

# Bariatric Surgery

## Claims Data Snapshot

2024



**This publication begins with insight into frequency and financial severity profiles by specialty. Then follows an analysis of aggregated data from clinically coded cases opened between 2013-2022 in which Bariatric Surgery is identified as the primary responsible service.**

## **Keep in mind...**

A clinically coded malpractice case can have more than one responsible service, but the “primary responsible service” is the specialty that is deemed to be most responsible for the resulting patient outcome.

Our data system, and analysis, rolls all claims/suits related to an individual patient event into one case for coding purposes. Therefore, a case may be made up of one or more individual claims/suits and multiple defendant types such as hospital, physician, and other healthcare professionals.

Cases that involve attorney representations at depositions, State Board actions, and general liability cases are not included.

This analysis is designed to provide insured doctors, healthcare professionals, hospitals, health systems, and associated risk management staff with detailed case data to assist them in purposefully focusing their risk management and patient safety efforts.

# Specialty benchmarking

Specialties have different frequency and financial severity profiles which combine to produce differing risk levels.

<b>Severity Tier</b>	<b>High</b>	Hematology/Oncology, Pathology, Pediatrics	Anesthesiology, Neurology	Emergency Medicine, Neurosurgery, OB/GYN
	<b>Medium</b>	Family Medicine, Nephrology, Physiatry, Urgent Care	Cardiology, ENT, Gastroenterology, Internal Medicine	Cardiovascular Surgery, Bariatric Surgery, Orthopedic Surgery, Radiology, Urology
	<b>Low</b>	Allergy, Dermatology, Occupational Medicine, Psychiatry, Rheumatology	Ophthalmology, Plastic Surgery, Pulmonology	Hospitalists
		<b>Low</b>	<b>Medium</b>	<b>High</b>
<b>Frequency Tier</b>				

