Putting Culture on Trial

A Class Action Suit

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Plaintiffs' Case

How does culture mess up your day?

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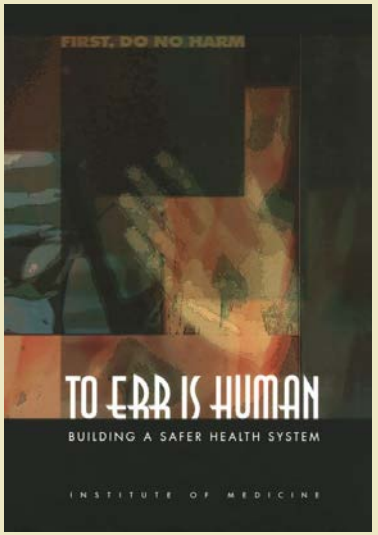
IOM report on medical error in 1999

- Call to Action: 50% less error in 5 years
- Focus, Funding, Regulations, Initiatives….

15 Years later….

- Much data / knowledge
- Smart, dedicated people
- Many efforts and initiatives



In spite of this

- Lack of consistency in efforts
- Continued / repeated issues and errors in the face of known solutions

Deadly medical errors still common in U.S. hospitals

2/21/2011 - In spite of a decade of efforts to improve patient safety, **dangerous medical errors are still common in U.S. hospitals**, according to a study conducted by researchers from Brigham and Women's Hospital in Boston and published in the "New England Journal of Medicine."

When medical errors kill

March 15, 2014 |

- American hospitals **still have a big problem with unnecessary deaths** from medical errors….a conservative estimate would be that well over 100,000 people a year die unnecessarily because of errors made by their healthcare teams. And the **numbers have remained high despite concerted efforts to bring them down.**

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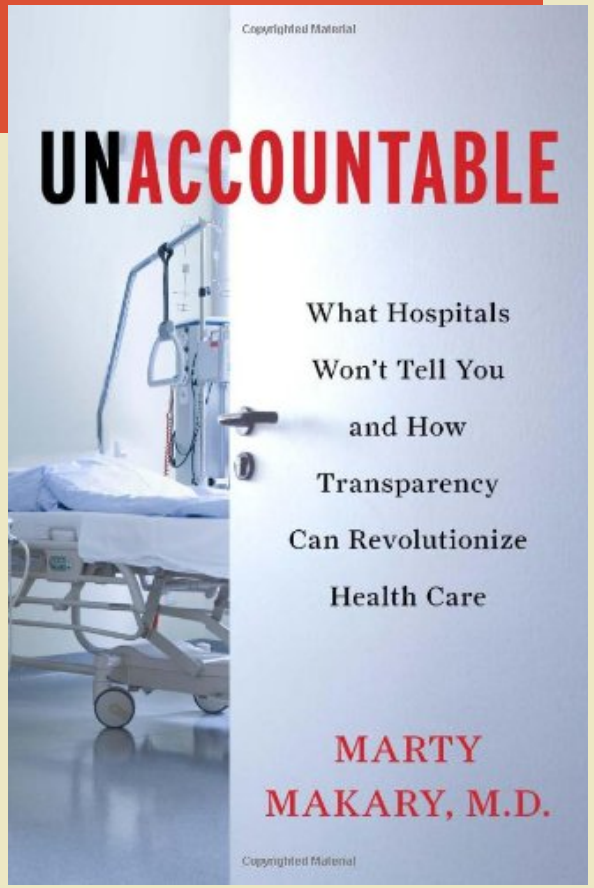
"A startling revelation of the **dysfunction deeply embedded in the very culture** of American medical practice, problems that health care reform scarcely begins to address."

—Peter Boyer, Newsweek



The most jaw-dropping revelation to emerge from Charles Graeber's alarming new book, "The Good Nurse," is that in hospital after hospital, officials either knew or strongly suspected that Cullen was murdering patients, but instead of taking measures to stop the killing, **they acted to protect the reputation of their institutions.**

'Culture of Fear': VA Eyes Pain-Pill Problems at Wisconsin Hospital

"The team found that an **apparent culture of fear** at the facility compromised patient care and impacted staff satisfaction and morale," the memo stated.

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"We are deeply saddened when a lack of institutional transparency may have contributed to potentially unnecessary risk and serious harm," said Amy Basken, a spokeswoman for the Pediatric Congenital Heart Association, a national advocacy group.

CNN

U.S. Edition

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'Why won't they stop?'

9th baby dies after heart surgery at Fla. hospital

The hospital's surgical death rate for infants is more than triple the national average. FULL STORY

