Addressing your liability risks during the healthcare staffing crisis

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Program Overview

- **The ongoing staffing crisis impacts all aspects of healthcare:**
  - While staffing levels can be a contentious topic for healthcare executives, accidents, misdiagnosis, unintentional medical errors and delays in treatment are just some of the professional liability risks that can arise when appropriate staff are not in place
  - Costs have reached new highs as institutions are staffing their facilities with temporary staff due to rising turnover, fluctuations in demand, and evolving appreciations for work-life balance
  - These "locums," physicians, mid-level administrators, travel nurses, therapists, and technicians are paid much more than regular staff

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Objectives

- **At the end of this presenter, the learner will be able to:**
  - Identify the significant professional liability risks associated with the ongoing healthcare staffing crisis
  - Discuss how factors such as staff attrition and burnout can impact an organization's liability risks
  - Understand that with fewer working clinicians, practitioners are finding themselves responsible for a larger number of patients, leading to burnout and raising the risk of medical errors and liability exposures
  - Implement risk management strategies to maximize patient safety while minimizing professional liability risks for your organization

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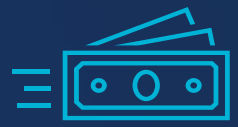
The Problem

Overview

In this dataset of MLMIC and MedPro coded cases opened between 2016 and 2021, there are a total of 2,918 cases where nursing was identified as **primarily or contributorily responsible**.

Nationwide (2,918 Cases)

61% High clinical severity	**79%** Closed cases	**48%** Closed with indemnity paid	**$302K** Average indemnity payment



New York State (810 Cases)

56% High clinical severity	**55%** Closed cases	**43%** Closed with indemnity paid	**$313K** Average indemnity payment

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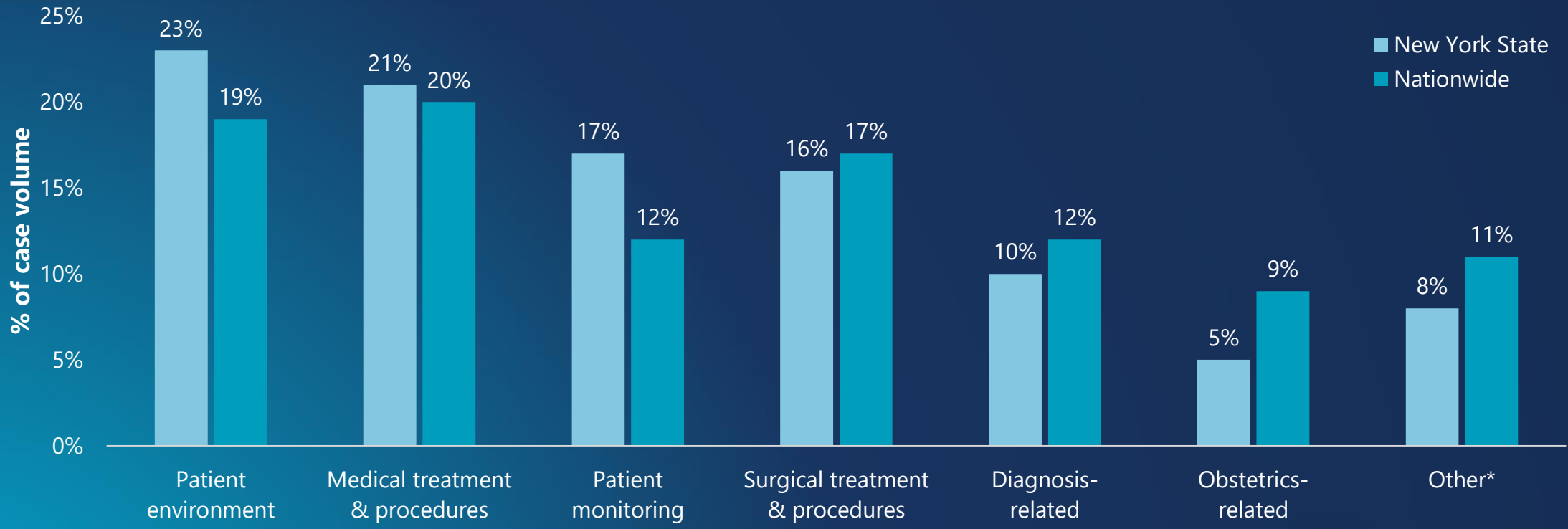
MLMIC and MedPro clinically coded cases (excluding senior care) opened 2016-2021; Nursing as responsible service; Nationwide (including NYS) N =2,918; New York State N=810.

