Healthcare Risk Professionals Impact, Influence, Innovate

A Focus on Professional Conduct

Annette Roberts, MSN, RN

Disclaimers

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Presenter

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Program Director, Patient Safety

CRICO

Please refer to the Presenters' Bios available on the table and online for more information

Agenda

- Introduction to CRICO & Candello
- Statements on Professional Conduct
- Reporting & Barriers to Reporting
- A Rise in Employment Liability Claims
- Best Practices for Mitigating Risks
- Next Steps
- Resources

crico

The CRICO insurance program is a group of companies owned by and serving the Harvard medical community.

Our mission is to Protect Providers and Promote Safety.

CRICO

(A Reciprocal Risk Retention Group)

- A patient safety and medical malpractice company owned by and serving the Harvard medical community since 1976

- CRICO insures:
  - 17,500 physicians (including 4,500 residents and fellows)
  - 34 hospitals & 325 other healthcare organizations
  - 130,000+ employees (nurses, advanced practice registered nurses, physician assistants, technicians, etc.)

- Provides coverage for professional liability (medical malpractice), employment practice liability, general liability, and international MPL

What is Candello?

- A national database of medical professional liability (MPL) claims
- Innovative leader in identifying trends in medical error, patient harm, and financial loss
- A division of CRICO, the MPL insurer of the Harvard medical community

Total Cases (Claims & Suits)
- Open & closed cases
- Paid & unpaid

425,000+

9,000+

New Cases Annually

Hospitals & Health Systems

425+

$48B

Total Incurred

Percent of U.S. MPL Claims

33%

Candello
Safety in Numbers

Statements on Professional Conduct

- For years, the healthcare industry has discussed the significant impact professional behavior has on an organizations overall culture of safety.
- The Joint Commission
  - Centers for Medicare and Medicaid
    - Institute for HealthCare Improvement
      - Institute for Safe Medication Practices

The Joint Commission - 2008

The Joint Commission

Sentinel Event Alert

July 09, 2008

Issue 40, July 9, 2008

Behaviors that undermine a culture of safety

Intimidating and disruptive behaviors can foster medical errors,(1,2,3) contribute to poor patient satisfaction and to preventable adverse outcomes,(1,4,5) increase the cost of care,(4,5) and cause qualified clinicians, administrators and managers to seek new positions in more professional environments. (1,6) Safety and quality of patient care is dependent on teamwork, communication, and a collaborative work environment. To assure quality and to promote a culture of safety, health care organizations must address the problem of behaviors that threaten the performance of the health care team.

outbursts and physical threats, as well as passive
uncooperative attitudes during routine activities.
professionals in positions of power. Such behaviors
ages; condescending language or voice intonation; and
m effectiveness and can compromise the safety of
ional and should not be tolerated.

rare.(1,2,7,8,9) A survey on intimidation conducted
icians have kept quiet or remained passive during
most formal research centers on intimidating and
these behaviors occur among other health care
as among administrators. (1,2) Several surveys have
g or disruptive behaviors.(1,2,8,12,13) These
in and across disciplines.(1,2,7) Nor are such
bit them.(2) It is likely that these individuals are not
aviors. It is important that organizations recognize
gages in them.

altruistic reasons and have a strong interest in caring
als carry out their duties in a manner consistent with
intimidating and disruptive behaviors in an
lthy or even hostile work environment – one that is
s that ignore these behaviors also expose themselves
aints about unprofessional, disruptive behaviors and
eam's ability to function well creates risk," says Gerald
r for Patient and Professional Advocacy at Vanderbilt
s and families to speak up, their observations and
e as part of a surveillance system to identify
sk."

ive behaviors in health care.(10) Organizations that
tly promoting it. (9,11) Intimidating and disruptive
stresses of dealing with high stakes, high emotion
particularly in the presence of factors such as fatigue.
ness, immaturity, or defensiveness can be more prone
onflict management skills.

which is marked by pressures that include increased
ies, and fear of or stress from litigation. These
authority, autonomy, empowerment, and roles or
e continual flux of daily changes in shifts, rotations,
nter-professional communication and for the

Disruptive behaviors often go unreported, and therefore unaddressed, for a number of reasons. Fear of retaliation and the stigma associated with "blowing the whistle" on a colleague, as well as a general reluctance to confront an intimidator all contribute to underreporting of intimidating and/or disruptive behavior.(2,9,12,16) Additionally, staff within institutions often perceive that powerful, revenue-generating physicians are "let off the hook" for inappropriate behavior due to the perceived consequences of confronting them.(8,10,12,17) The American College of Physician Executives (ACPE) conducted a physician behavior survey and found that 38.9 percent of the respondents agreed that "physicians in my organization who generate high amounts of revenue are treated more leniently when it comes to behavior problems than those who bring in less revenue."(17)

Existing Joint Commission requirements

Effective January 1, 2009 for all accreditation programs, The Joint Commission has a new Leadership standard (LD.03.01.01)*

Behaviors that undermine a culture of safety

Intimidating and disruptive behaviors can foster medical errors, contribute to poor patient satisfaction and to preventable adverse outcomes, increase the cost of care, and cause qualified clinicians, administrators and managers to seek new positions in more professional environments. Safety and quality of patient care is dependent on teamwork, communication, and a collaborative work environment. To assure quality and to promote a culture of safety, health care organizations must address the problem of behaviors that threaten the performance of the health care team.