Source: MedPro Group Physician & Surgeon Claim Experience & Analysis

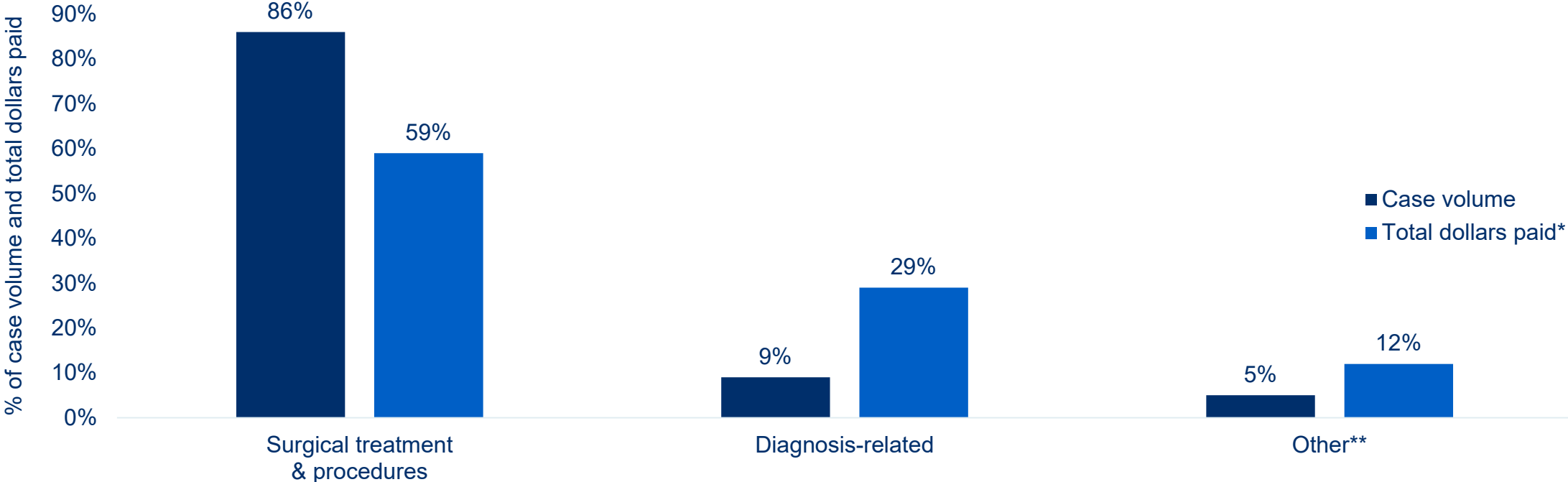
# Key Points - Clinically Coded Data

INTRODUCTION | **KEY POINTS** | GENERAL DATA ANALYSIS | CONTRIBUTING FACTORS | FOCUSED DATA ANALYSIS | RISK MITIGATION

- **Surgical allegations account for more than three-fourths of Bariatric Surgery case volume and over half of total dollars paid\***. Performance-related allegations account for one-third of those, while over half of all **cases involve the management of surgical patients, including pre-, intra-, and post-operatively**. Those are often related to the surgeon's response to developing complications. While complications of procedures may have been the result of procedural error, the failure to timely recognize and/or monitor/manage the issue prevents the opportunity for early mitigation of the risk of serious adverse outcome.
- **Diagnosis-related allegations** account for 9% of Bariatric Surgery case volume, but 29% of total dollars paid. These most commonly reflect missed/delayed diagnoses of post-operative complications, nutritional deficiencies and digestive system diseases. **These cases commonly reflect breaks in the diagnostic process of care**, most often during the initial diagnostic phase, including assessment and evaluation of patient symptoms, establishment of differential diagnoses and ordering of diagnostic testing.
- **Contributing factors, which are multi-layered issues or failures in the process of care that appear to have contributed to the patient's outcome**, and/or to the initiation of the case, provide valuable insight into risk mitigation opportunities. Clinical judgment factors, including the selection of the most appropriate procedure for the patient's condition and those related to diagnostic decision-making, and technical skill factors including recognition/management of known complications and poor procedural technique, are key drivers of clinical Bariatric Surgery case severity.

# Major Allegations & Financial Severity

Each case reflects one major allegation category. Categories are designed to enable the grouping and analysis of similar cases and to drive focused risk mitigation efforts. The coding taxonomy includes detailed allegation sub-categories; insight into these is noted later in this report.

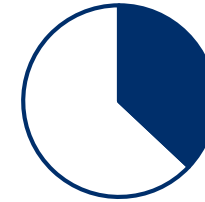


MedPro Group + MLMIC cases opened 2013-2022, Bariatric Surgery as responsible service (N=122); \*Total dollars paid = expense + indemnity; \*\*Other includes allegations for which no significant case volume exists

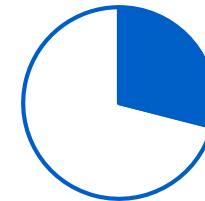
# Clinical Severity\* & Most Common Locations

INTRODUCTION | KEY POINTS | **GENERAL DATA ANALYSIS** | CONTRIBUTING FACTORS | FOCUSED DATA ANALYSIS | RISK MITIGATION

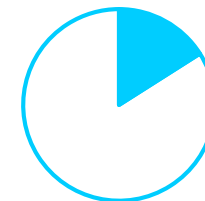
Clinical severity* categories	Sub-categories	% of case volume	Definitions
<b>LOW</b>	Emotional Injury Only	<b>2%</b>	Mental distress or suffering that is generally temporary; includes HIPAA violations, discrimination, involuntary stay
	Temporary Insignificant Injury		Lacerations, contusions, minor scars, rash; no delay in recovery
<b>MEDIUM</b>	Temporary Minor Injury	<b>46%</b>	Infection, fracture set improperly or a fall in the facility, where recovery is complete but delayed
	Temporary Major Injury		Burns, drug side effect; recovery delayed
	Permanent Minor Injury		Loss of fingers or loss or damage to organs; includes non-disabling injuries
<b>HIGH</b>	Significant Permanent Injury	<b>52%</b>	Deafness, loss of limb, loss of eye or loss of one kidney or lung
	Major Permanent Injury		Paraplegia, blindness, loss of two limbs or brain damage
	Grave Injury		Quadriplegia, severe brain damage, life-long care or fatal prognosis
	Death		Death
		<b>26%</b>	<b>% of cases resulting in patient death</b>