Major allegations

Multiple allegation types can be assigned to each case; however, **only one "major" allegation** is assigned that best characterizes the essence of the case. Allegation categories are designed to enable the grouping and analysis of similar cases and to drive focused risk mitigation efforts.



MLMIC and MedPro clinically coded cases (excluding senior care) opened 2016-2021; Nursing as responsible service; Nationwide (including NYS) N =2,918; New York State N=810.
*Other includes allegations for which no significant case volume exists.

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Location

Top Locations	% of Nationwide case volume	% of New York State case volume
Patient room & ICU	40%	47% ▲
Inpatient surgery	10%	7% ▼
Emergency department	9%	11% ▲
Labor & delivery	8%	5% ▼
Ambulatory surgery	7%	4% ▼

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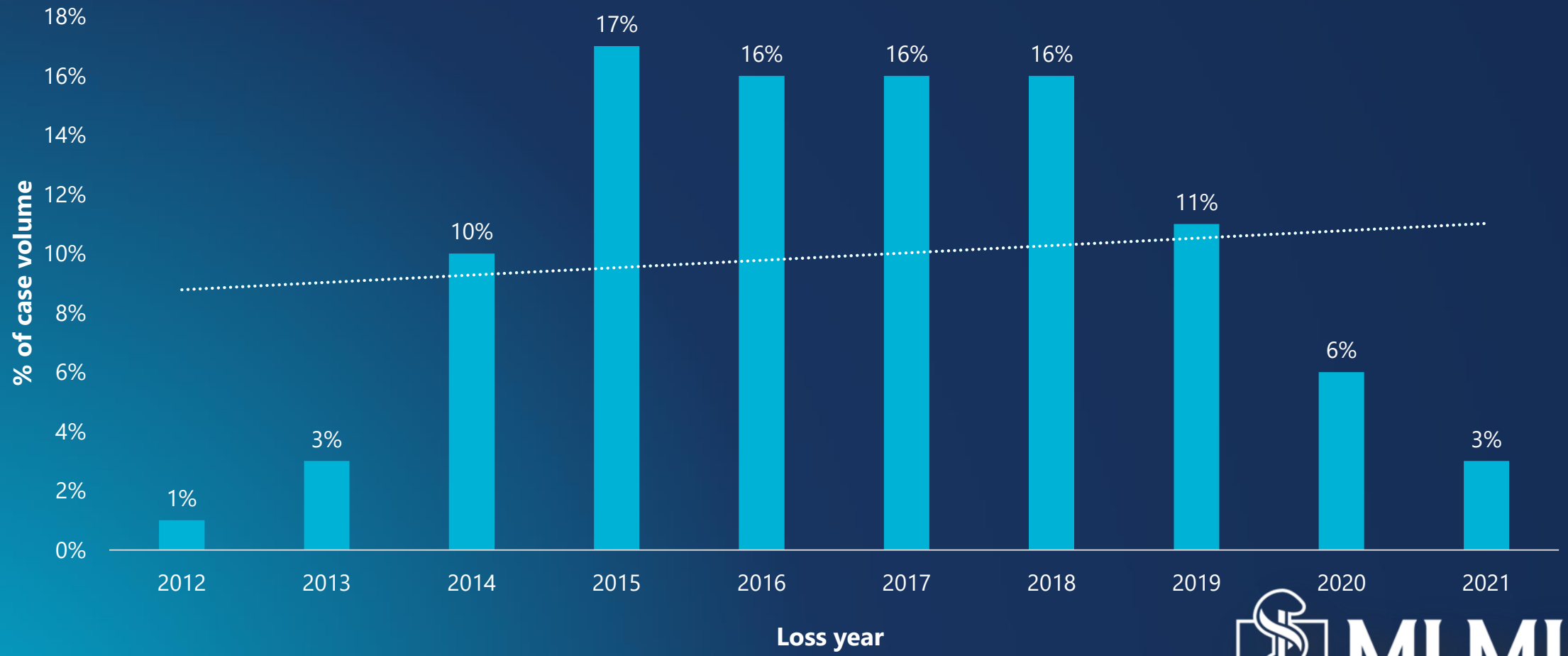
Case volume by loss year