Sentinel Event Alert 40: Behaviors that undermine a culture of safety | The Joint Commission. (n.d.). Www.jointcommission.org. https://www.jointcommission.org/resources/sentinel-event/sentinel-event-alert-newsletters/sentinel-event-alert-issue-40-behaviors-that-undermine-a-culture-of-safety/

The Joint Commission's Standard LD.03.01.01, EP4

"Leaders and staff need to address intimidating or unprofessional behaviors withing the hospital, so as not to inhibit others from reporting safety concerns.

Leaders should both educate staff and hold them accountable for professional behavior.

This includes the adoption and promotion of a code of conduct that defines acceptable behavior as well as behaviors that undermine a culture of safety."

https://www.jointcommission.org/-/media/tjc/documents/standards/ps-chapters/cambhc_03a_siss_all_current.pdf

Centers for Medicare & Medicaid Services (CMS)

- Policy Statement on the Prevention of Harassing, Offensive and Inappropriate Conduct
- "It is the policy of CMS to maintain a model workplace free from harassment and other forms of unlawful discrimination based on race, color, religion, national origin, sex (including pregnancy, sexual orientation, and gender identity), age (40 or older), disability, genetic information, and retaliation."

Policy Statement on the Prevention of Harassing, Offensive and Inappropriate Conduct. (2023a). https://www.cms.gov/about-cms/agency-information/oeocrinfo/downloads/workplaceharassmentpolicy.pdf

Institute for Healthcare Improvement (IHI)

The IHI National Action Plan to Advance Patient Safety states, “one of the four foundational and interdependent areas the National Steering Committee deemed essential for effective stakeholder collaboration is to create total systems safety and safer care across the continuum includes workforce safety.”

Institute for Healthcare Improvement

The IHI National Action Plan to Advance Patient Safety states,

"one of the four foundational and interdependent areas the National Steering Committee deemed essential for effective stakeholder collaboration is to create total systems safety and safer care across the continuum includes workforce safety."

Recommendations:

Commit to workforce physical, psychological, and emotional safety and wellness, and full and equitable support of workers.

- Implement a system approach to workforce safety
- Assume accountability for physical and psychological safety and a healthy work environment that fosters the joy of the health care workforce
- Develop, resource, and execute on priority programs that promote workforce safety

National Action Plan to Advance Patient Safety | Institute for Healthcare Improvement. (n.d.). Www.ihi.org. https://www.ihi.org/initiatives/national-steering-committee-patient-safety/national-action-plan-advance-patient-safety

Institute for Safe Medication Practices

Recent Survey Suggests Disrespectful Behaviors Continue in Healthcare

"Unfortunately, time alone does nothing to stop disrespectful behaviors—ignoring them emboldens offenders, condones the disrespectful behaviors, normalizes them, and allows the offenders to continue to dominate with cruelty. "

Addressing Disrespectful Behaviors and Creating a Respectful, Healthy Workplace–Part II | Institute For Safe Medication Practices. (2022, March 9). Www.ismp.org. https://www.ismp.org/resources/addressing-disrespectful-behaviors-and-creating-respectful-healthy-workplace-part-ii

ISMP Survey on Disrespectful Behavior in Healthcare

Table 4. Frequency of disrespectful behaviors often encountered (more than 10 times) within the previous year from the 2003, 2013, and 2021 surveys

Disrespectful Behaviors	2003 (N=2,095)	2013 (N=4,884)	2021 (N=1,047)	
	Encountered Often (%)	Encountered Often (%)	Experienced Often (%)	Witnessed Often (%)
Condescending/demeaning comments, insults	42	29	32	36
Reluctant/refuse to answer questions, return calls	28	25	29	33
Impatience with questions, interruptions	37	20	38	39
Yelling, cursing, outbursts, threats	9	12	12	14
Report you to your manager (threat/actual)	7	9	8	10
Physical abuse/assault	1	1	2	2
Negative comments about colleagues/leaders		39	44	52
Constant nitpicking/faultfinding		30	34	38
No teamwork/reluctant to follow safety practices		25	26	31
Shaming, spreading malicious rumors		17	18	22
Insulted due to race/religion/ gender/appearance		5	5	7
Throwing objects		2	2	2
Disrespect during virtual meetings, email, online			11	13

Source: https://www.ismp.org/resources/addressing-disrespectful-behaviors-and-creating-respectful-healthy-workplace-part-ii#:~:text=In%20late%202021%2C%20ISMP%20conducted,the%20definition%20of%20disrespectful%20behavior