Secret deaths: A hospital's high surgical death rate for children

Stories from the front lines

How culture impacts the delivery of safe care

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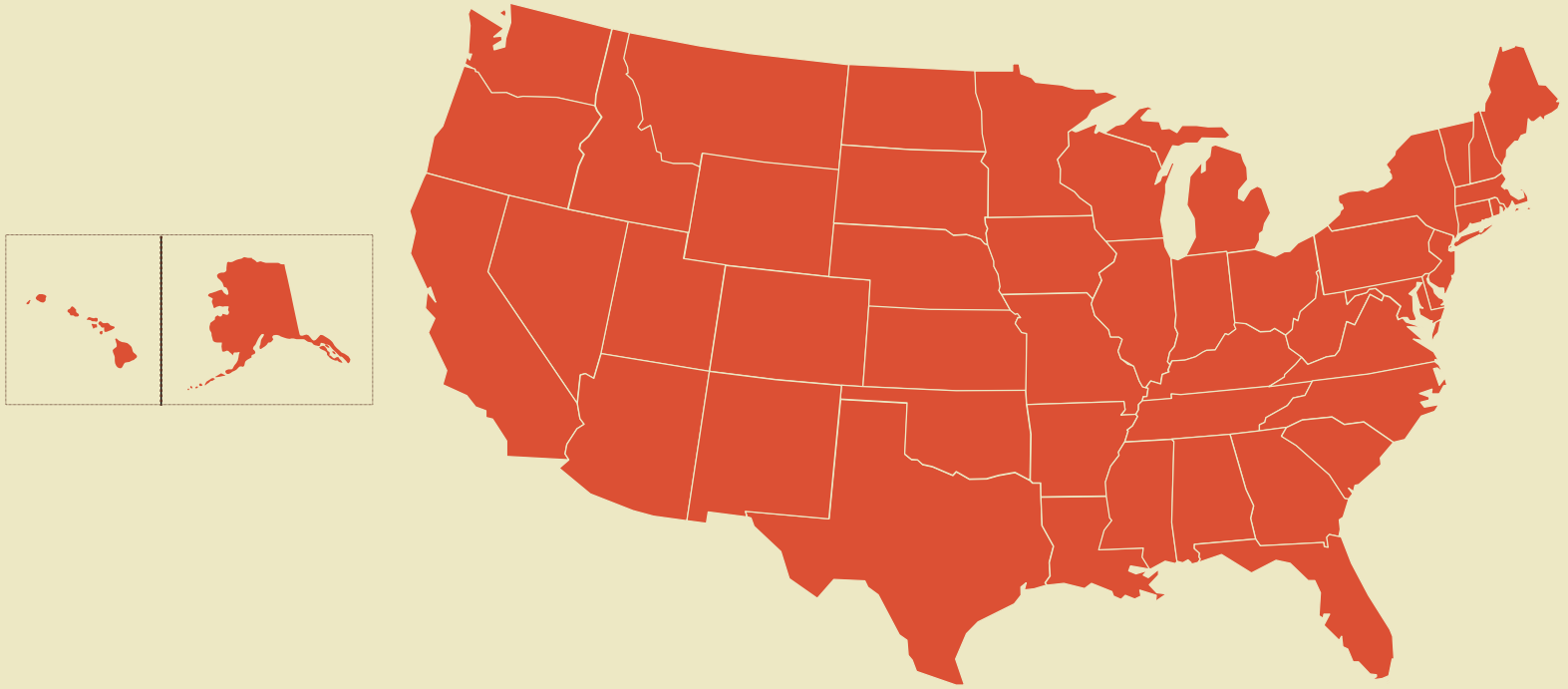
Where do CBS cases come from?

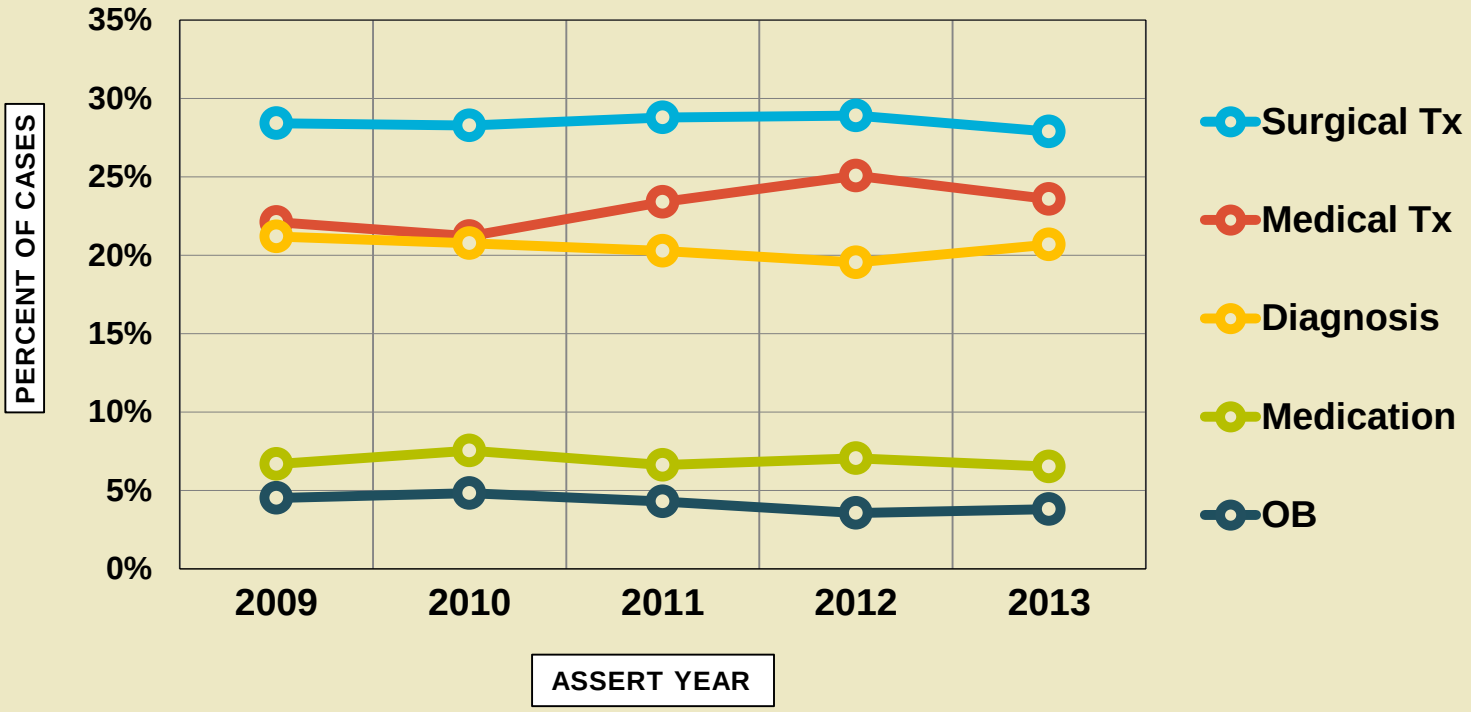


Source	Data
Hospitals	~400
Physicians	165,000+
New cases per year	8,000+

- Includes 23 academic medical centers
- More than 300,000 cases,
- Representing ~30% of the National Practitioner Data Bank

The distribution of key clinical allegations has remained consistent over time.

Distribution of top allegations across time.



N=24,271 MPL cases asserted 1/1/09–12/31/13.

