information.
- Arrange close postoperative follow-up, and investigate atypical symptoms.

Informed consent

- Explain and document the relevant risks (i.e., known complications), benefits, probability of success, and risk of not undergoing the procedure.
- Amend boilerplate documentation to include patient-specific and procedure-specific information in layman's terms.



“The importance of clear, two-way communication about possible risks and complications, before and after surgery, cannot be overstated.”



Risk strategies for surgical teams

Surgery management

- Establish guidelines for providers to understand their patients' medical histories as completely as possible, including reviewing the medical record and consulting about rare conditions.
- Ensure that surgical teams take a safety pause to confirm the patient, procedure, and anatomical site and laterality before the procedure begins. Also confirm that the planned procedure is the one to which the patient consented.
- Use a standardized preoperative checklist to identify patients with potential risk factors for surgical complications (e.g., the [Strong for Surgery](#) preoperative checklists).
- Expand clinical training opportunities (e.g., simulation to practice surgical techniques and coaching on technical, safety, and teamwork skills).

Culture of safety

- Maintain an environment in which all members of the surgical team feel empowered to speak up when they see something that appears unsafe.



Organizational risk strategies

Policies and procedures
(code of conduct)

Medical executive
committee and
leadership support

Early intervention and
monitoring

Staff education and
team training

Handoff procedures,
e.g., situation,
background,
assessment,
recommendation
(SBAR)