Reporting & Barriers to Reporting

IDENTIFY TRENDS

PROVIDE EDUCATION /OUTREACH/ SUPPORT

REDUCE ADVERSE EVENTS

IMPROVE TEAMWORK

REDUCE BURNOUT

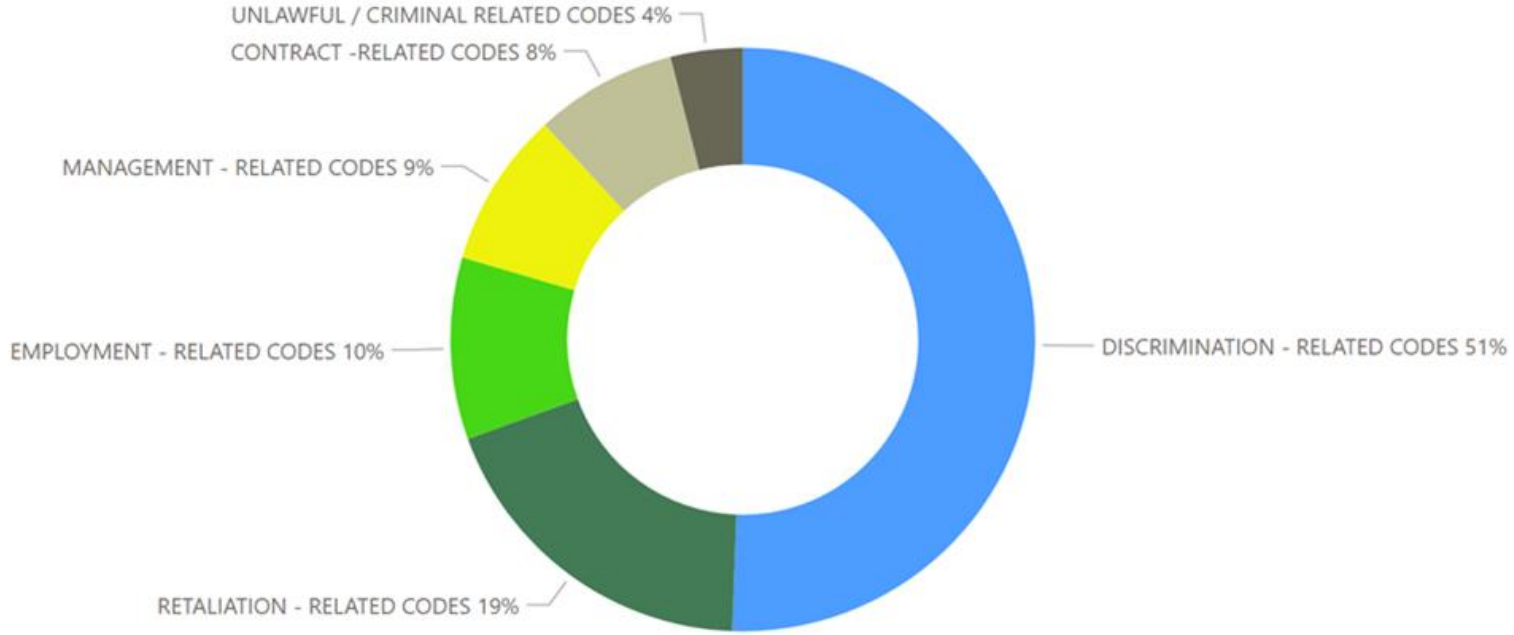
Barriers to Reporting

- Unclear on what to report
- Lack of follow up/intervention
- Fear of retaliation/intimidation
- Time constraints

Employment Liability Claims

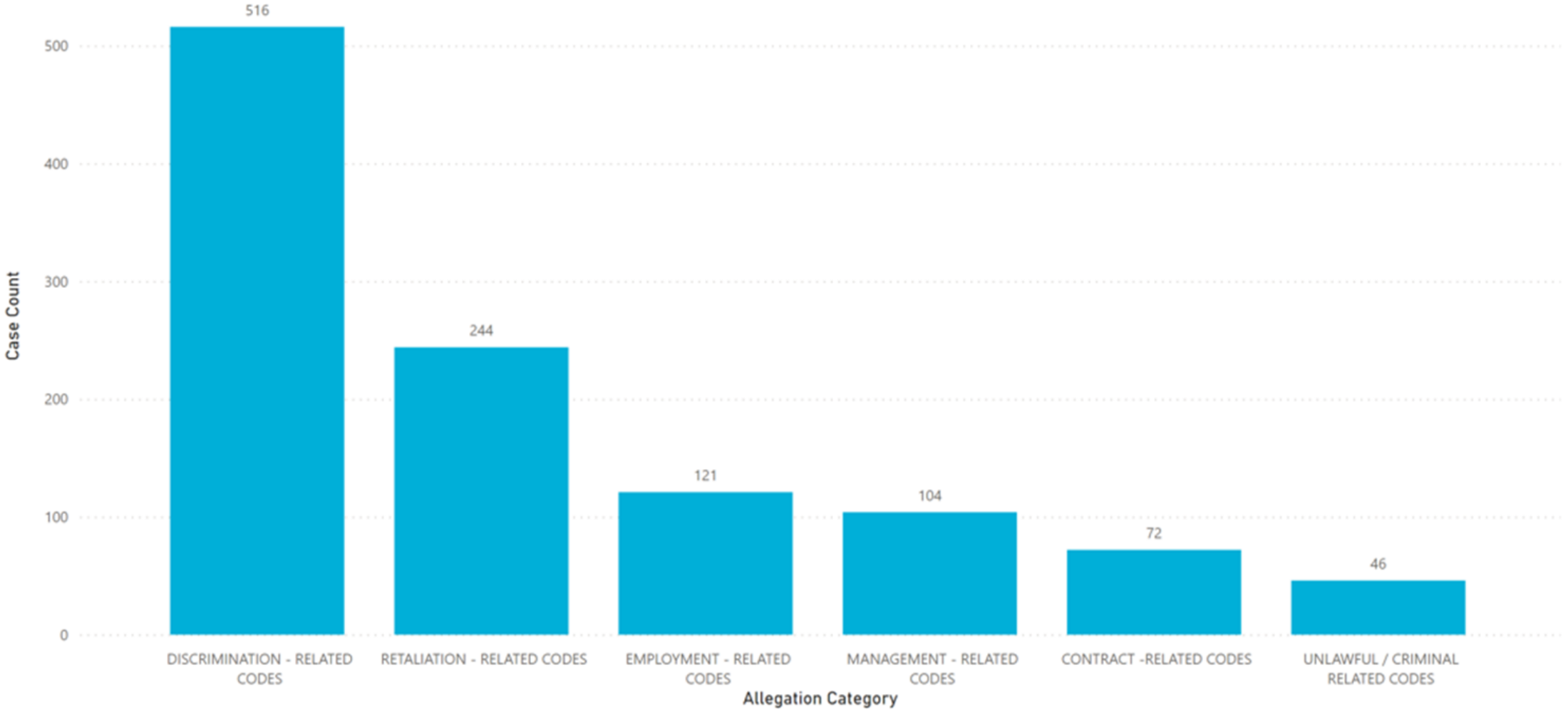
Half of all allegations (and 82% of cases) involve discrimination

