



ANNUAL MEETING

Association for Surgical Education

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Malpractice Allegations: A Reality Check for Resident Physicians

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Disclosures

- None

Introduction

- Medical malpractice is a significant source of stress and cost to the healthcare system^{1,2}
- Encourages the practice of defensive medicine²
- Residents have low medico-legal knowledge^{3,4}
- Previous studies have been done but limitations exist⁵

1. Orosco RK, Talamini J, Chang DC, et al. Surgical Malpractice in the United States, 1990-2006. *Am Coll Surg.* 2012; 215(4): 480-8.

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3. Guerges M, Slama E, Zayadin Y, et al. Use of a mock deposition program to improve resident understanding of the importance of documentation. *Am J Surg.* 2017; 213: 885-7.

4. Hochberg MS, Seib CD, Berman RS, et al. Malpractice in an Academic Medical Center: A Frequently Overlooked Aspect of Professionalism Education. *Acad Med.* 2011; 86(3): 365-8.

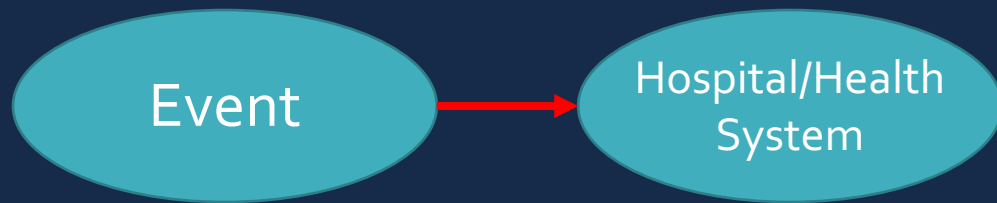
5. Thiels CA, Choudhry AJ, Ray-Zack MD, et al. Medical Malpractice Lawsuits Involving Surgical Residents. *JAMA Surg.* 2017; e-pub.