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$5.6B total incurred losses

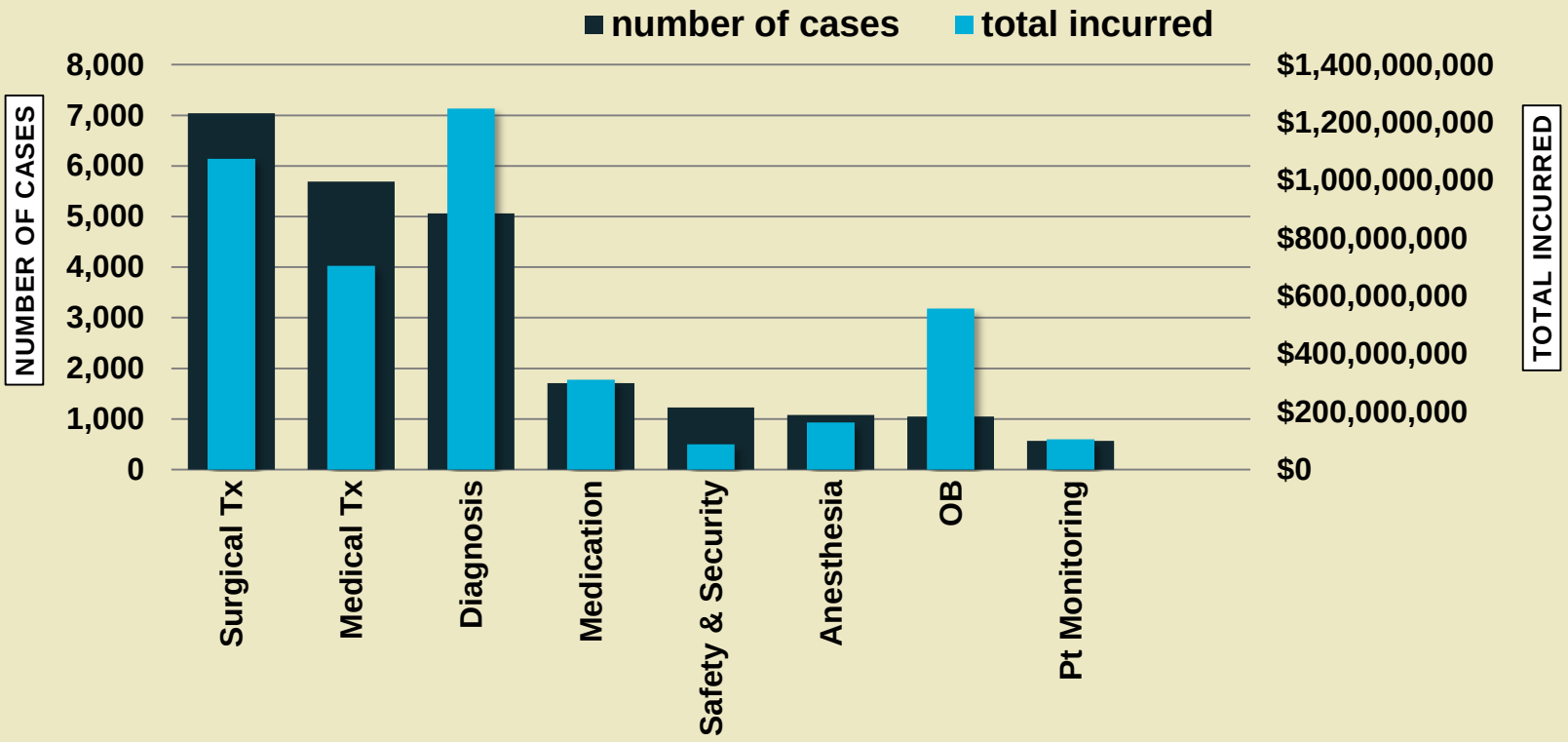
Closed Data: 43,973 Claims and Suits closed 1/1/2009–12/31/2013

	# CASES CLOSED	TOTAL INDEMNITY PAYMENT	% CLOSED WITH INDEMNITY PAYMENT	AVERAGE INDEMNITY PAID	% CASES CLOSED WITH INDEMNITY >$1M
All Closed Cases	43,973	$3,955,254,677	29%	$314,034	2%
Target Area:					
Surgery	8,983	$751,836,057	27%	**$314,181**	2%
Diagnosis	5,832	$849,654,111	33%	**$447,658**	4%
Medication	2,042	$231,584,263	32%	**$353,564**	3%
Emergency	2,074	$271,324,190	31%	**$426,610**	3%
OB	1,079	$411,031,508	40%	**$942,733**	11%

N=43,973 MPL cases closed 1/1/09–12/31/13.

While **surgery-related allegations** account for the greatest number of cases, **diagnosis-related allegations** account for the highest total incurred.

Allegation categorizes claims and suits by their *case type*.



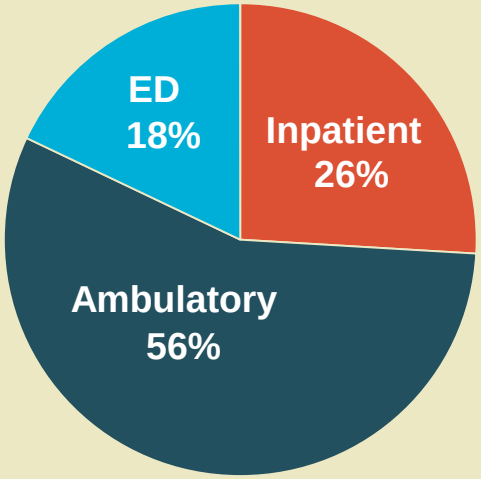
N=24,721 MPL cases asserted 1/1/09–12/31/13.