Count of Allegations by Allegation Category



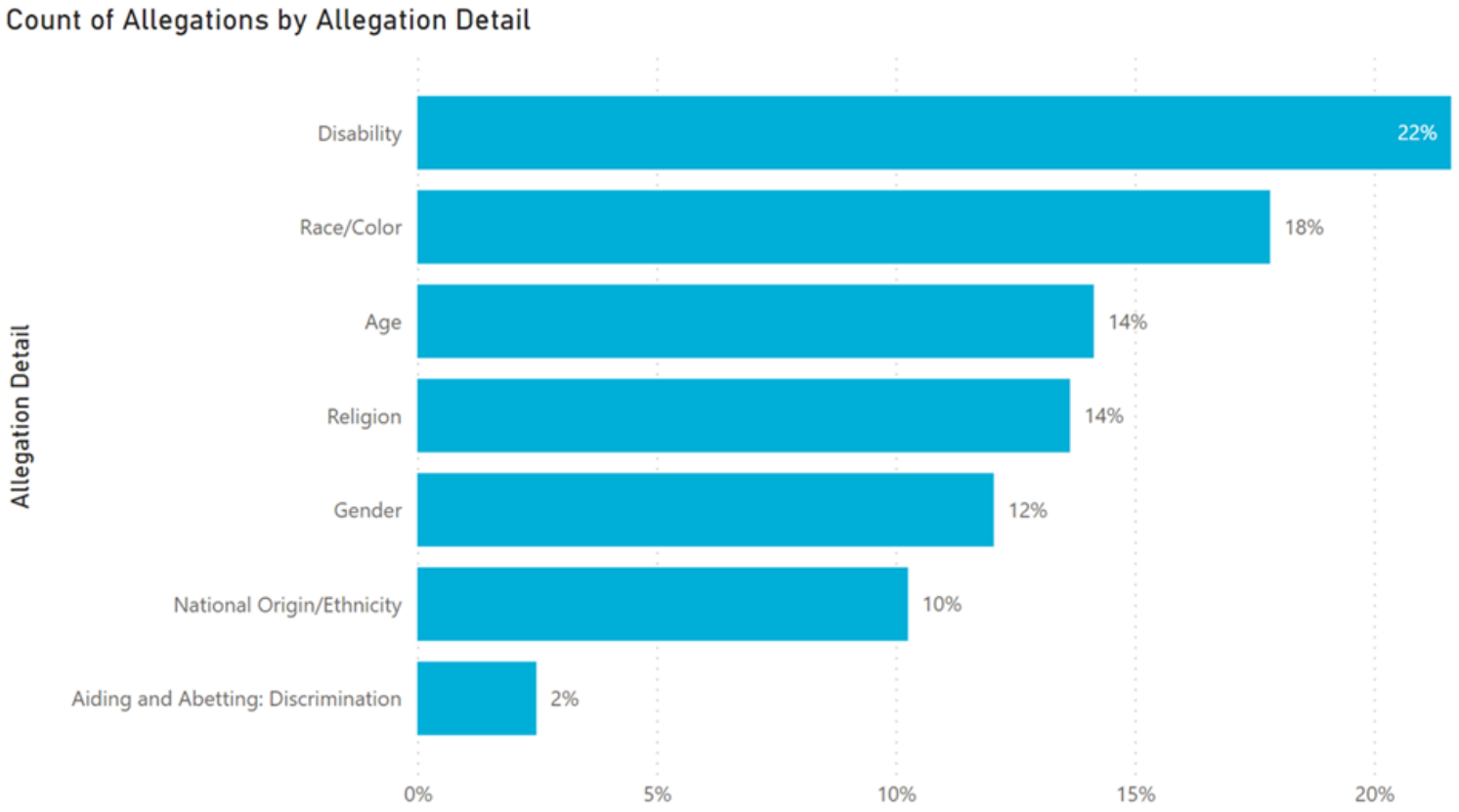
N=1985 allegations in 628 employment liability cases asserted 2008-2023 as of 10/10/2023