Capturing Medical Malpractice



Event

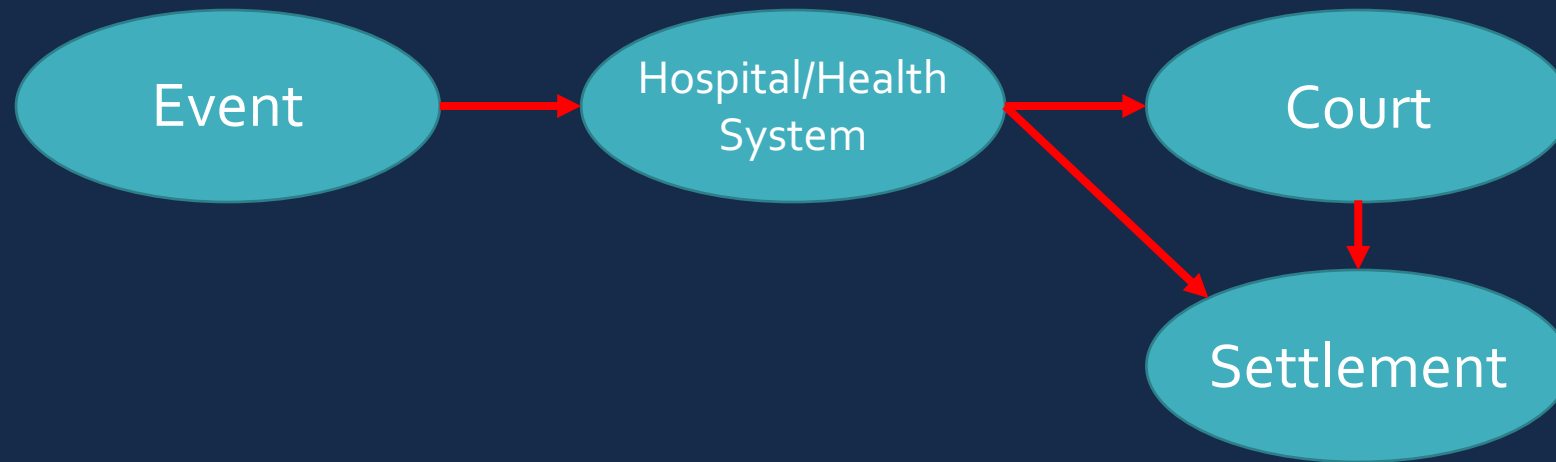
Capturing Medical Malpractice



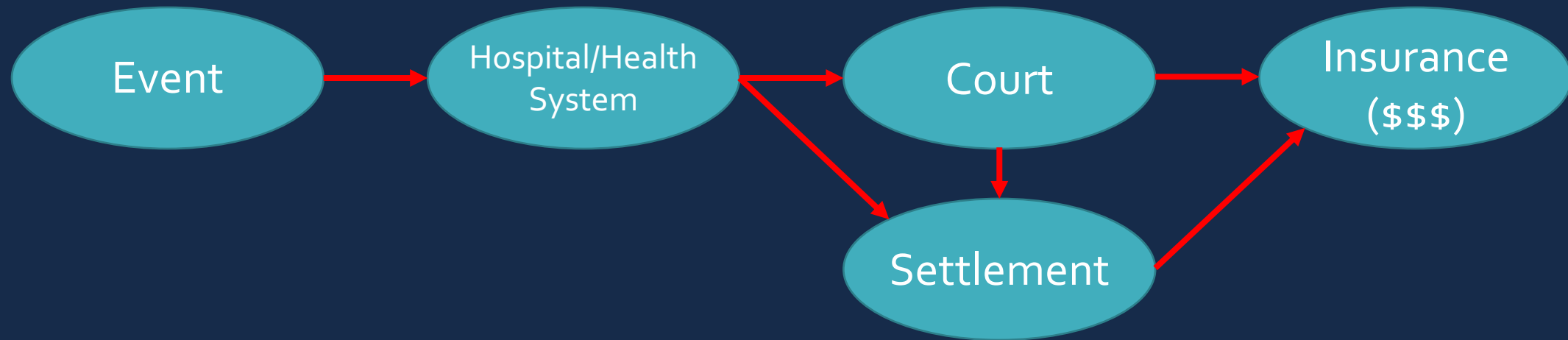
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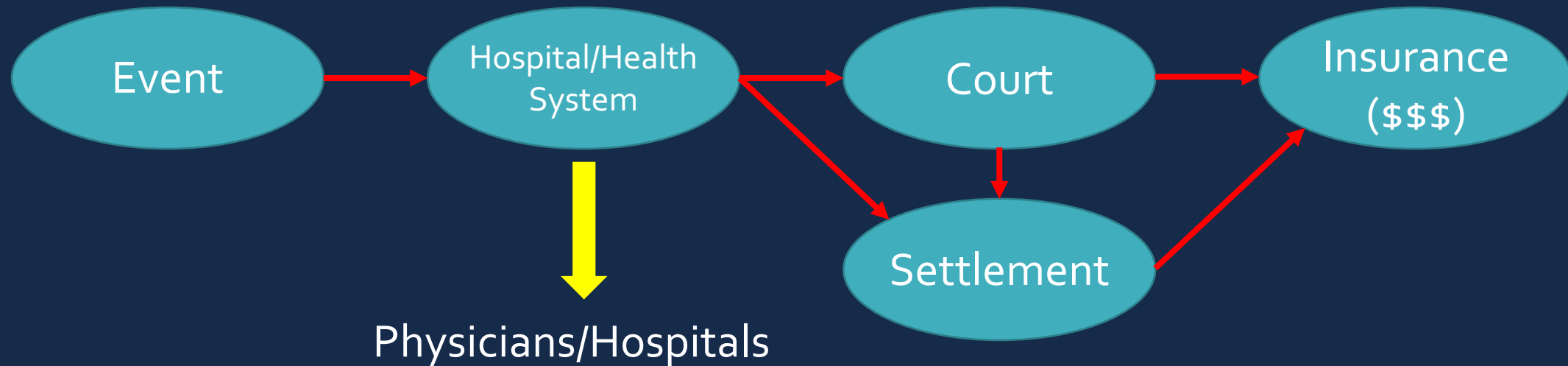
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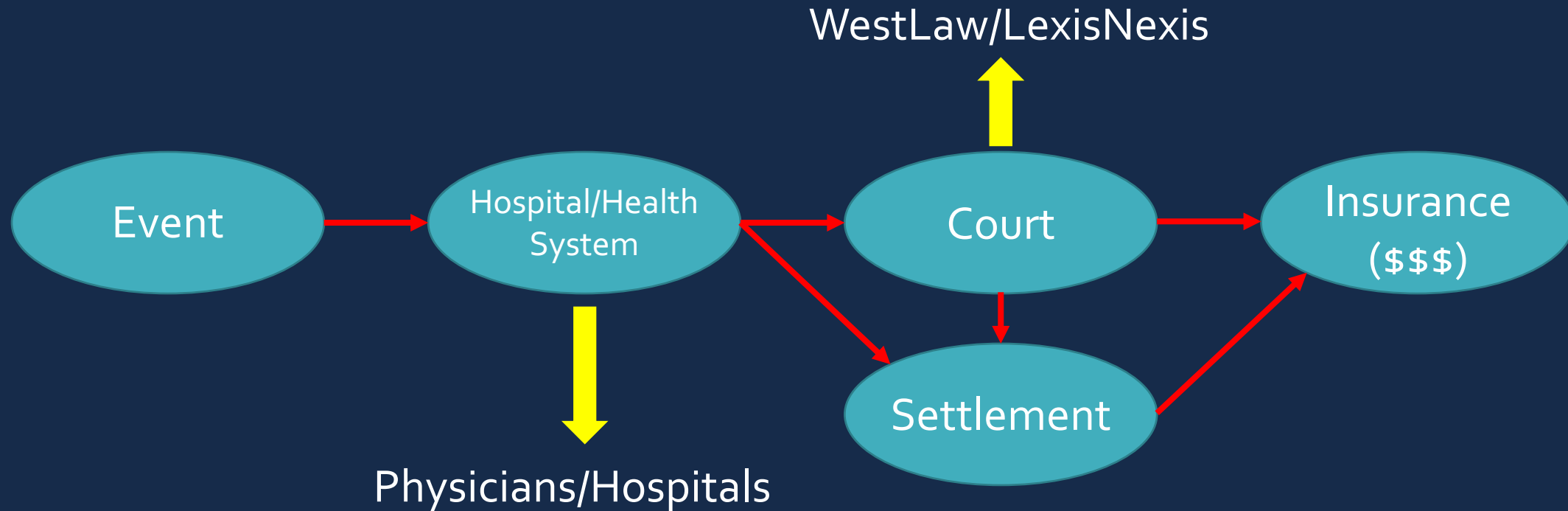
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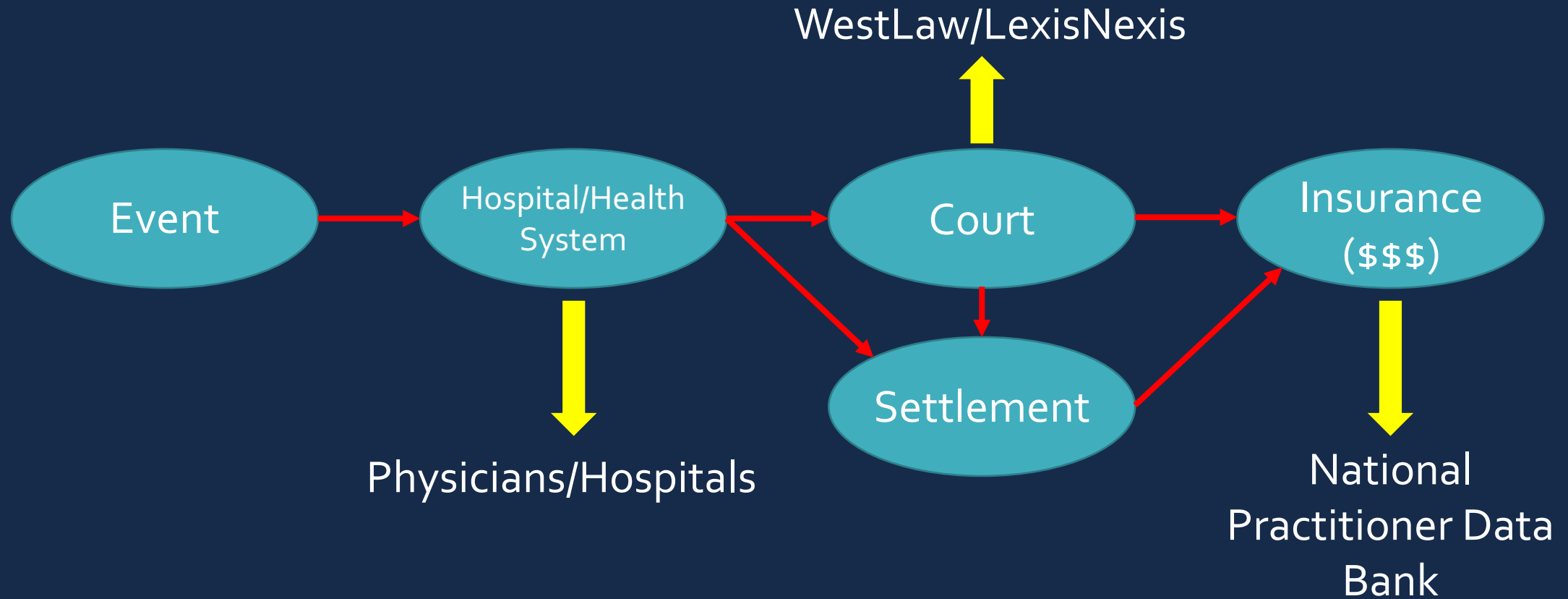
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Aims of Our Study