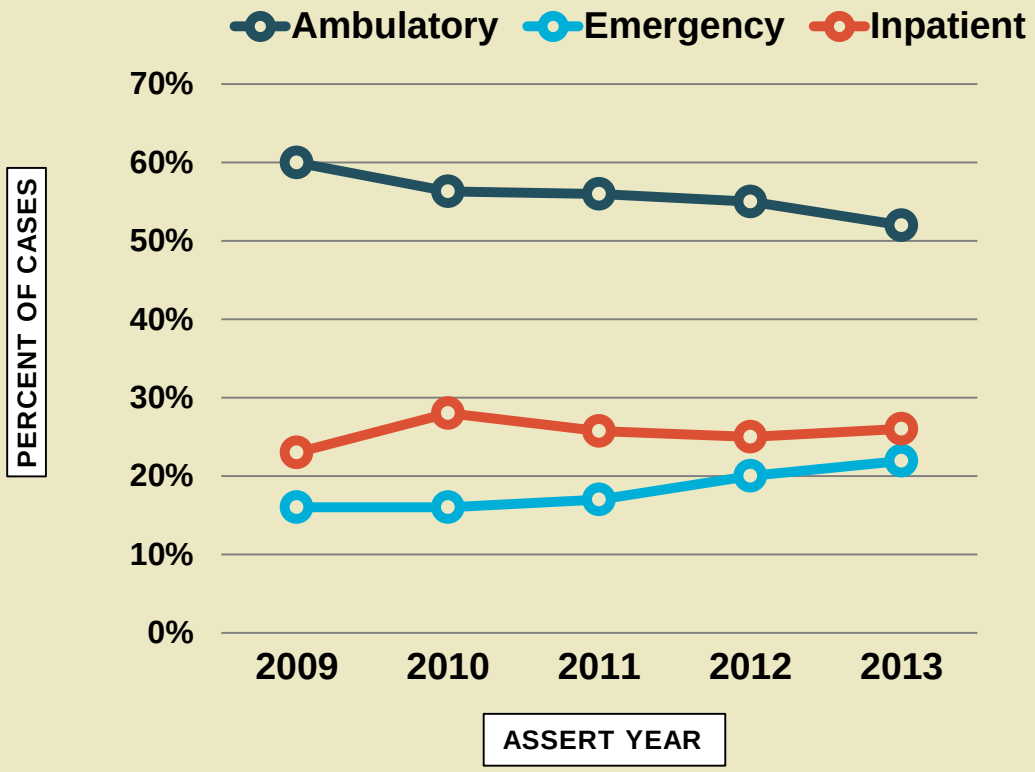
Diagnosis-related Cases

5,063 cases asserted 2009–2013, $1.2B total incurred losses*

*Total incurred losses include reserves on open cases and payments on closed cases.

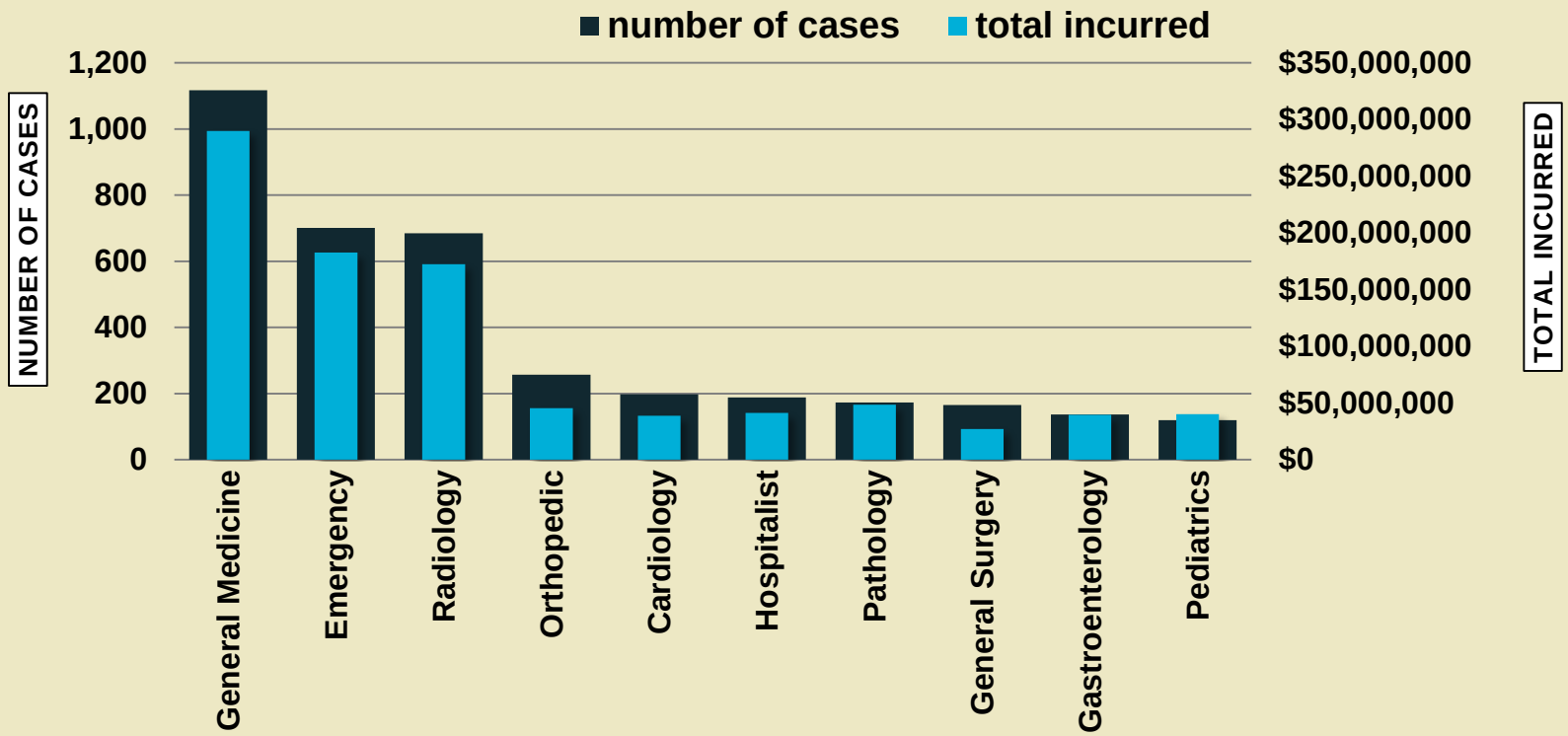
The majority of diagnosis-related cases originate in an ambulatory setting.