Case Count by Allegation Category



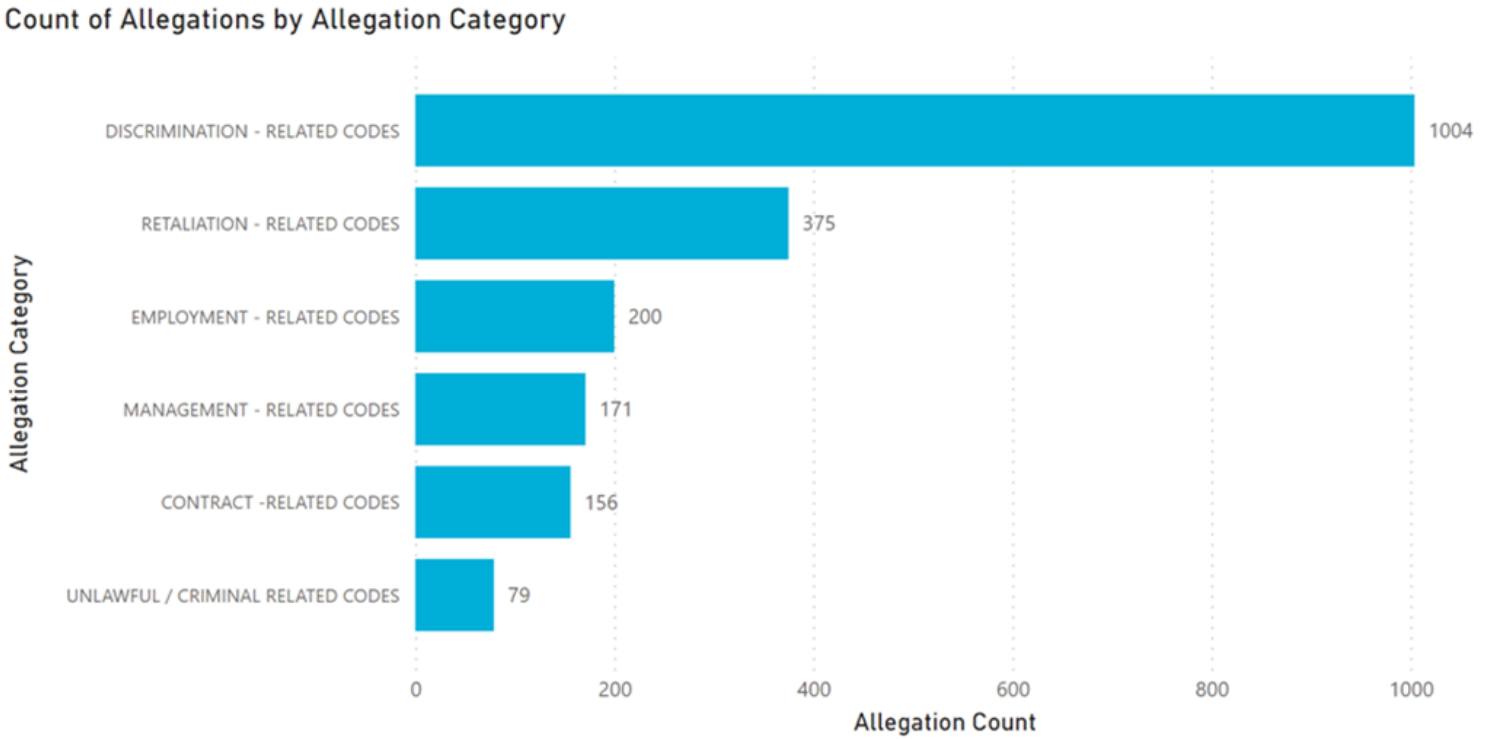
N=1985 allegations in 628 employment liability cases asserted 2008-2023 as of 10/10/2023

Top 3 Allegations: Disability, Race/Color, and Age



N=1985 allegations in 628 employment liability cases asserted 2008-2023 as of 10/10/202