**Inpatient surgery**  
37%



**Patient room/ICU**  
29%



**Office/Clinic**  
16%



**Ambulatory surgery**  
10%

# Contributing Factors

“Contributing factors reflect both provider and patient issues. They denote breakdowns in technical skill, clinical judgment, communication, behavior, systems, environment, equipment/tools, and teamwork. The majority are relevant across clinical specialties, settings, and disciplines; thus, they identify opportunities for broad remediation.”

## Despite best intentions, processes designed for safe patient outcomes can, and do, fail.

**Contributing factors** are multi-layered issues or failures in the process of care that appear to have contributed to the patient's outcome, and/or to the initiation of the case, or had a significant impact on case resolution.

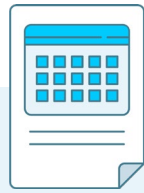
**Multiple factors are identified in each case** because generally, there is not just one issue that leads to these cases, but rather a combination of issues.



Administrative



Behavior-related



Clinical environment



Clinical judgment



Clinical systems



Communication



Documentation



Supervision



Technical skill

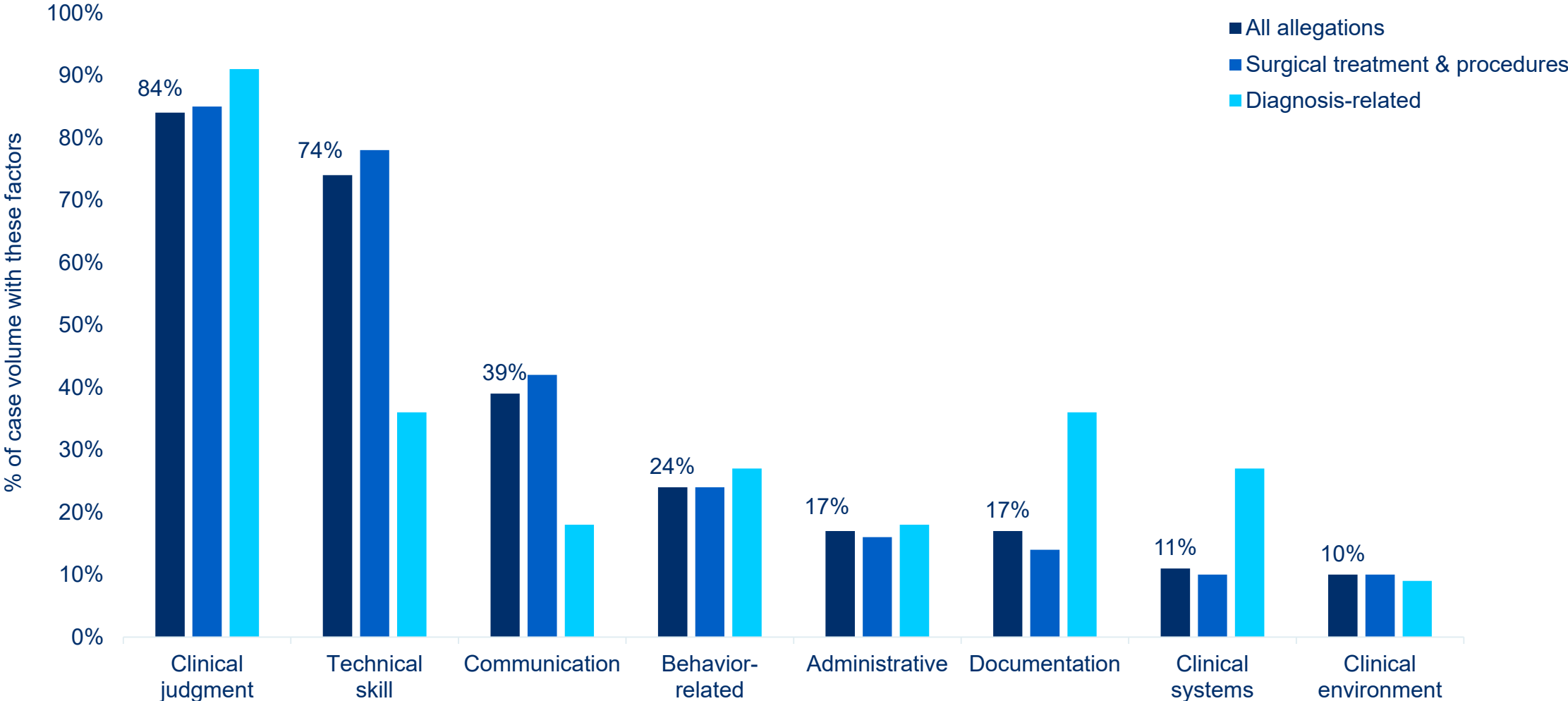


# Contributing Factor Category Definitions

INTRODUCTION | KEY POINTS | GENERAL DATA ANALYSIS | **CONTRIBUTING FACTORS** | FOCUSED DATA ANALYSIS | RISK MITIGATION

Administrative	Factors related to reporting of adverse events, adequacy of staffing, staff education/training, ethics, failure to follow and/or need for policy/protocols