Culture of safety
surveys

Harvard Surgery Code of Excellence

Service

Openness

Respect

Education

Teamwork

Humility

Excellence

Health

Ethical discipline

Conflict of interest

Personal responsibility
to patients

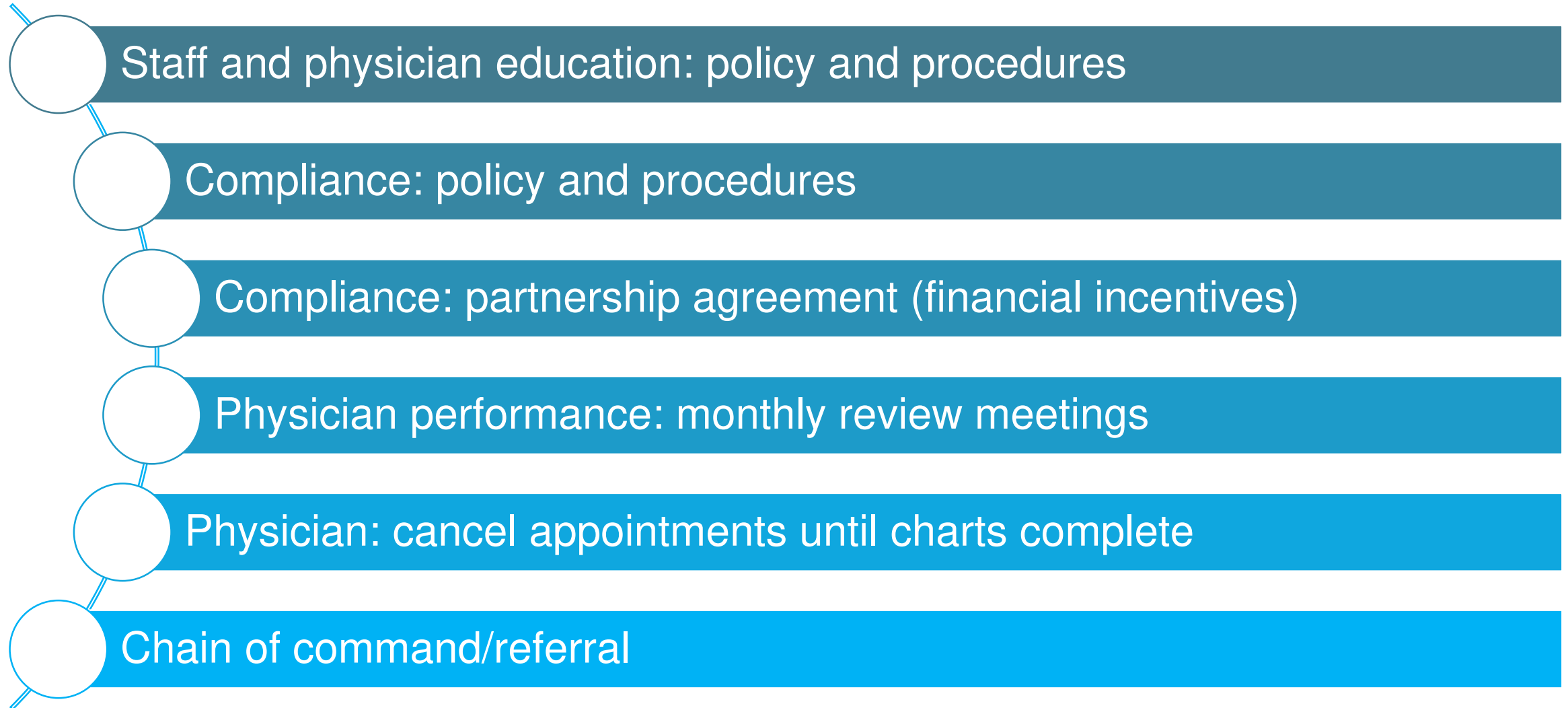
Harvard Surgery Code of Excellence

11/22/11

Adopted by the members of the CRICO/Harvard Surgical Chiefs Safety Collaborative

- 1. Service:** Our surgeons are expected always to place patients' needs first.
- 2. Respect:** Our surgeons are expected to treat patients, their families, visitors, students, trainees, other caregivers, and one another with respect and professional dignity.
- 3. Teamwork:** Our surgeons are expected to work collaboratively in service of patient care, both as effective leaders of teams and as members of teams led by others.
- 4. Excellence:** Harvard aims to provide patient care and service equivalent to the best in the world. Our surgeons are therefore expected:
 - ▶ to become board certified and maintain certification*;
 - ▶ to monitor their outcomes and record them;
 - ▶ to make their results available for evaluation;
 - ▶ to follow prudent safety practices and guidelines for optimal patient care;
 - ▶ to achieve and maintain proficiency in the procedures they perform and in the basic set of procedures they may be called upon to perform in their specialty;
 - ▶ to limit their practice, except in an emergency, to those areas in which they have maintained proficiency; and
 - ▶ to adopt beneficial new technologies and techniques.
- 5. Ethical discipline:** Our surgeons will not adopt/attempt experimental techniques and technologies outside of research ethics review and assessment, unless in an emergency.
- 6. Personal responsibility to patients:** Our surgeons are expected to take full responsibility for ensuring the safe care of their patients. When unable to do so themselves, they will arrange appropriate handover or consultation with another colleague or institution. Our surgeons will take responsibility for covered patients as if they were their own.
- 7. Openness:** Our surgeons are expected to communicate openly and honestly with patients and in the medical record about all aspects of their care—including the nature of any procedures to be performed, rates of complications, potential difficulties for recovery, involvement of other team members, and occurrence of mistakes and adverse events.
- 8. Education:** Our surgeons are expected to devote time, effort, and skill to educating caregivers and our next generation of clinicians.
- 9. Humility:** All surgeons have finite abilities. Our surgeons are therefore expected to assess when a case is beyond their or their institution's capabilities and to seek assistance and consultation accordingly.
- 10. Health:** Our surgeons are expected to value and maintain their health and wellness, as well as assist colleagues with their health.
- 11. Conflict of Interest:** Our surgeons are expected to maintain the knowledge, insight, and discipline required to keep the patient's interest above financial or any other conflict of interest.**

Risk strategies for physicians and other providers



Summary



In healthcare, soft skills allow individuals to communicate effectively, build relationships, solve problems, and maintain professionalism.

Physician education and training programs are increasingly recognizing the value of soft skills and incorporating them into curricula and requirements.

Communication, a critical soft skill, is a contributing factor in 46% of malpractice cases. Communication failures can occur among members of the healthcare team or between clinicians and patients.

Behavior is another factor that contributes to malpractice risk. Disruptive behaviors can lead to medical errors, decrease patient satisfaction, increase costs, and affect the overall quality of care provided.

Burnout and lack of empathy are other issues that plague healthcare and can result in toxic work environments, staff absenteeism and turnover, and increased professional liability exposure.

Strategies to enhance soft skills and address pervasive problems in healthcare can benefit physicians by cultivating better doctor–patient relationships, alleviating burnout, improving teamwork, reinforcing safety culture, and reducing medical errors.



A note about MedPro Group data

- MedPro is partnered with Candello, a national medical malpractice data collaborative and division of CRICO, the medical malpractice insurer for the Harvard-affiliated medical institutions.
- Derived from the essence of the word candela, a unit of luminous intensity that emits a clear direction, Candello's best-in-class taxonomy, data, and tools provide unique insights into the clinical and financial risks that lead to harm and loss.
- Using Candello's sophisticated coding taxonomy to code claims data, MedPro is better able to identify clinical areas of risk vulnerability. All data in this report represent MedPro's experience with diagnostic allegations, including an analysis of risk factors that drive these claims.



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