N=5,063 MPL cases asserted 1/1/09–12/31/13 with a diagnosis-related major allegation.

Together, **General** and **Emergency** Medicine account for 36% of the cases and 38% of the dollars associated with diagnostic allegations.



N=5,063 MPL cases asserted 1/1/09–12/31/13 with a diagnosis-related major allegation.

Top Diagnosis in Ambulatory Diagnosis Cases

DIAGNOSIS	% CASES
Breast cancer	8%
Heart disease	6%
Lung cancer	5%
Fractures	5%
Complications of surgical procedures or medical care	4%
Skin cancer	3%
Benign neoplasms	3%
Prostate cancer	2%

N=2,834 coded MPL cases asserted 1/1/09–12/31/13 with a diagnosis-related major allegation *and* involving an ambulatory care patient.

Issues in test ordering / test result management and referral management are key to diagnostic claims

STEP	# CASES*	% CASES	TOTAL INCURRED
1. Patient notes problem and seeks care	31	1%	$5,233,997
2. History and physical	207	9%	$76,883,615
3. Patient assessment/evaluation of symptoms	763	32%	$239,066,933
4. Diagnostic processing	**935**	**39%**	**$303,236,189**
5. Order of diagnostic/lab test	**871**	**37%**	**$305,702,995**
6. Performance of tests	99	4%	$27,834,667
7. Interpretation of tests	706	30%	$216,990,586
8. Receipt/transmittal of test results to provider	131	5%	$35,220,958
9. Physician follow up with patient	**508**	**21%**	**$158,369,399**
10. Referral management	**549**	**23%**	**$179,499,577**
11. Other Communication	355	15%	$127,757,512
12. Patient compliance with follow-up plan	434	18%	$77,256,647

*A case will often have multiple factors identified.

N=2,834 coded MPL cases asserted 1/1/09–12/31/13 with a diagnosis-related major allegation *and* involving an ambulatory care patient.

Obstetrics-related Cases

904 cases asserted 2009–2013, $483M total incurred losses*

*Total incurred losses include reserves on open cases and payments on closed cases.

Delay in treatment of fetal distress is the most common and costly allegation.

TOP ALLEGATION	% CASES	TOTAL INCURRED
Delay in treatment of fetal distress	20%	$210,679,963
Improper performance of vaginal delivery	17%	$45,484,308
Improper management of pregnancy	16%	$57,096,791
Improper performance of C Section delivery	9%	$18,292,290
Retained foreign body, OB-related treatment	4%	$4,770,744

TOP DIAGNOSIS	% CASES
Intrauterine hypoxia and birth asphyxia	20%
Brachial plexus injury	12%
Other complications of birth, puerperium affecting management of mother	4%
Foreign body accidentally left during procedure	4%

N=904 MPL cases asserted 1/1/09–12/31/13 with Obstetrics or Midwifery as the primary responsible service and with an Obstetrics-related major allegation.

Team factors related to clinical judgment and communication issues drive OB related cases.

FACTOR	% CASES*
Clinical Judgment	69%
Communication	29%
Technical Skill	28%
Documentation	20%
Administrative	18%
Clinical Environment	16%

TOP CLINICAL JUDGMENT FACTORS	% CASES*
Selection/management of labor and delivery	43%
Patient assessment—misinterpretation of dx studies (EFM)	12%
Selection/management therapy—pregnancy	11%
Patient monitoring—physiological status (other than medical response)	10%

TOP TECHNICAL SKILL FACTORS	% CASES*
Technical performance—complication	13%
Technical performance—poor technique, other	6%
Retained foreign body (material/instruments)	4%

TOP COMMUNICATION FACTORS	% CASES*
Communication among providers—regarding patient's condition	13%
Communication—patient/family & provider	5%
Communication—patient/family & provider—language barrier	4%

*A case will often have multiple factors identified.

N=904 MPL cases asserted 1/1/09–12/31/13 with Obstetrics or Midwifery as the primary responsible service and with an Obstetrics-related major allegation.

Patient – Provider Communication

Communication

- 30% of CBS cases (2009-2013) have a CO issue
  - 45% provider-to-provider
  - **58% provider-to-patient**
  - 4% both
- 44% involve high severity injuries
- Span ambulatory (48%) and inpatient (43%) settings
- Span case types:
  - 36% of OB cases have communication issues
  - 34% of Dx cases have communication issues
  - 25% of Surgical cases have communication issues
    - Failures in consent are a key driver