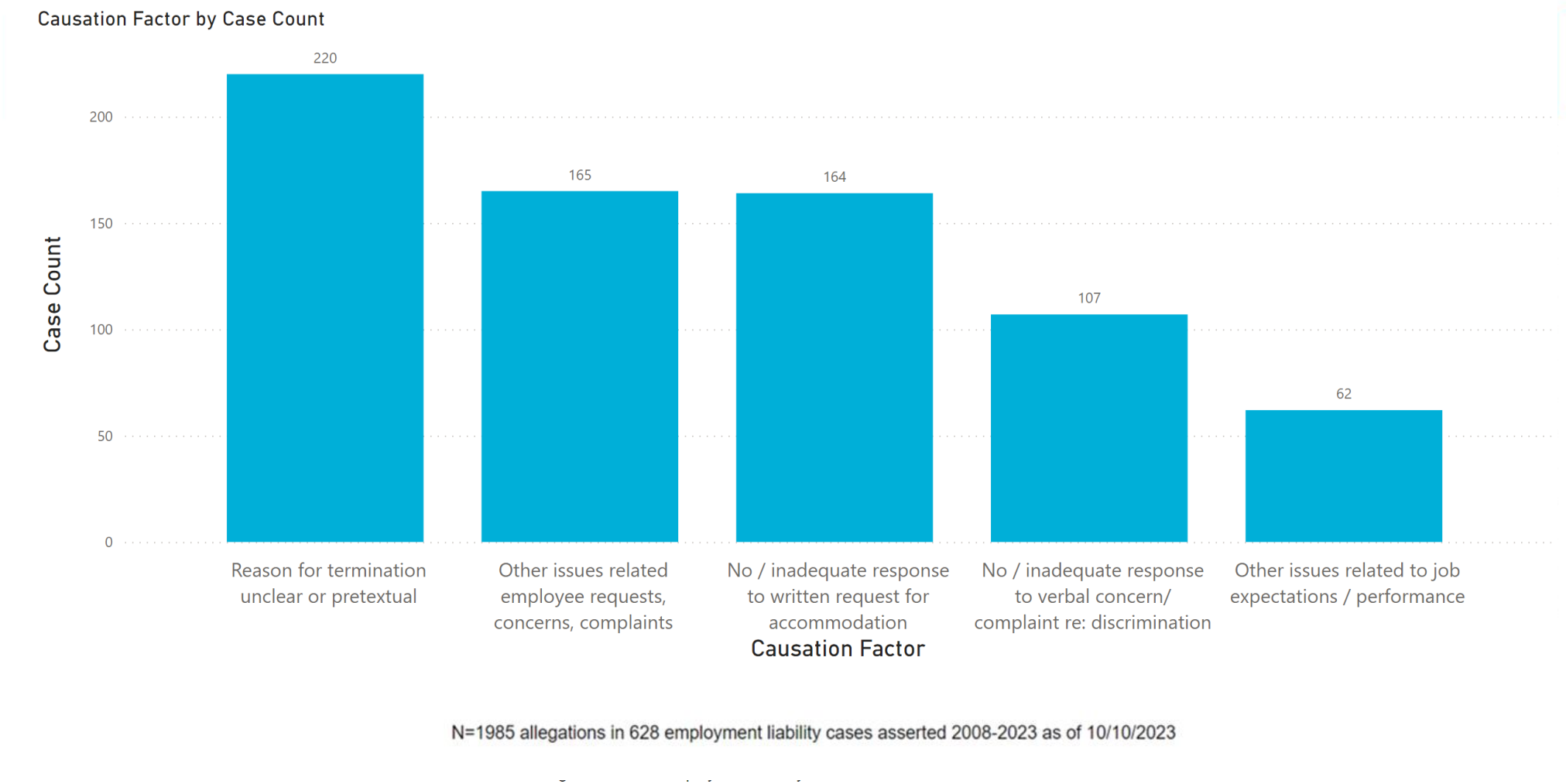
Discrimination Subcategory



Allegation Detail	Allegation count
Disability	217
Race/Color	179
Age	142
Religion	137
Gender	121
Retaliation: MGLc 151B	117
National Origin/Ethnicity	103
Hostile Work Environment (related to Protected Class)	80
RETALIATION RELATED ISSUES - NOC	75
Breach of Contract	60
Retaliation: Healthcare Whistle Blower Act	60
Tortious interference w/Advantageous or Contractual Relations	60
Retaliation: FMLA	34
Retaliation: ADA	33
Retaliatory Termination	32

N=1985 allegations in 628 employment liability cases asserted 2008-2023 as of 10/10/2023