Behavior-related	Factors related to patient nonadherence to treatment or behavior that offsets care; also, provider behavior including breach of confidentiality or sexual misconduct
Clinical environment	Factors related to workflow, physical conditions and “off-hours” conditions (weekends/holidays/nights)
Clinical judgment	Factors related to patient assessment, diagnostic decision-making, selection and management of therapy, patient monitoring, failure/delay in obtaining a consult, failure to ensure patient safety (falls, burns, etc.), choice of practice setting, failure to question/follow an order, practice beyond scope
Clinical systems	Factors related to coordination of care, failure/delay in ordering test, reporting findings, follow-up systems, patient identification, specimen handling, nosocomial infections
Communication	Factors related to communication among providers, between patient/family and providers, via electronic communication (texting, email, etc.), and telehealth/tele-radiology
Documentation	Factors related to mechanics, insufficiency, content
Supervision	Factors related to supervision of nursing, house staff, advanced practice clinicians
Technical skill	Factors related to improper use of equipment, medication errors, retained foreign bodies, technical performance of procedures

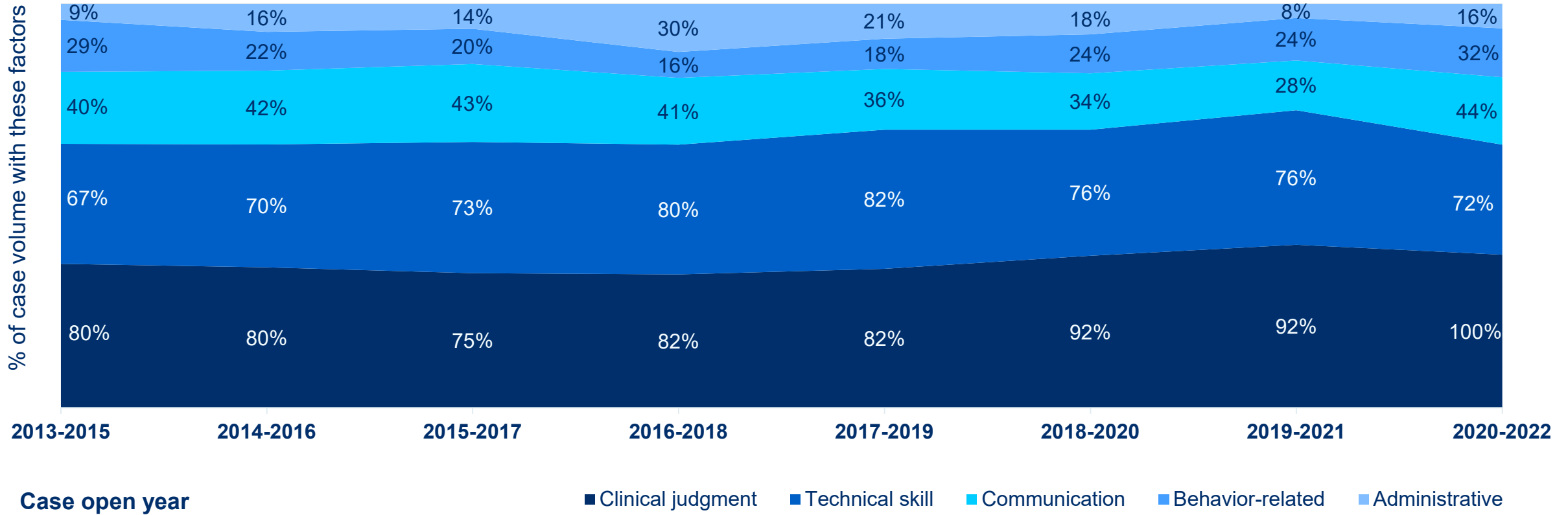
# Most Common Contributing Factor Categories by Allegation