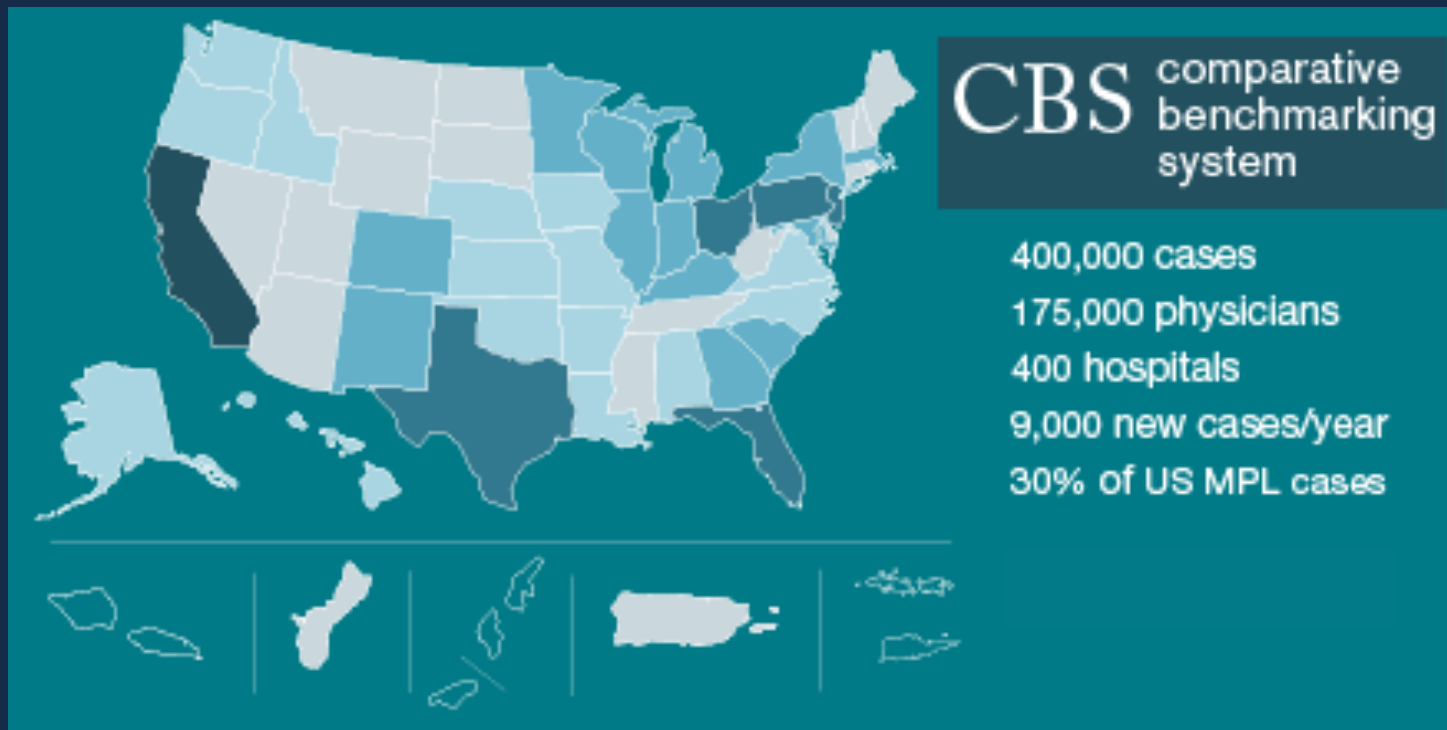
1. To explore nationwide litigation data for resident physicians, especially surgical trainees, using a unique litigation database

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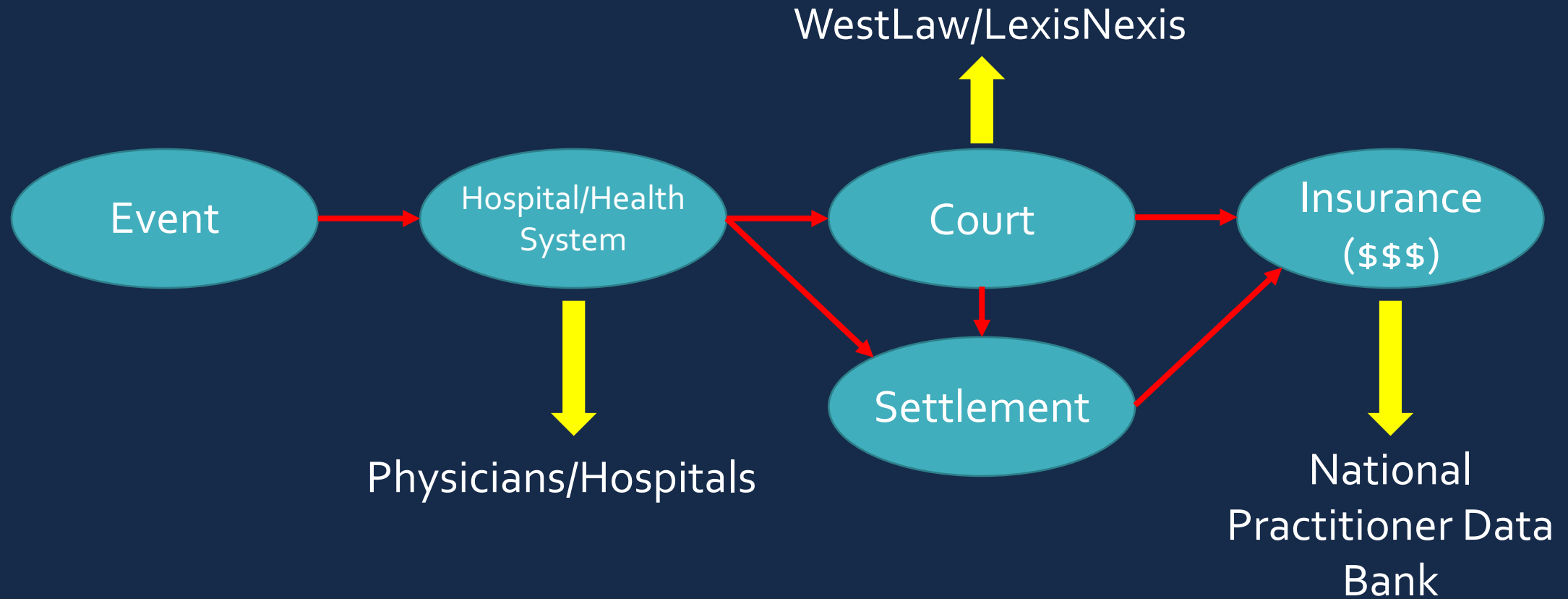
1. To explore nationwide litigation data for resident physicians, especially surgical trainees, using a unique litigation database
2. To survey our current residents in their understanding of, and opinions toward, medical malpractice

Methods

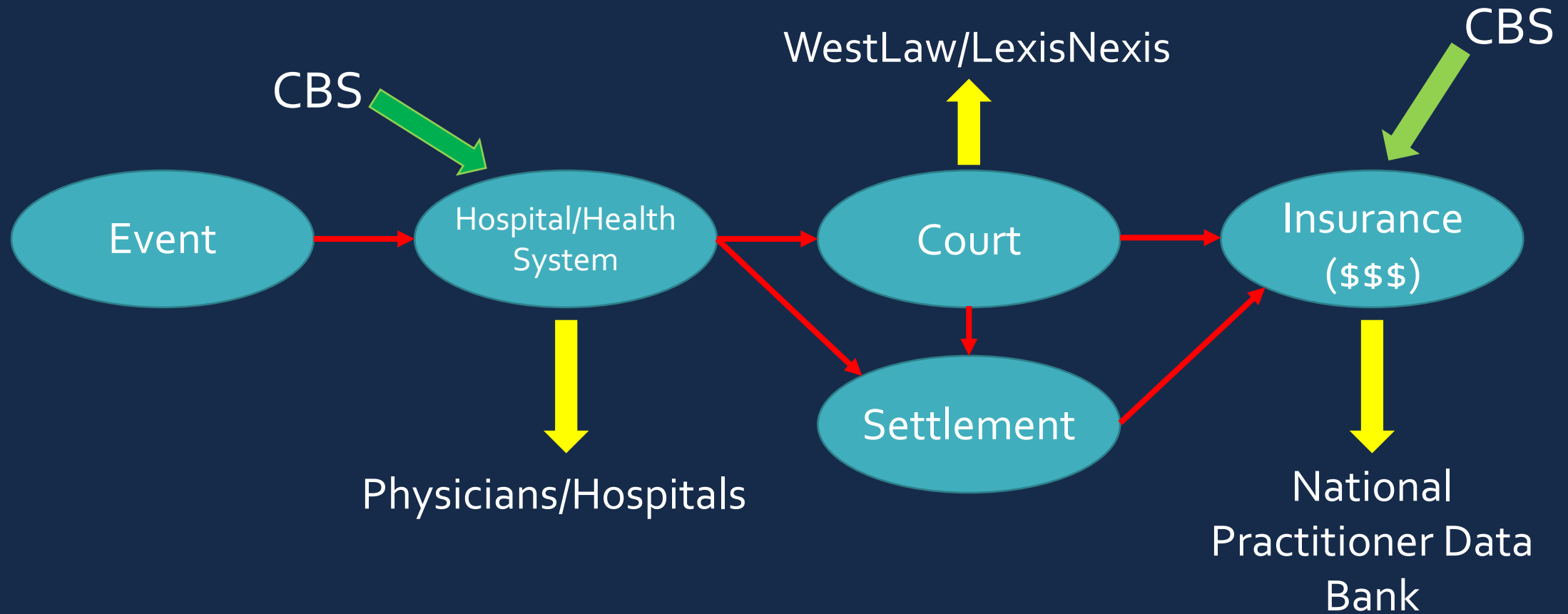
- Controlled Risk Insurance Company (CRICO)'s Comparative Benchmarking System (CBS) database