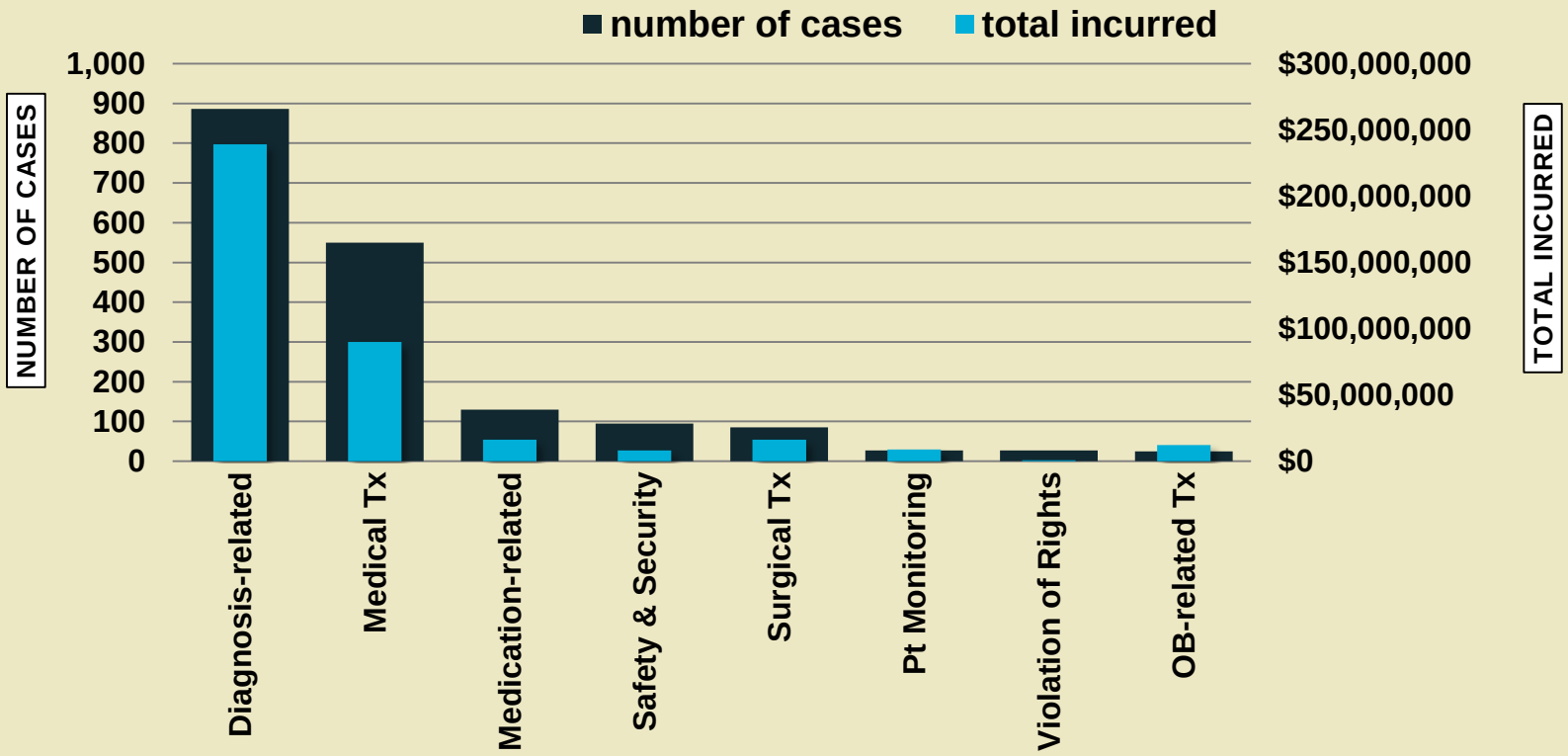
Emergency-related Cases

1,899 cases asserted 2009–2013, $394M total incurred losses*

*Total incurred losses include reserves on open cases and payments on closed cases.

Diagnostic issues drive ED claims

Top ED Allegations



N=1,899 MPL cases asserted 1/1/09–12/31/13 with Emergency Medicine as the primary responsible service or occurring in the Emergency Department.

Top Final Diagnoses in ED Cases

DIAGNOSIS	% CASES
Complications of surgical procedures or medical care	10%
Fractures	8%
Diseases of the heart / MI	8%
CVA	5%
Poisoning	4%
GI disorders (appys)	3%
Bacterial infection	3%
Open wounds	3%
CNS infections	3%

N=1,899 MPL cases asserted 1/1/09–12/31/13 with Emergency Medicine as the primary responsible service or occurring in the Emergency Department.

Premature discharge plays a key role in ED claims

Process of Care in the ED

STEP	% CASES
1. Patient notes problem and seeks care	4%
2. Initial assessment: History & physical exam	10%
3. Ongoing assessment: Monitoring of clinical status	25%
4. Ordering of diagnostic tests	60%
5. Performance of diagnostic tests	4%
6. Interpretation of diagnostic tests	21%
7. Transmittal of test results to (ED) provider	5%
8. Consultation management	24%
9. Development of discharge plan (premature d/c)	37%
10. Post discharge follow-up (inc. pending test results)	8%
11. Patient adherence with plan	7%

*A case will often have multiple factors identified.

N=1,899 MPL cases asserted 1/1/09–12/31/13 with Emergency Medicine as the primary responsible service or occurring in the Emergency Department.

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Communication issues, and failure to adhere to policy are key drivers behind ED claims

Category / Issues	Average Score
Communication: RN/MD care team	2.4
Reconciliation of Abnormal VS	2.8
Communication: Consultant Physicians	2.9
Communication: Handoff	3.3
Management of Diagnostic Results (*Radiology)*	3.6
Obtaining Medical Information	3.7
Management of Diagnostic Results (*Laboratory)*	4.0
Triage	4.0