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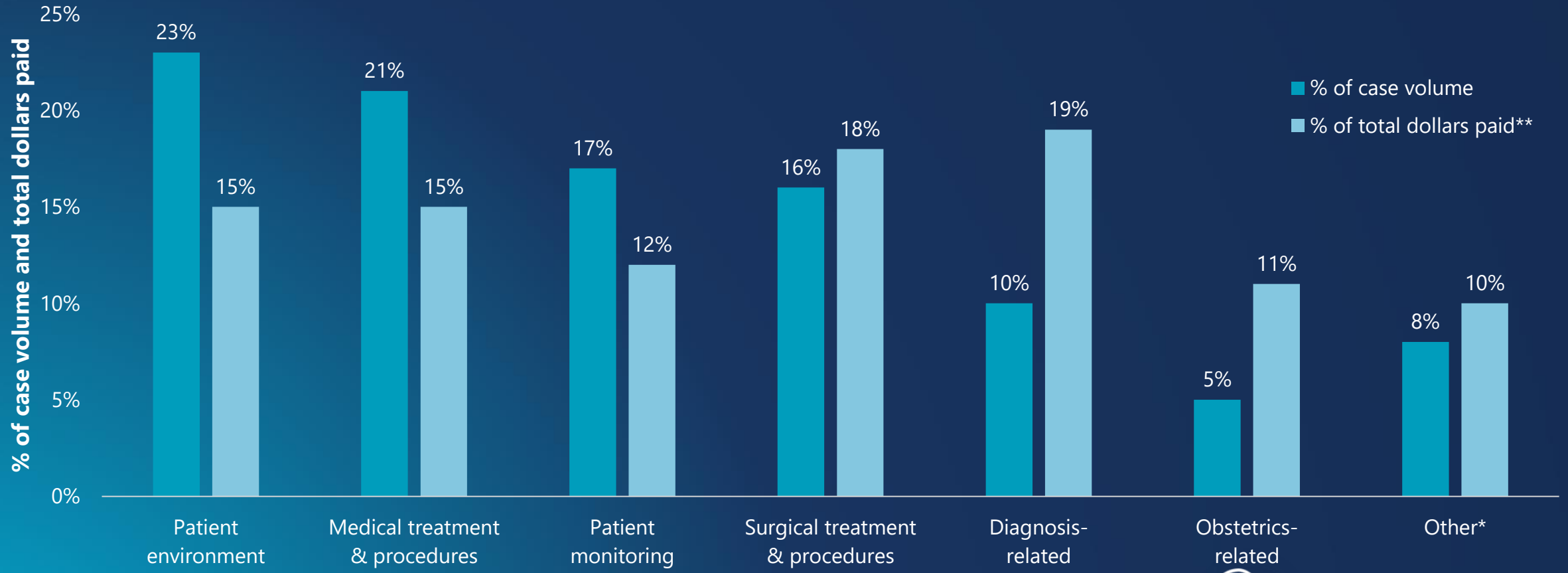
Major allegations and financial severity



MLMIC and MedPro clinically coded cases (excluding senior care) opened 2016-2021; Nursing as responsible service; New York State N=810. *Other includes allegations for which no significant case volume exists; **Total dollars paid = expenses + any indemnity

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Contributorily Responsible Service

The following graphics focus on cases reflecting Nursing as contributorily responsible service. **The primary services in these cases are varied**, reflecting the myriad of providers who care for patients along the healthcare continuum. **The most common primary services are shown below**.