Capturing Medical Malpractice



Capturing Medical Malpractice



Methods – CBS Data

- Analysis of CBS Data:
 - All cases between 2007-2016 with resident physician as defendant or service extender
 - Categories analyzed: Responsible service, major allegation, contributing factors, defendant types

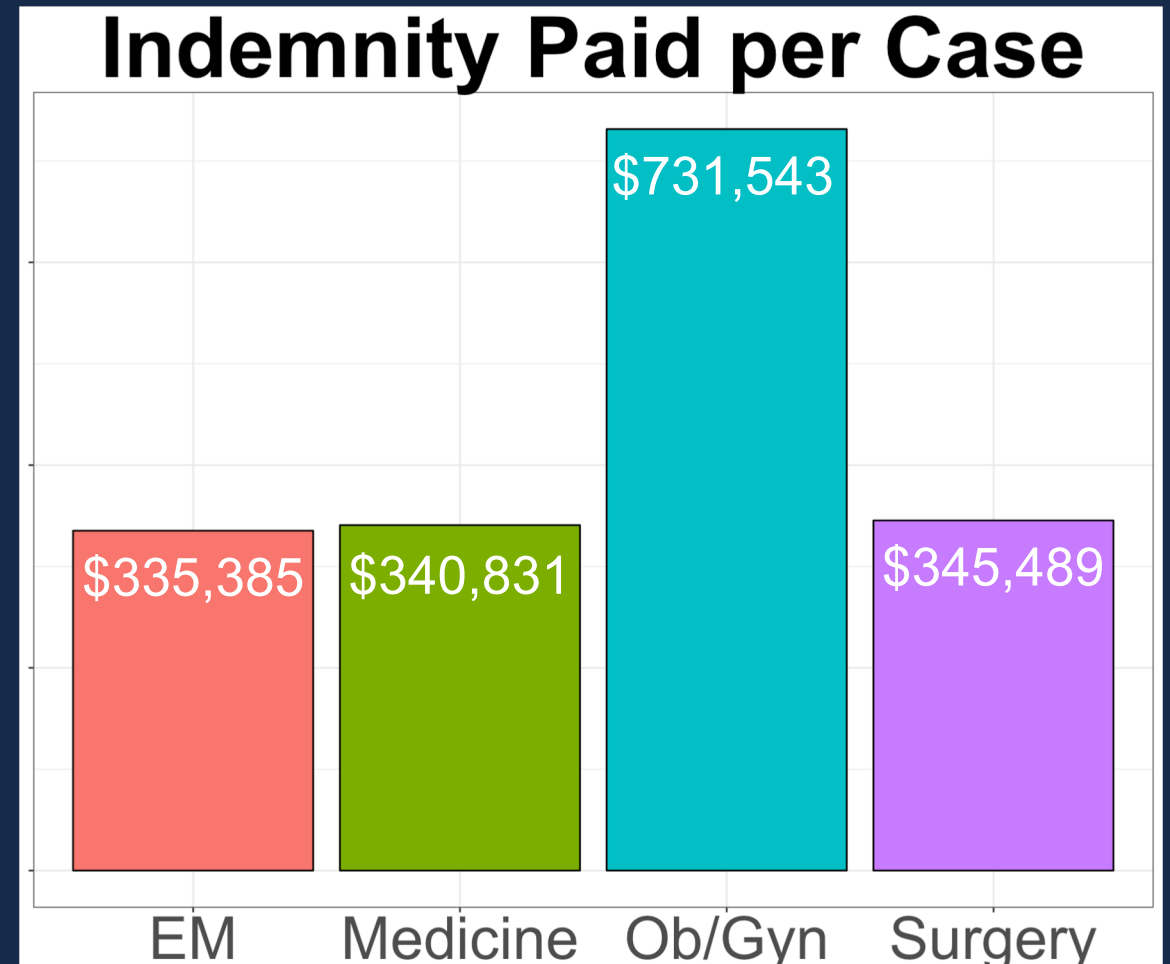
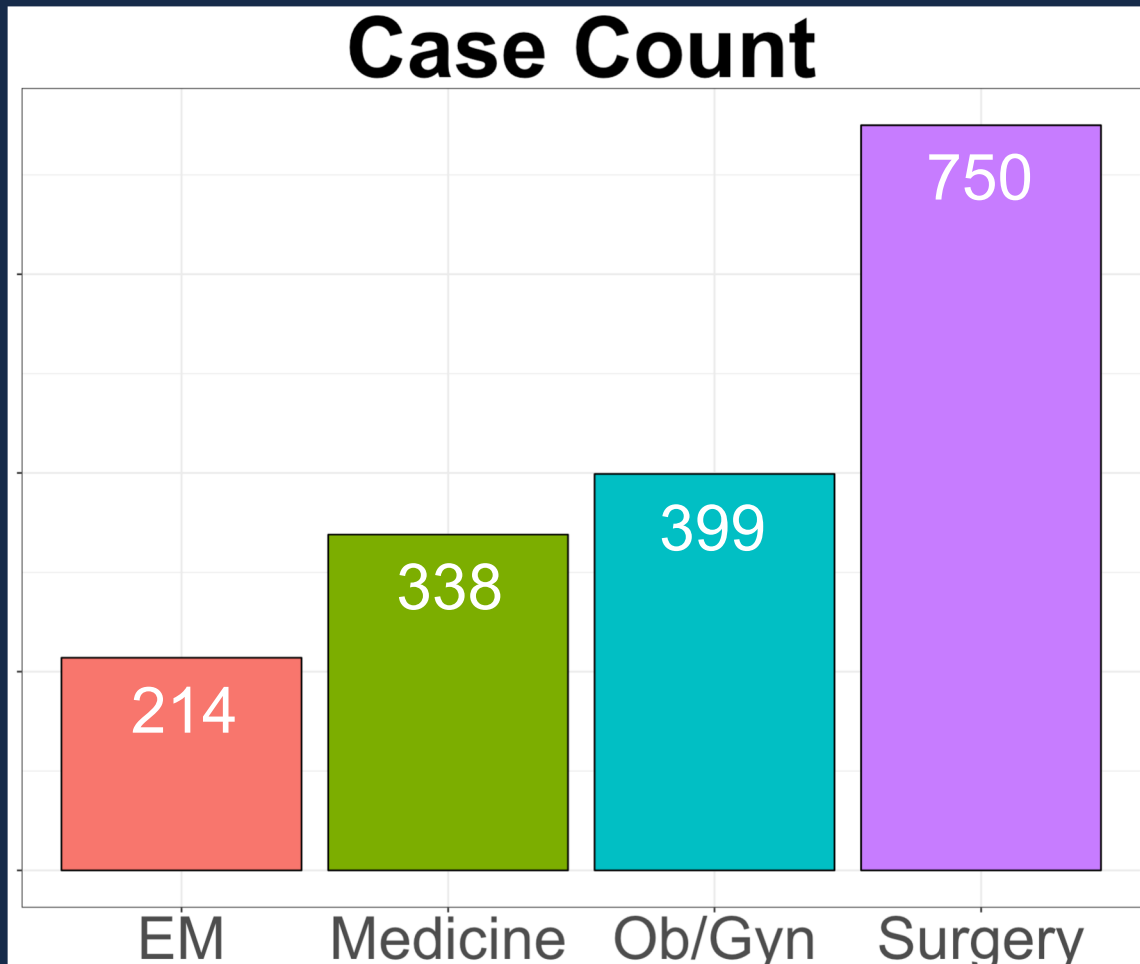
Methods – Survey