Scoring Grade

1 - Low Score - Needs improvement
5 - High Score - Best Practice

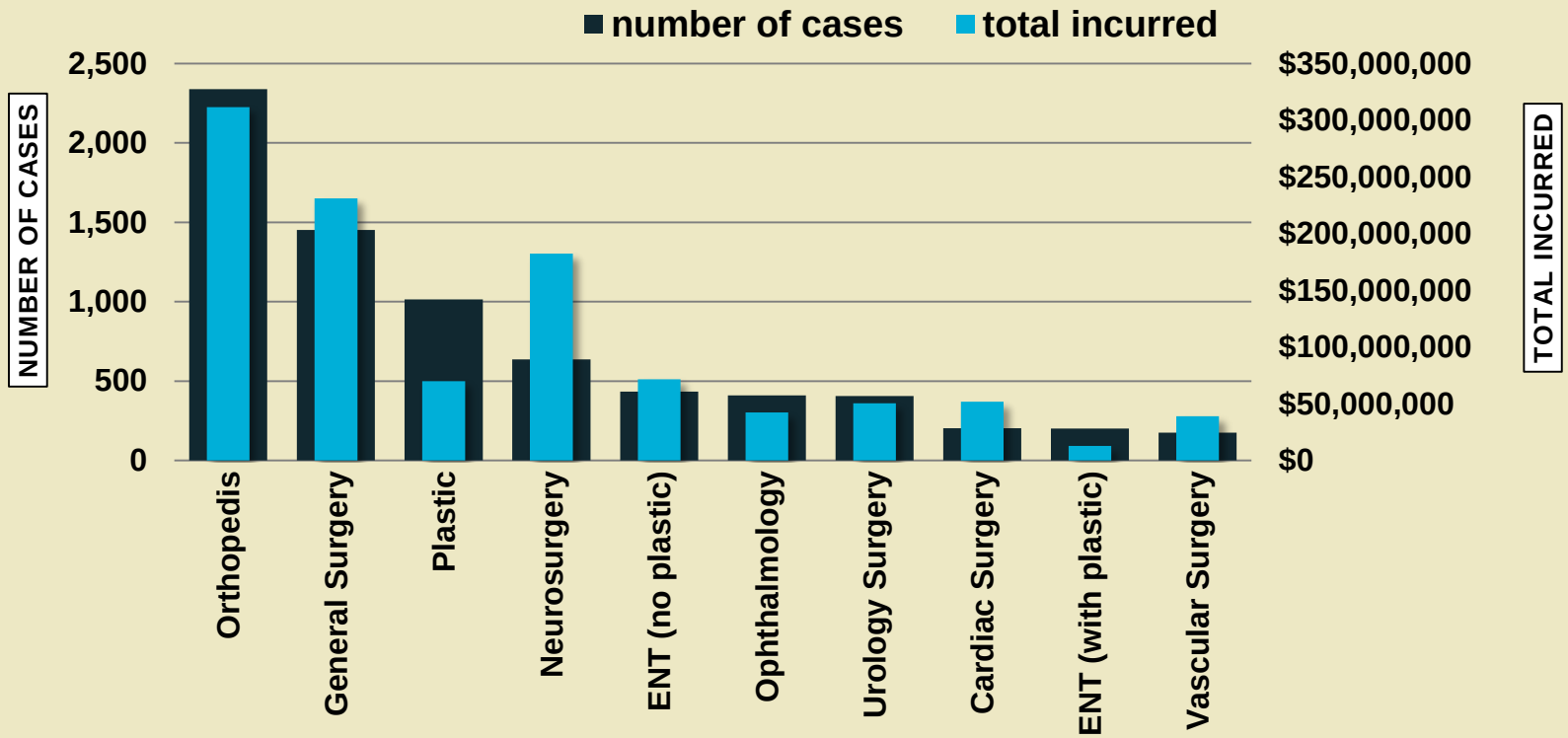
Surgery-related Cases

7,925 cases asserted 2009–2013, $1.2B total incurred losses*

*Total incurred losses include reserves on open cases and payments on closed cases.

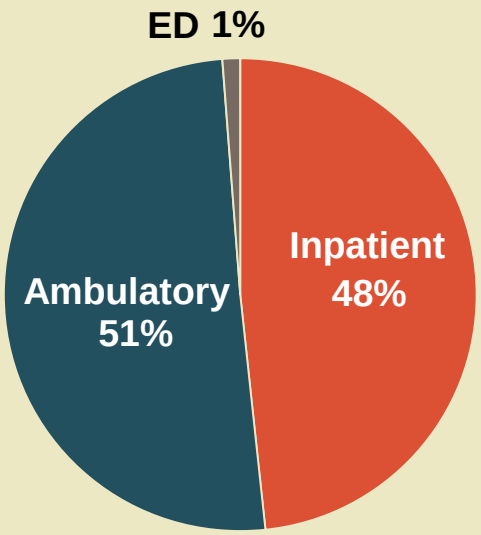
Orthopedics and General Surgery account for 48% of cases and 46% of dollars.

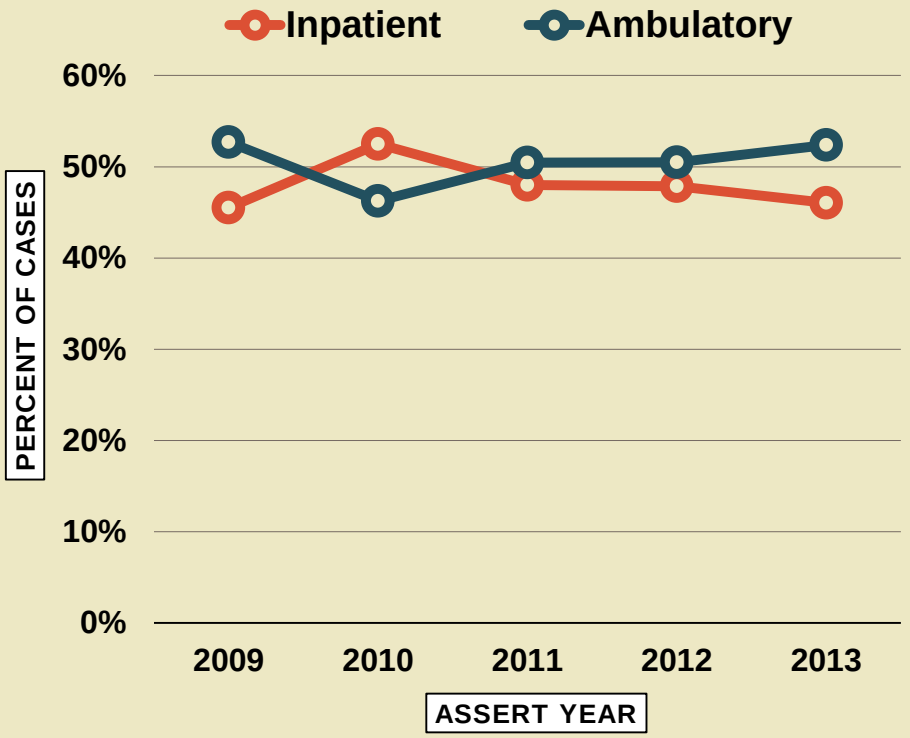
National Landscape: Top Surgical Responsible Services



N=7,925 MPL cases asserted 1/1/09–12/31/13 with a surgical specialty as the primary responsible service.

Ambulatory surgery cases have become more prevalent than inpatient cases in recent years.





N=7,925 MPL cases asserted 1/1/09–12/31/13 with a surgical specialty as the primary responsible service.