When **Nursing** is contributorily responsible, the following services are primarily responsible…

Emergency medicine 14%	Orthopedic 10%	Obstetrics 10%	Primary care 10%	General surgery 5%	Anesthesiology 5%

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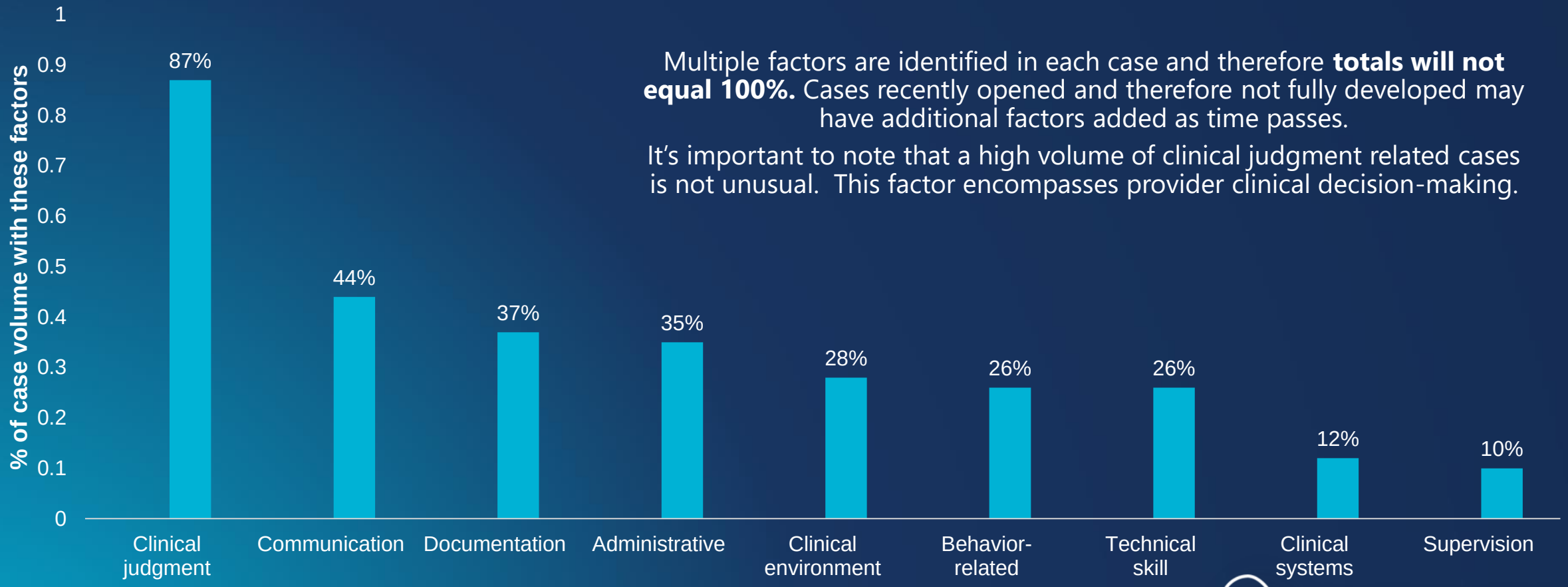
Most common contributing factors



Multiple factors are identified in each case and therefore **totals will not equal 100%.** Cases recently opened and therefore not fully developed may have additional factors added as time passes.