- Single-institution survey
 - Sent out to all surgery residents (n=50)
 - Anonymous
 - Designed to assess baseline malpractice knowledge and trainee's perspective on malpractice in training

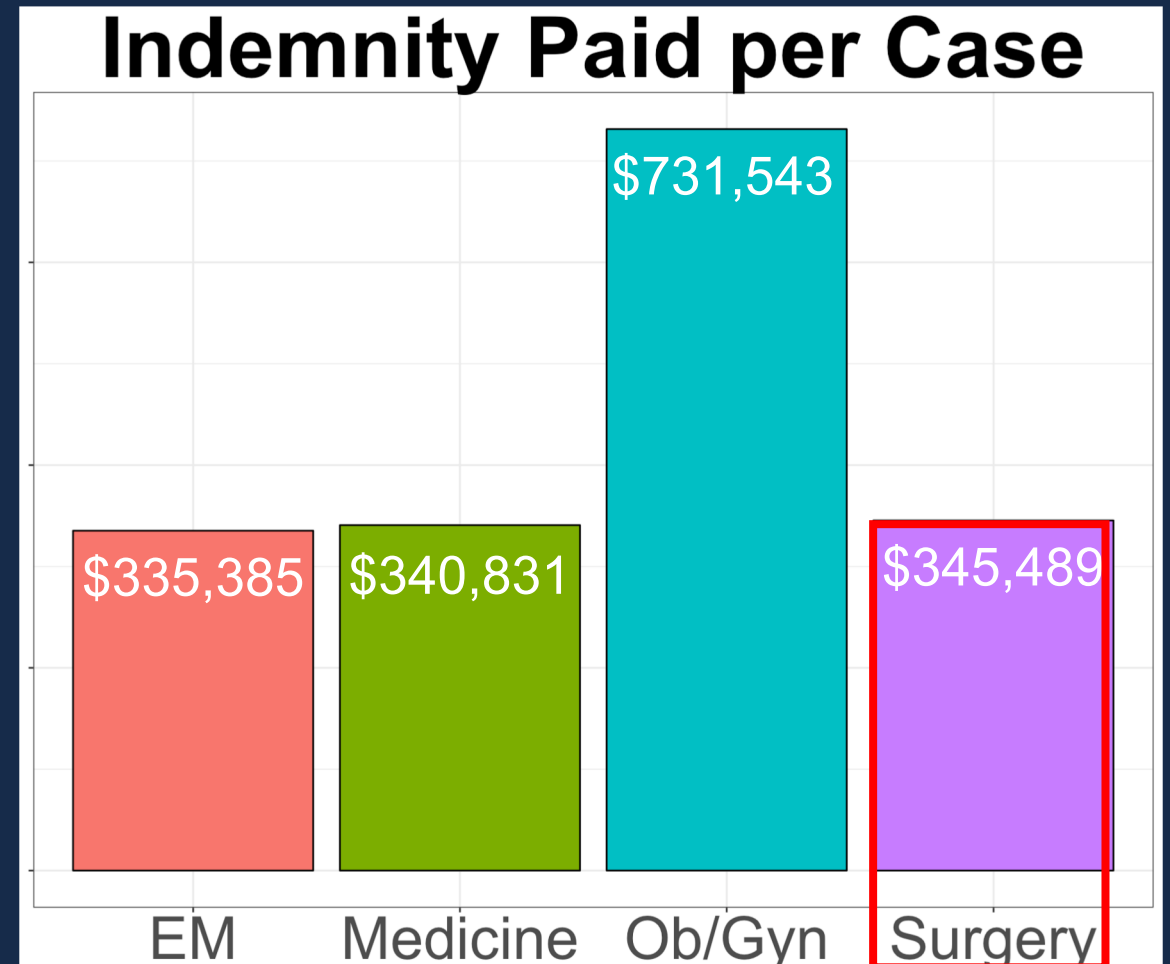
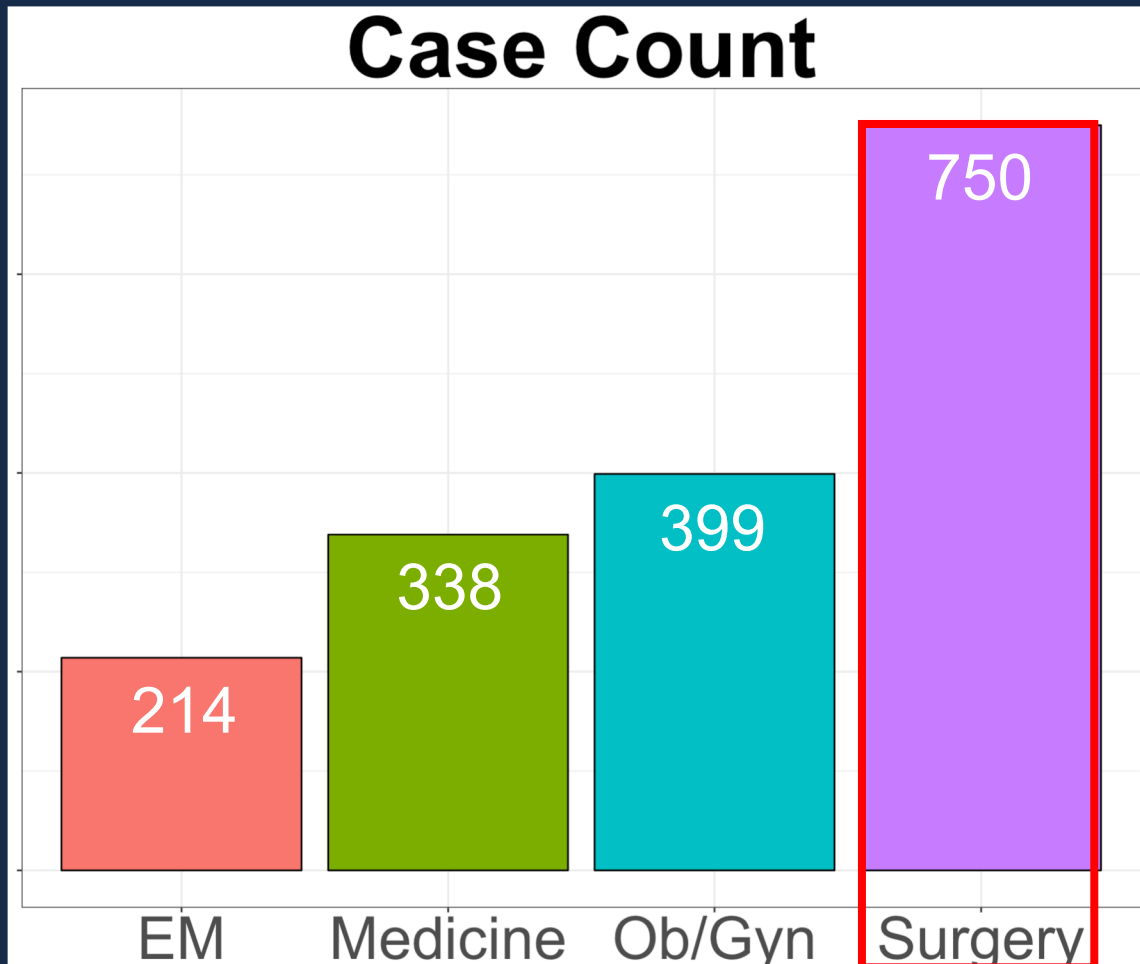
Results – CBS Data