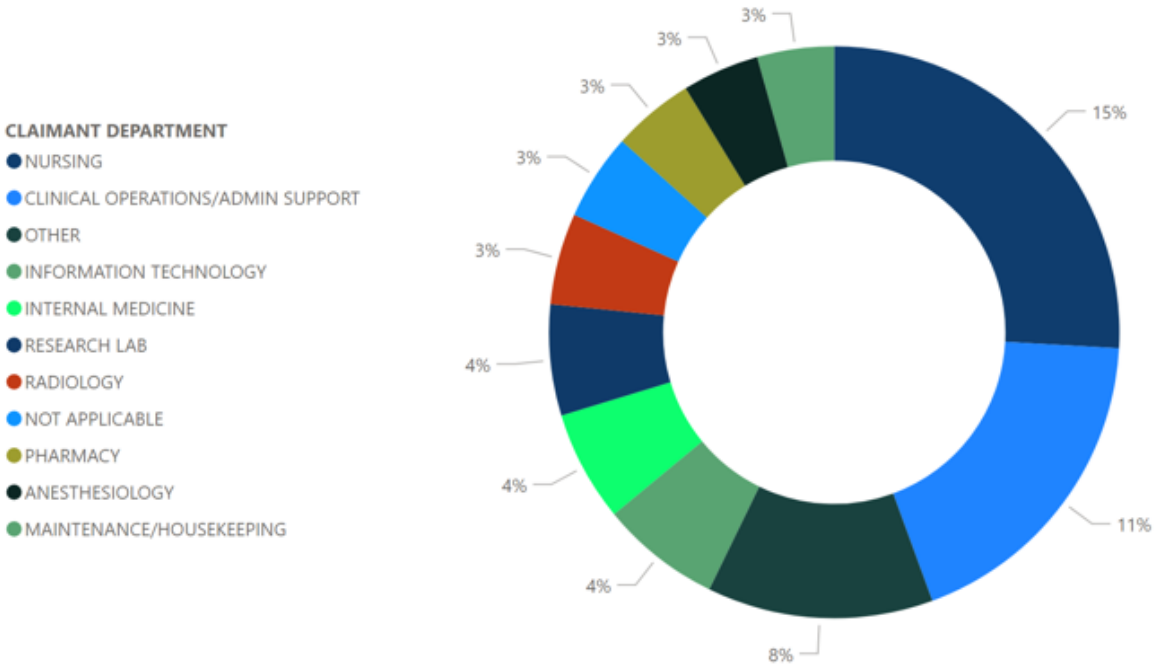
Causation Factors



N=1985 allegations in 628 employment liability cases asserted 2008-2023 as of 10/10/2023

Claimant Department

Case Count by Claimant Department



Claimant Role	Case Count
Clerical Staff	112
RN/LPN	100
Attending/Consult	63
Clinical Technician	52
Other	42
Other Org Dept	39
IT/IS	24
Maint/Housekpng	17
Medical Assistant	17
Not Applicable	17
Other Pt Support	17
Mental Health	12
Nursing Assistant	11
Pharmacist	11

N=1985 allegations in 628 employment liability cases asserted 2008-2023 as of 10/10/2023