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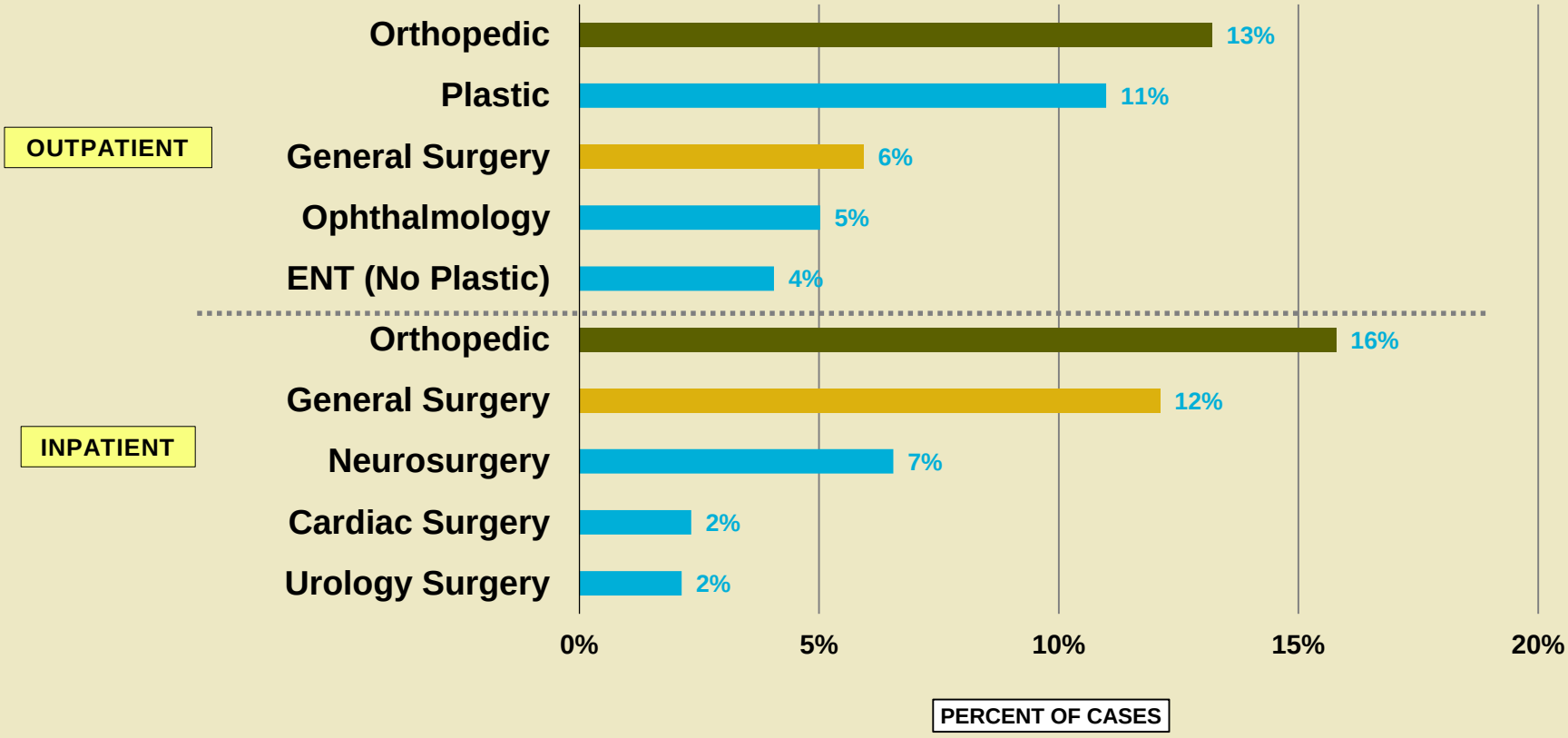
Top Responsible Services by Location



N=7,925 MPL cases asserted 1/1/09–12/31/13 with a surgical specialty as the primary responsible service.

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Cases related to improper performance of surgery are most prevalent.

Includes wrong patient / wrong site surgery

TOP ALLEGATIONS	% CASES	TOTAL INCURRED
Improper performance of surgery	67%	$508,723,845
Improper management of surgical patient	22%	$261,071,682
Retained foreign body, surgical	6%	$23,235,295
Delay in surgery	2%	$31,801,149
Unnecessary surgery	2%	$20,760,786
Surgery - other	2%	$7,355,737

N=5,570 MPL cases asserted 1/1/09–12/31/13 with a Surgery Specialty as the primary responsible service and surgical treatment as the major allegation.

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Technical skill and clinical judgment factors are most prevalent in surgery-related cases.

CONTRIBUTING FACTOR CATEGORY	% CASES*
Technical Skill	55%
Clinical Judgment	43%
Communication	23%
Documentation	13%
Administration	10%

TOP TECHNICAL SKILL FACTORS	% CASES*
Technical performance / complication	37%
Technical performance—poor technique	7%
Retained foreign body(material/instruments)	4%
Technical performance—misidentification of an anatomical structure	3%

TOP CLINICAL JUDGMENT FACTORS	% CASES*
Selection/management therapy—surgical/invasive procedures	13%
Pt assess—failure/delay in ordering diagnostic test	8%
Pt assessment—narrow dx focus—failure to establish differential diagnosis	5%

TOP COMMUNICATION FACTORS	% CASES*
Communication among providers—regarding patient's condition	5%
Inadequate informed consent for procedures—surgical/invasive	5%
Communication—patient/family & provide—other	4%
Poor rapport (includes unsympathetic response to patient)	3%

*A case will often have multiple factors identified.

N=7,925 MPL cases asserted 1/1/09–12/31/13 with a surgical specialty as the primary responsible service.

"Our hierarchical system that is focused on individual expertise and deference to experience is totally outdated. This is a broken model.

"We are far from the organizational mindset that it takes to have safe healthcare."

"Systems change doesn't do the job. **The problem is the culture.** The problem is that we have a dysfunctional culture".

- Lucian Leape