- Total cases: 2,353 (out of 57,744 total, 4%)
- Total indemnity paid: \$831.7 million (out of \$7.5B, 11%)
- Surgical specialties: 750 cases (32%); \$259.1 million (31%)

Responsible Service



Responsible Service



Major Allegations for Surgery

Allegation	Case Count	% All Cases	Indemnity Paid	% Indemnity Paid	Indemnity per Case
Surgical Treatment	554	74%	\$208,045,780	80%	\$375,534
Medical Treatment	77	10%	\$19,406,565	7%	\$252,033
Diagnosis-Related	69	9%	\$19,513,791	8%	\$282,809
Medication-Related	21	3%	\$9,652,471	4%	\$459,641
Safety/Security	9	1%	\$118,500	0%	\$13,167
Communication	4	1%	\$375,000	0%	\$93,750
Supervision	1	0%	\$0	0%	\$0
Other	15	2%	\$2,005,000	1%	\$133,667
Total	750	100%	259,117,107	100%	\$345,489

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Improper Performance of Surgery	289	39%	\$79,487,634	31%	\$275,044
Improper Management of Surgical Patient	208	28%	\$109,381,177	42%	\$525,871
Retained Foreign Body	33	4%	\$3,078,236	1%	\$93,280
Delay in Surgery	13	2%	\$16,013,980	6%	\$1,231,845
Other	10	1%	\$84,752	0%	\$8,475
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Top 5 Contributing Factors

- Note: each case can have only one major allegation, but can have multiple contributing factors

Contributing Factor	Case Count	% All Cases	Indemnity Paid	% Indemnity Paid	Indemnity per Case
Clinical Judgement	488	65%	\$203,825,233	79%	\$417,675
Technical Skill	481	64%	\$158,678,803	61%	\$329,894
Communication	295	39%	\$106,472,349	41%	#360,923
Documentation	207	28%	\$109,083,632	42%	\$526,975
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- Resident/Fellow Supervision as Major Allegation: 1 case, \$0 indemnity paid

Resident As Defendants

Disposition	Defendant Count	Case Count	% All Cases	Indemnity Paid	% Indemnity Paid
Dropped/Denied/Dismissed	149	101	13%	\$0	0%
Settled	35	28	4%	\$8,520,379	3%
Defense Verdict	8	6	1%	\$0	0%
Total	192	132	18%	\$8,520,379	3%

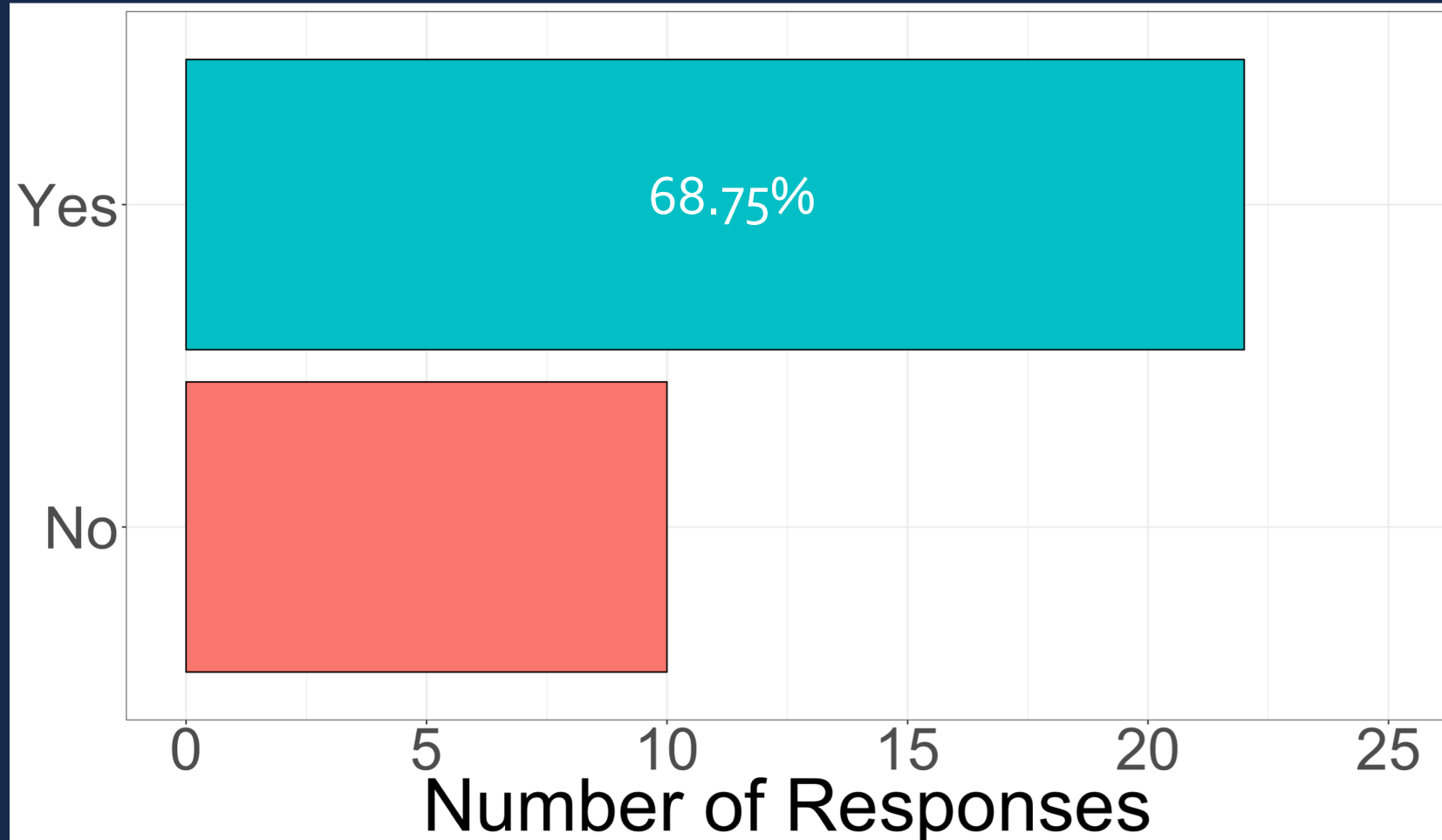
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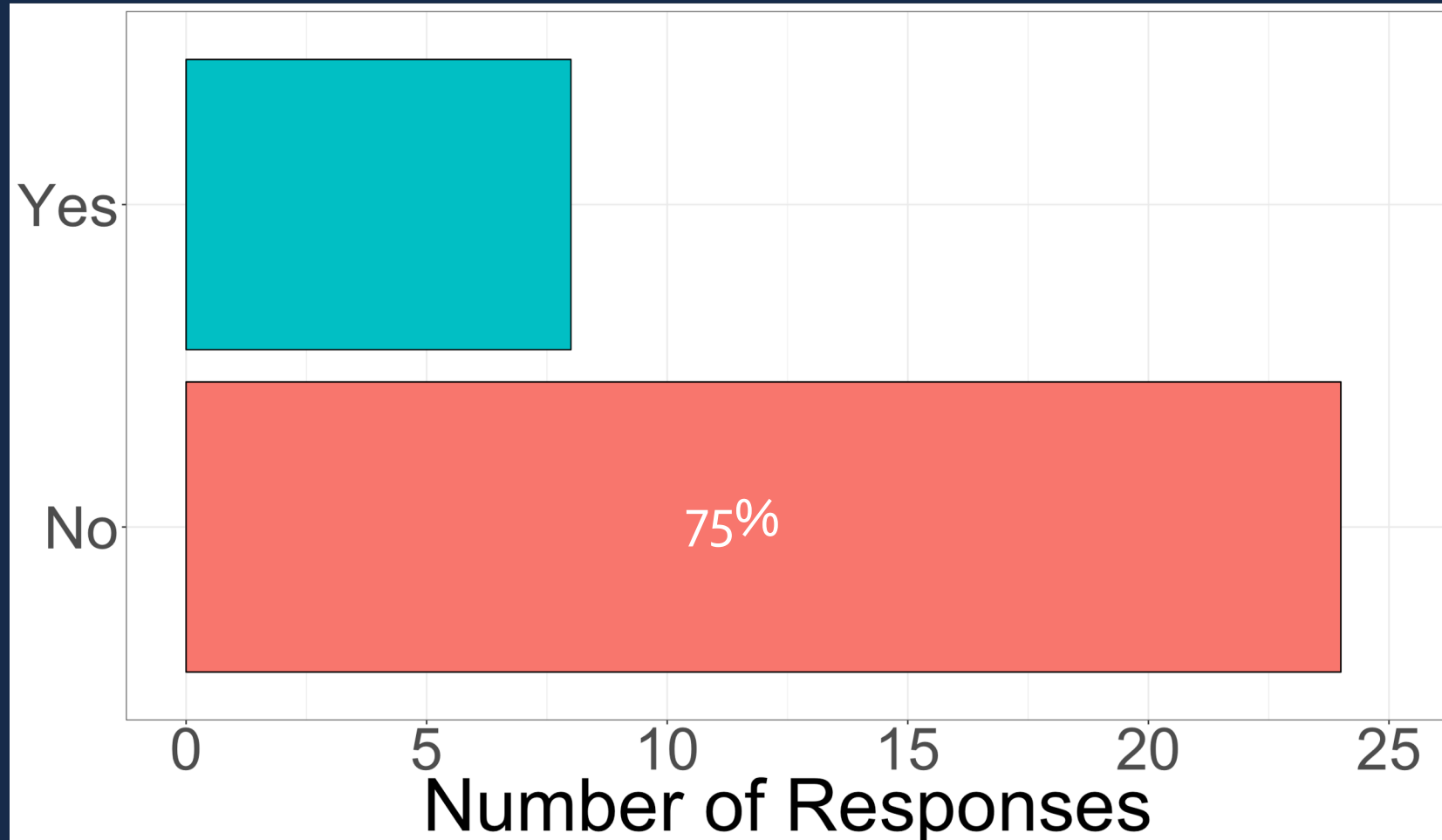
Survey Results