It's important to note that a high volume of clinical judgment related cases is not unusual. This factor encompasses provider clinical decision-making.

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Financial Data (2019 – 2022)

- **Overall hospital expenses increased (17.5%):**
  - Hospitals are paying employees $24B more/year than they were prior to the pandemic
- **Medicare reimbursement increased (7.5%)**
- **Overall hospital labor expenses increased (20.8%):**
  - Labor expenses per patient up (24.7%)
  - Total contract labor expenses for hospitals increased (258%)

https://publichealth.tulane.edu/blog/hospital-staff-shortages/

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The Healthcare Staffing Crisis

- **The critical nursing shortage in the United States is going to get worse—much worse…..**

  National Council of State Boards of Nursing and National Forum of State Nursing Workforce Centers study released April 13, 2023

  - About 800K nurses say they intend to leave the workforce by 2027:
    - 24% of which will be new, younger nurses
    - Typically see this more with nurses at or near retirement age
  - Equates to 1/5 of the 4.5M nurses we have today
- **By 2026, US will lack ~3.2M healthcare workers**

https://www.beckershospitalreview.com/nursing/crisis-looms-as-800-000-more-nurses-plan-to-exit-workforce-by-2027-study.html

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The Healthcare Staffing Crisis

- **2023 "State of Workforce Mental Health Report":**
  - Reported severe or chronic depression or anxiety (10%)
  - Reported ADD/ADHD, bipolar disorder and PTSD (8%)
  - Employees with severe/chronic depression/anxiety not getting care (40%)
  - Employees with complex mental health needs not getting care (28%)
  - Employees considering leaving their jobs (25%):
    - Top reported reasons: low compensation, toxic work environment, and negative impact on mental health
  - Managers stating mental health impacts their job (64%)

https://www.beckersbehavioralhealth.com/behavioral-health-mental-health/1-in-4-people-considering-leaving-their-jobs-due-to-mental-health-report.html

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The Healthcare Staffing Crisis

- **The lack of retention impacts healthcare:**
  - RN national vacancy rate (17%):
    - Iroquois Healthcare Association survey, as of July 2023 (20.1%)
  - Graduate nurse turnover rate (31.7%)
  - The average cost of turnover for a staff RN is $52,350:
    - Range averaging $40,200 to $64,500
    - An increase from 2021, which was $46,100
    - Each percent change in RN turnover will cost or save the average hospital $380,600 per year

https://sponsors.aha.org/index.php/email/emailWebview?md_id=44930
https://www.beckershospitalreview.com/workforce/the-cost-of-nurse-turnover-in-24-numbers-2023.html

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The Healthcare Staffing Crisis

- **Why nurses are leaving the profession:**
  - Aging workforce:
    - The average age of an RN is 50
  - Burnout:
    - 2022 survey found that 34% of nurses planned to leave their jobs by the end of that year, with 60% of those leaving the profession altogether
  - Career and family:
    - Majority of workforce is female

https://www.ncbi.nlm.nih.gov/books/NBK493175/
https://publichealth.tulane.edu/blog/hospital-staff-shortages/

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The Healthcare Staffing Crisis

- **Why nurses are leaving the profession:**
  - Work overload:
    - Patient volume and time
  - Violence in the healthcare setting
  - Employee safety:
    - PPE availability early in on during COVID
    - July 2020, 172,844 healthcare workers had COVID, and 743 died
  - Low health literacy reduces bedside care/treatments

https://www.ncbi.nlm.nih.gov/books/NBK493175/
https://publichealth.tulane.edu/blog/hospital-staff-shortages/

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The Healthcare Staffing Crisis