MedPro Group + MLMIC cases opened 2013-2022, Bariatric Surgery as responsible service (N=122); More than one factor per case, therefore totals >100%

# Distribution of Top Five Factor Categories Over Time

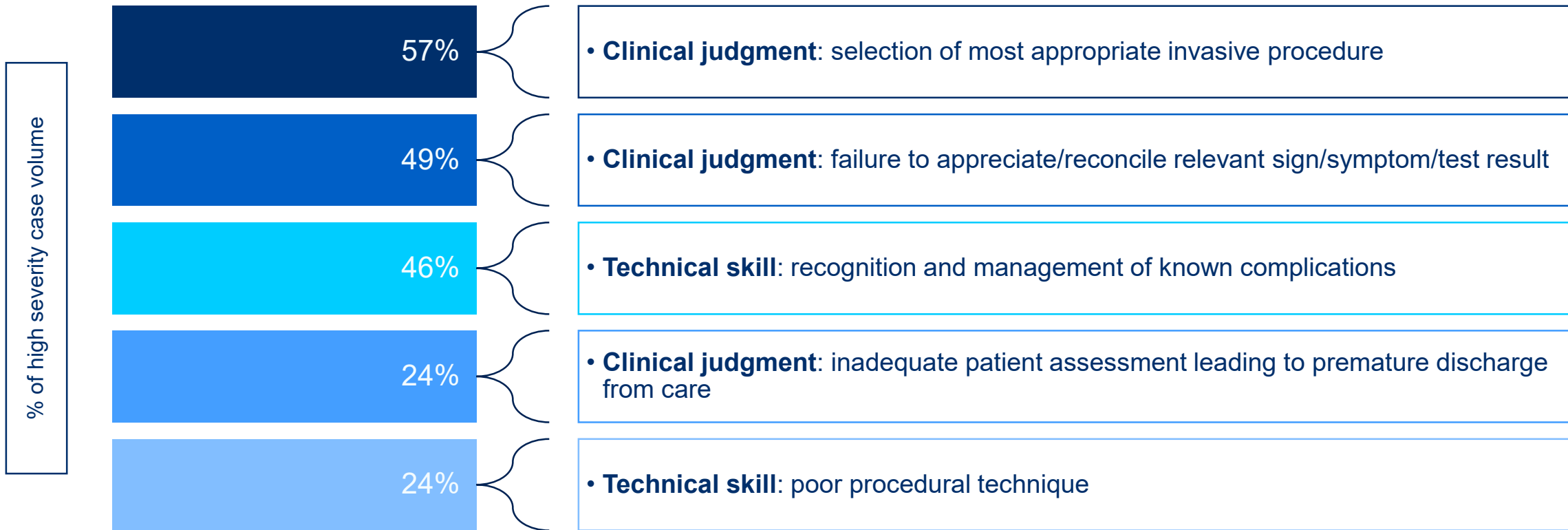
INTRODUCTION | KEY POINTS | GENERAL DATA ANALYSIS | **CONTRIBUTING FACTORS** | FOCUSED DATA ANALYSIS | RISK MITIGATION



While the distribution of these top (most common) factors across rolling three-year timeframes is relatively consistent, take note of even slight increases over time as indicators of emerging risk issues.