- 32/50 (64%) response rate

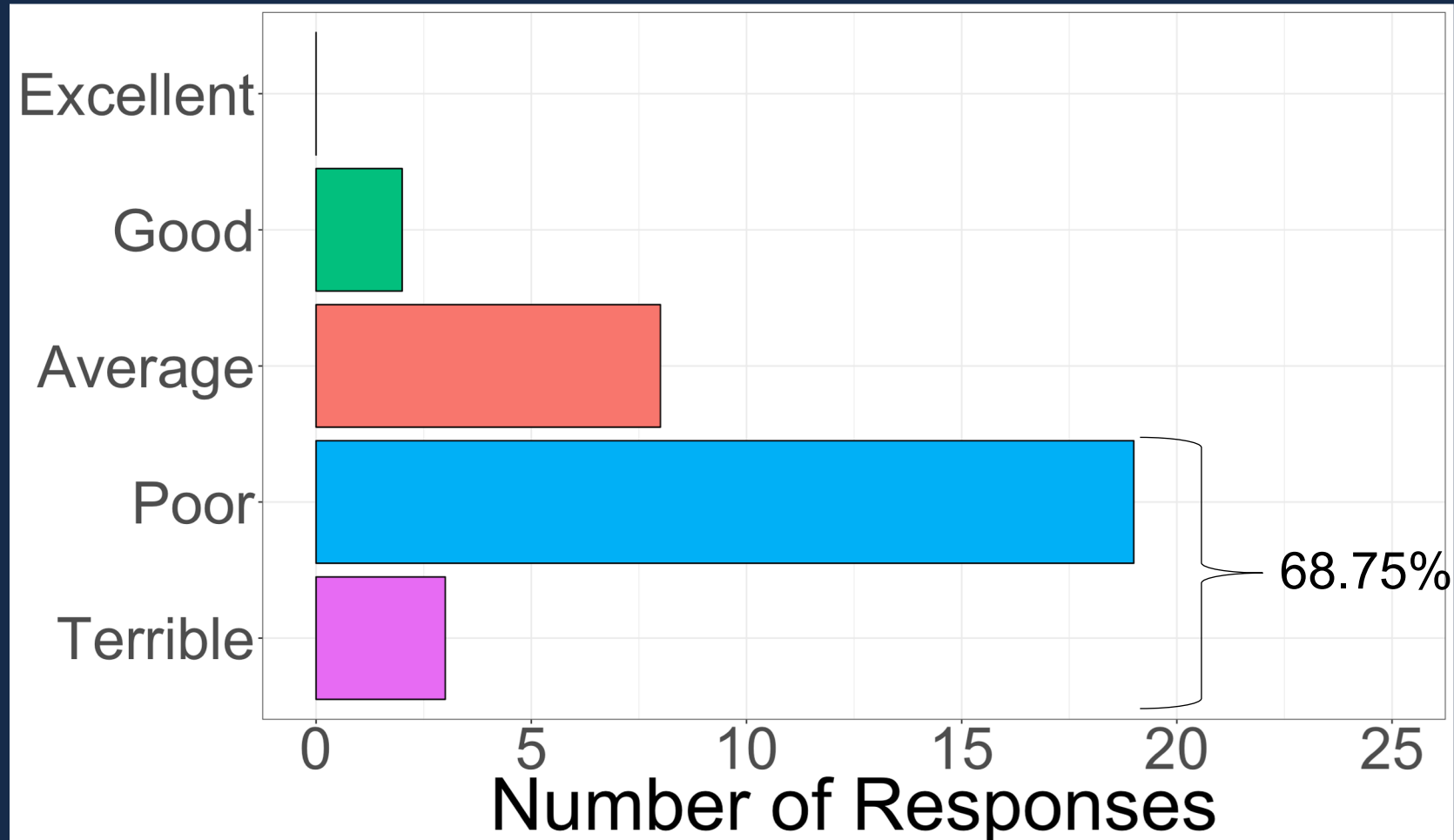
Can residents be a major defendant?