- **The State Department put a pause on green card applications for foreign nurses on April 20, 2023:**
  - That meant only applications submitted by June 2022 would be processed until the backlog eased up and more green cards made available:
    - Backlog has slowed the number of approvals to a trickle
  - Nurses must secure a green card to work in the US:
    - Current green card processing times are estimated to take 10 months
    - The new fiscal year began October 1, 2023, but the likelihood of a new wave of immigrant nurses will not be seen until 2025

https://www.beckershospitalreview.com/nursing/us-pauses-nurse-green-card-applications.html

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The Healthcare Staffing Crisis

- **This crisis is not a nursing problem; it is a healthcare system problem:**
  - Inappropriate staffing endangers:
    - Patients
    - Nurses
    - The entire health delivery system:
      - Physicians
      - APPs
      - Interdisciplinary teams/departments (IHA report)
  - A lack of adequate/experienced staff to train new staff

https://www.beckershospitalreview.com/nursing/what-it-will-take-to-fix-the-nurse-staffing-crisis-report.html

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The Impact

The Impact of the Staffing Crisis

- **The Centers for Disease Control and Prevention (CDC) reported that bloodstream infections rose 47%**
- **Decreased staffing levels:**
  - Increased mortality, medication errors, pressure injuries, restraint use, infections, and pneumonia
  - Resulted in lesser aspirin use and less patients receiving percutaneous coronary intervention within 90 minutes
  - Equated to higher medication errors and wound infections

https://www.patientsafety.com/en/blog/staffing-shortages-affects-patient-safety

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The Impact of the Staffing Crisis

- **Lower nurse staffing levels are associated with:**
  - Higher rates of patient falls
  - Increased mortality
  - Higher numbers of incidents of missed nursing care
- **Nurses who commit errors are also at risk of becoming second victims of the error**

https://www.patientsafety.com/en/blog/staffing-shortages-affects-patient-safety
https://psnet.ahrq.gov/primer/nursing-and-patient-safety

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The Impact of the Staffing Crisis

- **Other nurse-sensitive patient outcomes strongly impacted by inadequate staffing include:**
  - Length of stay
  - Patient dissatisfaction
  - Poor quality of nurse-delivered care
  - Readmission
  - Medication errors
  - Rise in post-operative complications
  - Increase in pressure injuries

https://www.patientsafety.com/en/blog/staffing-shortages-affects-patient-safety
https://online.emich.edu/degrees/healthcare/rn-to-bsn/nurse-staffing-affects-patient-safety-satisfaction/

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The Impact of the Staffing Crisis

- **A 2002 landmark study conducted by Penn Nursing found that each additional patient per nurse was associated with an increase in the:**
  - Likelihood of dying within 30 days of admission (7%)
  - Probability of failure-to-rescue or the failure to respond effectively to post-surgical complications (7%)
  - Incidence of nurse burnout (23%)
  - Odds of nurse job dissatisfaction (15%)

https://ldi.upenn.edu/our-work/research-updates/how-inadequate-hospital-staffing-continues-to-burn-out-nurses-and-threaten-patients/

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The Impact of the Staffing Crisis

- **By the number$:**
  - Decreased HCAHPS scores = decreased reimbursement by CMS
  - Patient falls ($17,500)
  - Pressure injuries ($37,800)
  - The average cost of turnover for a staff RN ($52,350)
  - Over the course of the pandemic, staffing shortages have cost hospitals ($24 billion)

https://www.amnhealthcare.com/amn-insights/news/inadequate-staffing-harms-quality/

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The Solutions

Healthcare Staffing Solutions

- **Restore sense of passion that drew staff to the profession**
- **Consider incentives that attain organizational commitment**
- **Clinicians want to work and have work/life balance:**
  - Working professionals want more flexibility (96%):
    - Expect flexibility about as much as they expect a 401(k)
- **The importance of flexibility in staffing solutions:**
  - Adopt a gig economy to staffing using real time technology and apps:
    - Attract younger talent--increases the size/length of a learning curve

https://www.beckershospitalreview.com/hr/4-post-pandemic-priorities-of-employee-messaging-per-hr-leaders.html
https://www.beckershospitalreview.com/the-value-of-local-in-a-gig-economy.html