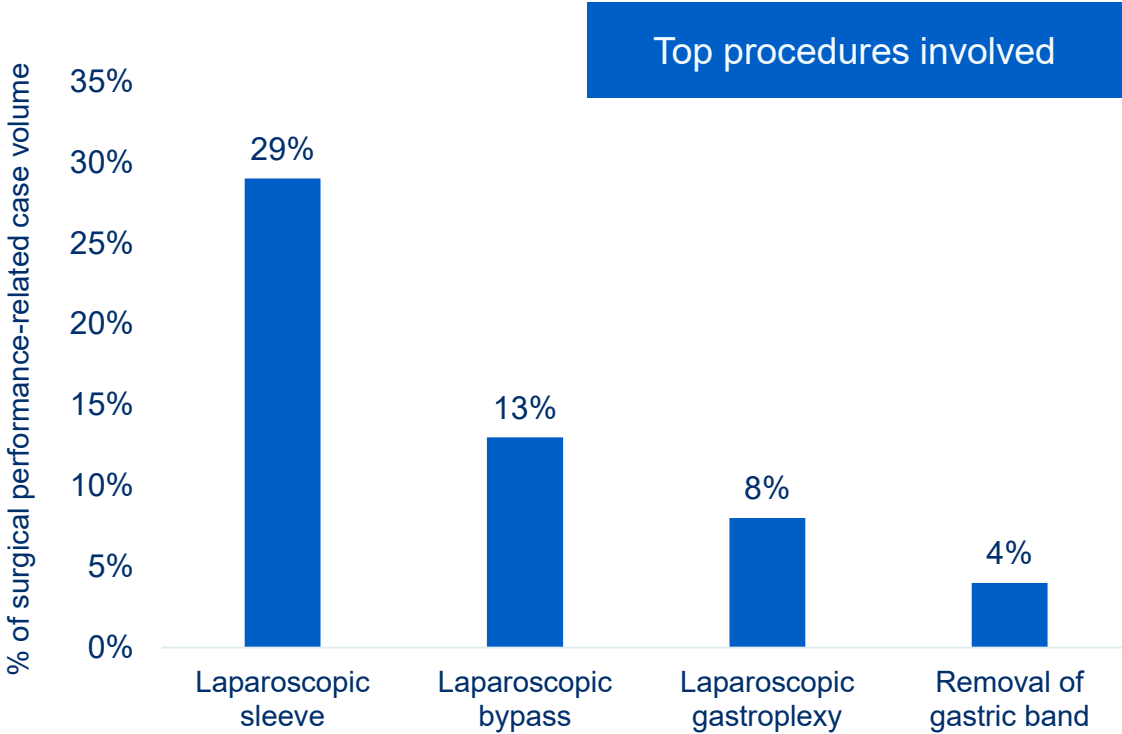
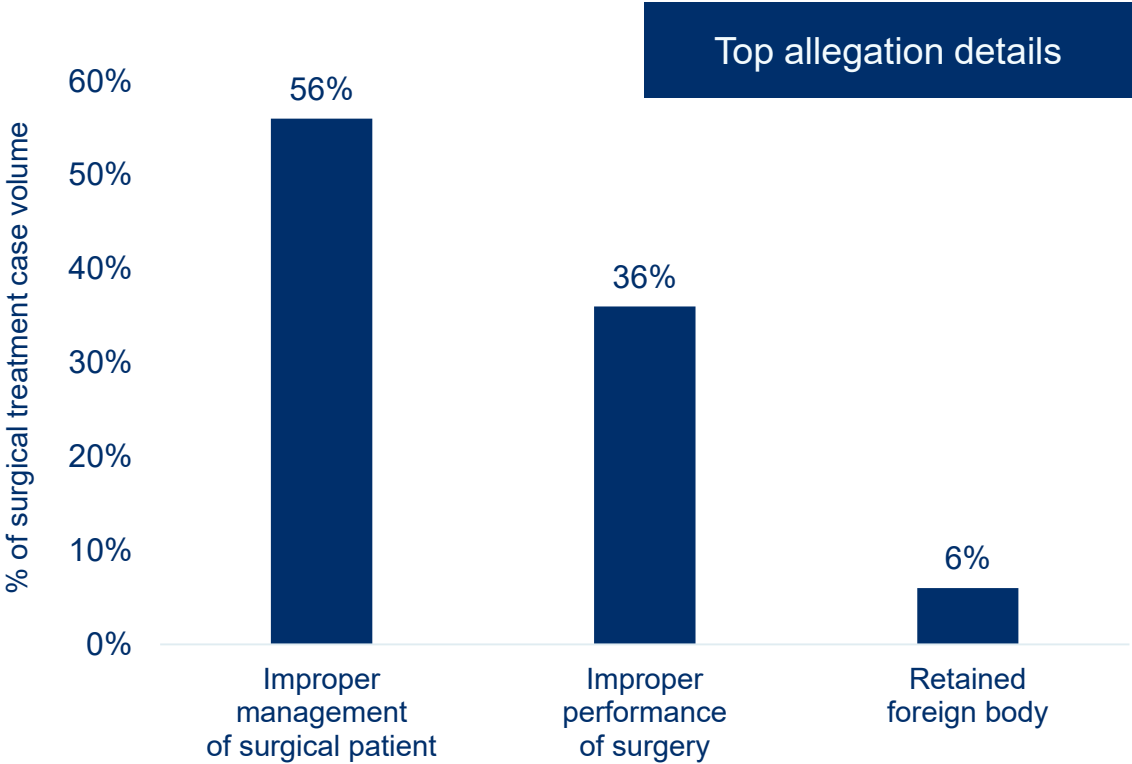
# Focus on Most Common Drivers of Clinical Severity