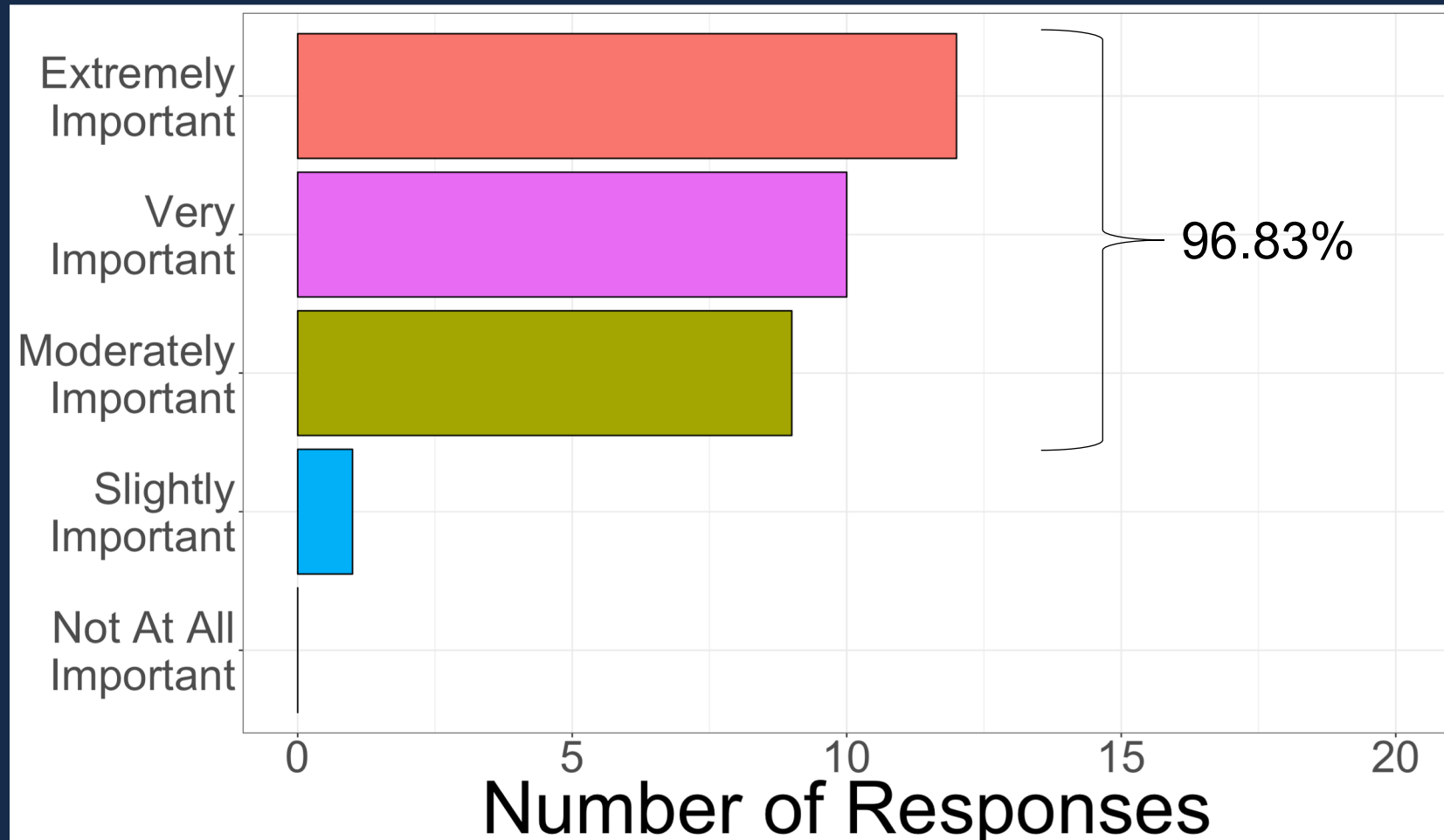
Do you know what resources are available to you?



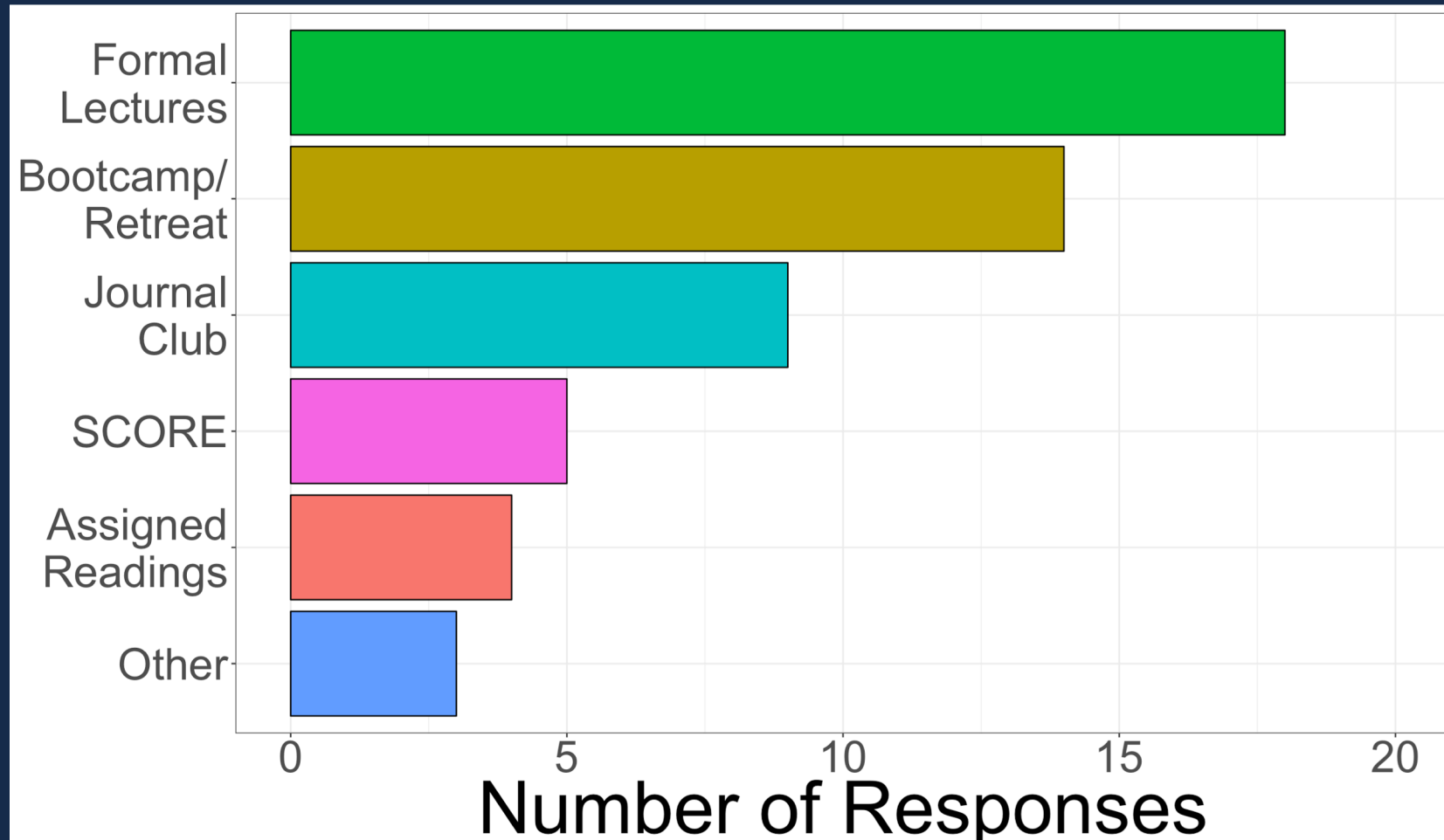
How well do you understand medico-legal ramifications?



How important is a medico-legal curriculum?



Best way to establish a medico-legal curriculum?



Discussion

- Overall, residents are involved in ~4% of all litigation
- Surgery specialties most commonly involved
- Most common allegation is surgery-related
 - Perioperative care allegations accounted for most of the indemnity paid
- Residents made up 18% of all defendants in surgery-related litigation
- Only 1/750 cases had resident supervision as the major allegation
 - 26% of cases had supervision as a contributing factor

Discussion

- Surveys showed that residents rated their current medico-legal knowledge as poor
- But realize that it is very important and should be part of their training curriculum
- Residents preferred lectures, bootcamp/retreat, journal clubs

Acknowledgements

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 - The content is solely the responsibility of the authors and does not necessarily represent the official views of the National Institutes of Health.

Questions?