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Healthcare Staffing Solutions

- **Build your own internal staffing program or "agency":**
  - Offer flexibility to existing employees as a retention tool or attract new staff seeking short-or long-term contract work or gig work
- **Tap into your community's workforce for those who are:**
  - Searching for flexible work arrangements
  - Home between travel assignments
  - On contract in your area
  - Returning to the workforce

https://www.beckershospitalreview.com/the-value-of-local-in-a-gig-economy.html?oly_enc_id=1693D9222956C8U

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Healthcare Staffing Solutions

- **Empowerment:**
  - Motivates nurses to rejuvenate and stay engaged
  - Autonomy with decision making
- **Technology:**
  - Introduce new technologies to assist staff with efficiency:
    - Remote patient monitoring, kiosk for check-in, AI, and patient education
  - Seek strategies that improve usability and streamline EHR documentation
- **Untapped resources:**
  - Men - overcome gender stereotypes in nursing

https://www.ncbi.nlm.nih.gov/books/NBK493175/
https://www.beckershospitalreview.com/nursing/how-get-more-men-into-nursing-per-21-male-nurses.html

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Healthcare Staffing Solutions

- **Allow everyone to work at their full licensure:**
  - This allows PAs, NPs, and RNs to focus on the care they uniquely provide
- **Burnout:**
  - Change the staffing model from numbers to acuity
  - Examine workloads and reduce administrative work for bedside nurses
  - Create a wellness program inclusive of peer groups to support staff
- **Value the staff:**
  - Celebrate the "little" wins:
    - Reward and recognize staff

https://www.beckershospitalreview.com/workforce/healthcare-employment-sees-gains-but-labor-shortages-drag-on-5-reasons-why.html

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Healthcare Staffing Solutions

- **Listen to the employees:**
  - "Nurses are not the sponge that absorbs all other tasks that other professionals will not, cannot, or are unwilling to complete"
  - Turn complaints into opportunities
  - Make suggestions actionable initiatives
  - Consider views of divergent cultures (diversity, equity, and inclusion)
- **Streamline the hiring process:**
  - Build relationships between educational institutions and hospitals
  - Include front line employees in staffing decisions
  - Leverage cost data

https://www.beckershospitalreview.com/workforce/less-talk-more-action-how-small-fixes-retain-employees.html

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Healthcare Staffing Solutions

- **Nurse residency programs:**
  - Aims to increase RN retention by 20% or higher
  - Delivers and measures evidence-based clinical practices
  - Provides a scaled foundation for new nurses
- **Mentoring programs:**
  - Mentoring bridges the gap between nursing school and new job orientation and their career as a nurse
  - Mentoring programs for new clinicians and leaders:
    - PAs, NPs, and managers

https://sponsors.aha.org/index.php/email/emailWebview?md_id=44930
https://www.beckershospitalreview.com/nursing/mentoring-is-miracle-gro-for-nurses-and-key-to-future-success.html

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Healthcare Staffing Solutions

- **Risk management solutions:**
  - Invest in technology such as virtual companions and robots:
    - Educate staff on their use and limitations
    - Ensure policies and procedures reflect current standards and technology
  - Focused assessments on high-risk areas:
    - Emergency Department, Obstetrics, Orthopedics, and Primary Care
  - Scope of practice:
    - Chain of command
    - Delegation
    - Supervision

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Risk Management Trifecta

- **Documentation:**
  - The EHR is a tool that should assist, not hinder care delivery
  - Record the care delivered - 'tell the story'
- **Communication:**
  - Engage patients and families to set realistic expectations
  - Define acceptable modes of communication and document all exchanges
- **Follow-up:**
  - Incorporate assessment findings in the plan of care:
    - Fall Risk – activate bed alarms and respond to them

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Thank you.

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