INTRODUCTION | KEY POINTS | GENERAL DATA ANALYSIS | CONTRIBUTING FACTORS | FOCUSED DATA ANALYSIS | RISK MITIGATION



Clinical judgment factors, including the selection of the most appropriate procedure for the patient's condition and those related to diagnostic decision-making, and technical skill factors including recognition/management of known complications and poor procedural technique, are key drivers of clinical Bariatric Surgery case severity.

# Focus on Surgical Treatment Allegations



Cases involving the management of surgical patients, including pre-, intra-, and post-operatively, are often related to the surgeon's response to developing complications. While complications of procedures may have been the result of procedural error, the failure to timely recognize and/or monitor/manage the issue prevents the opportunity for early mitigation of the risk of serious adverse outcome.

# Focus on Diagnosis-Related Allegations

INTRODUCTION | KEY POINTS | GENERAL DATA ANALYSIS | CONTRIBUTING FACTORS | **FOCUSED DATA ANALYSIS** | RISK MITIGATION

Diagnosis-related allegations encompass wrong diagnoses, failures/delays, and misdiagnoses. See below for the top diagnoses\* noted in these cases.

**Surgical complications  
(55%)**

Punctures/lacerations, post-operative infections

**Nutritional deficiencies  
(27%)**

Primarily thiamine and other B-complex deficiencies

**Digestive system diseases  
(18%)**

Primarily abdominal hernias and intestinal perforations

# Focus on Diagnosis-Related Allegations

INTRODUCTION | KEY POINTS | GENERAL DATA ANALYSIS | CONTRIBUTING FACTORS | **FOCUSED DATA ANALYSIS** | RISK MITIGATION

Diagnosis-related allegations encompass wrong diagnoses, failures/delays, and misdiagnoses. Note the key opportunities to reduce diagnostic errors along the diagnostic process of care\* below.

## Phase 1

<b>Initial diagnostic assessment</b>  <b>91%</b> of cases	Patient notes problem & seeks care
	History & physical
	Patient assessed, symptoms evaluated
	Differential diagnosis established
	Diagnostic testing ordered

## Phase 2

<b>Testing and results processing</b>  <b>9%</b> of cases	Performance of diagnostic tests
	Interpretation of diagnostic test results
	Test results transmitted to/received by ordering provider

## Phase 3

<b>Follow-up and coordination</b>  <b>45%</b> of cases	Physician follows-up with patient
	Referrals/Consults
	Patient information communicated among care team
	Patient compliance with follow-up plan

MedPro Group + MLMIC cases opened 2013-2022, Bariatric Surgery as responsible service (N=122); \*each step reflects a combination of contributing factors; diagnostic process of care algorithm courtesy of Candello, a division of CRICO Strategies

# Risk Mitigation Strategies

INTRODUCTION | KEY POINTS | GENERAL DATA ANALYSIS | CONTRIBUTING FACTORS | FOCUSED DATA ANALYSIS | RISK MITIGATION

- **Ongoing evaluation of procedural skills and competency with equipment is critically important.**
- **Conduct a thorough assessment of the patient pre-operatively.**
  - Ensure that all testing and specialty evaluations are available for review prior to induction; in an ambulatory setting, these details might not always be as readily available as in the inpatient setting.
  - Maintain a consistent post-procedure assessment process.
  - Update and review medical and family history at every visit to ensure the best decision-making.
  - Maintain problem lists.
- **Communicate with each other.**
  - Focus on care coordination if other specialties are involved, including next steps and determining who is responsible for the patient.
  - Elicit a comprehensive patient history and conduct a thorough informed consent with the patient.
  - Give thorough and clear patient instructions.
- **Engage patients as active participants in their care.**
  - Consider the patient's health literacy and other comprehension barriers.
  - Recognize that patient satisfaction with treatment outcomes can be influenced by a thorough informed consent and education process.
- **Document.**
  - The operative record is critically important for detailing the pre-operative patient assessment, intra-operative steps, and post-operative sequence of events. Discrepancies or gaps in the details/timing make it much more difficult to build a supportive framework for defense against potential malpractice cases.



# MedPro Group & MLMIC Data

**MedPro and MLMIC are 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 and MLMIC are better able to highlight the critical intersection between quality and patient safety and provide insights into minimizing losses and improving outcomes.

**Leveraging our extensive claims data**, we help our insureds stay aware of risk trends by specialty and across a variety of practice settings. Data analyses examine allegations and contributing factors, including human factors and healthcare system flaws that result in patient harm. Insight gained from claims data analyses also allows us to develop targeted programs and tools to help our insureds minimize risk.



This document does not constitute legal or medical advice and should not be construed as rules or establishing a standard of care. Because the facts applicable to your situation may vary, or the laws applicable in your jurisdiction may differ, please contact your attorney or other professional advisors if you have any questions related to your legal or medical obligations or rights, state or federal laws, contract interpretation, or other legal questions. MedPro Group is the marketing name used to refer to the insurance operations of The Medical Protective Company, Princeton Insurance Company, PLICO, Inc. and MedPro RRG Risk Retention Group. All insurance products are underwritten and administered by these and other Berkshire Hathaway affiliates, including National Fire & Marine Insurance Company. Product availability is based upon business and/or regulatory approval and may differ among companies. © 2024 MedPro Group Inc. All rights reserved.

TERMS, CONDITIONS AND DISCLAIMER The presented information is for general purposes only and should not be construed as medical or legal advice. The presented information is not comprehensive and does not cover all possible factual circumstances. Please contact your attorney or other professional advisors for any questions related to legal, medical, or professional obligations, the applicable state or federal laws, or other professional questions. If you are a MLMIC insured, you may contact May-Skinner Law Group at 1-855-325-7529 for any policy related questions. MLMIC Insurance Company does not warrant the presented information, nor will it be responsible for damages arising out of or in connection with the presented information.