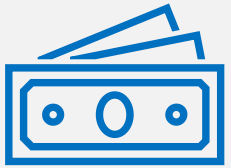
Costs related to EPL

- Reputation
- Hiring and Retention
- Financial

Financial Costs

424

Cases



$93.5M

Total Indemnity Paid

Best Practices for Mitigating Risks

Recommendations

Develop a code of conduct policy and define the process

Establish an escalation policy to manage conflicts

Manage and document the complaint and the response

Share findings

Recommendations

Enforce the code of conduct policy for all

Provide education and training at onboarding and annually

Consider 360 reviews

Leaders need to model professional behavior

Rapid PULSE 360 Pilot Program

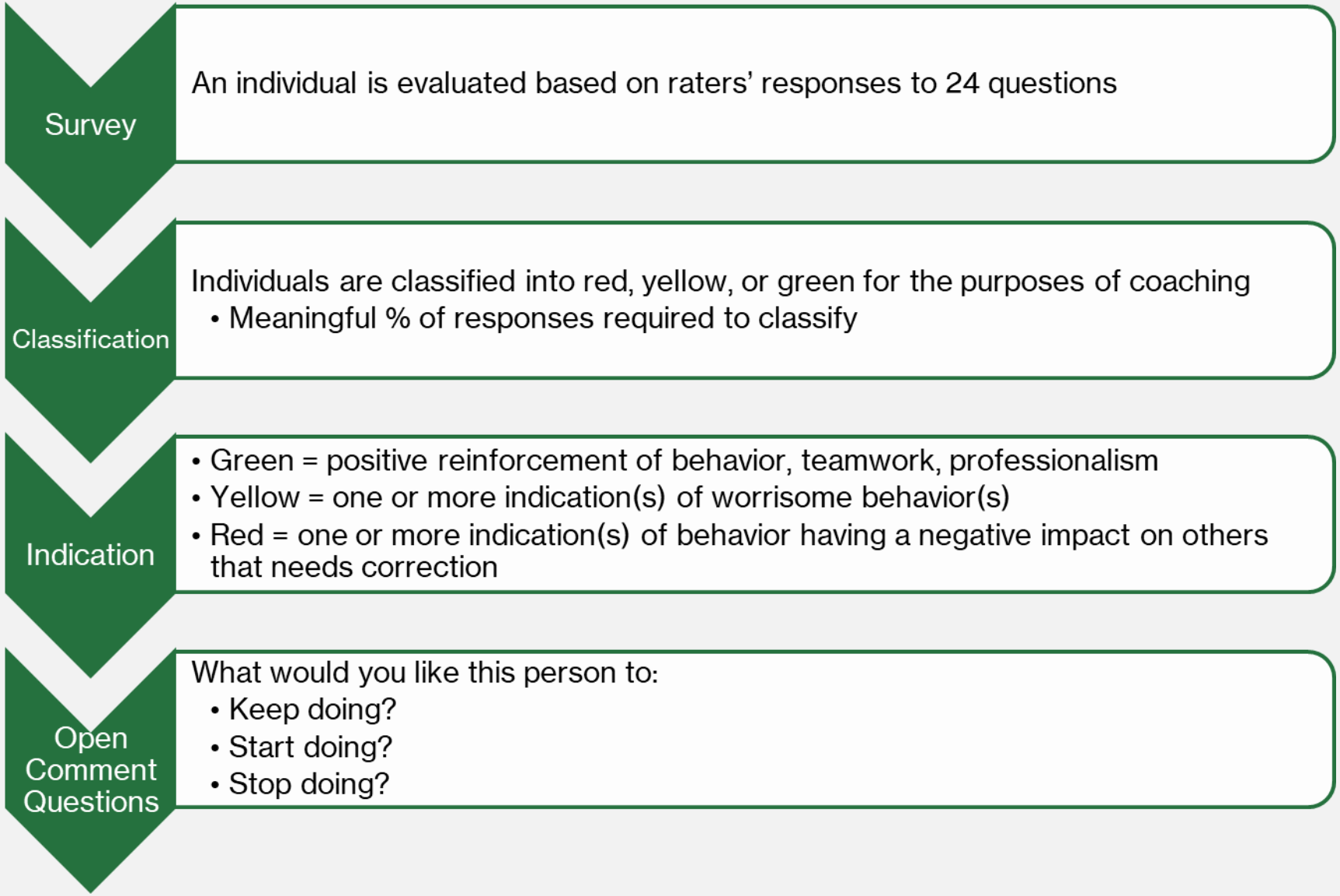
CRICO-directed Grant Program

Two Components

Evaluate

Coach

The Evaluation



Coaching

Topic	Description	Impact
Debrief	Each individual receives a debrief from a PULSE coach	
Coaching	Individuals identified as yellow or red	Offered coaching Assisted in developing a plan of action Re-surveyed 6–9 months after initial survey and post-coaching

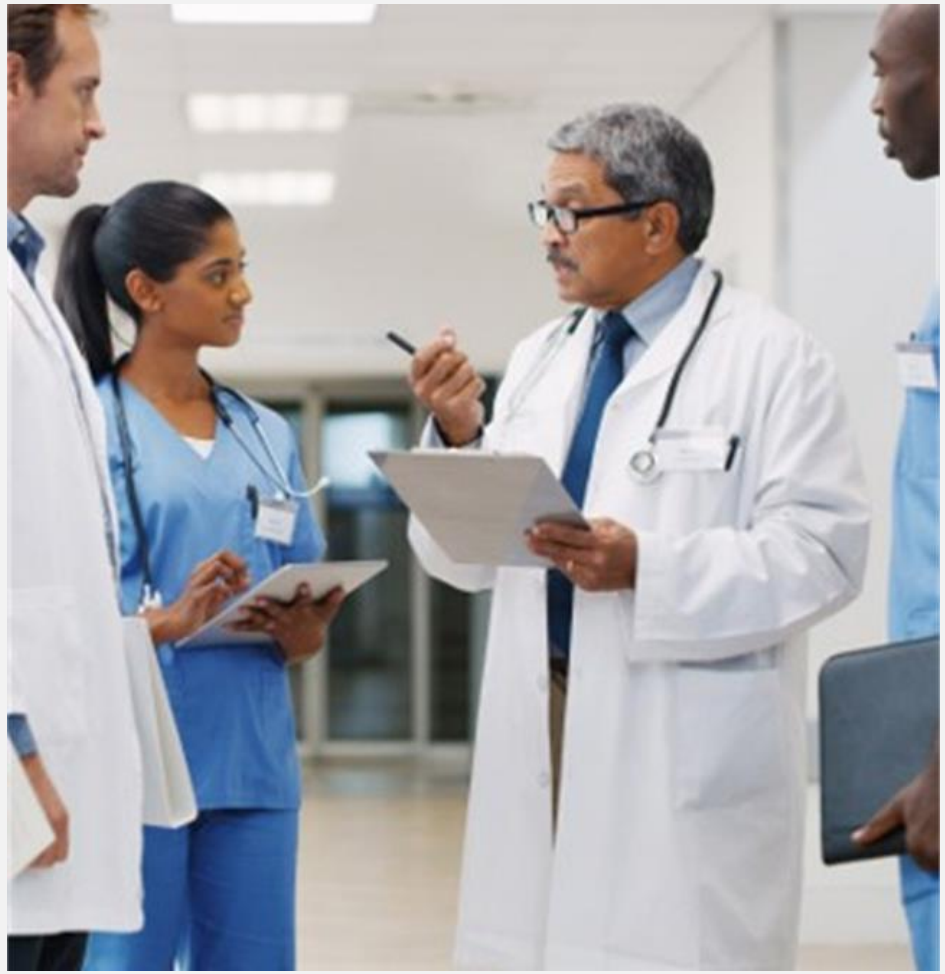
Coaching is Effective at Changing Behavior

Study of 300 individual:

- 15 with coaching (3-6 hours)
- 150 without coaching

After re-evaluating:

- Those with coaching had a meaningful improvement in their scores
- Those without coaching scored the same or worse



525 Individuals Evaluated

May-September 2023

Participants reflect a broad variety of settings and roles.

2 Academic Medical Centers

3 Specialty Hospitals

2 Community Hospitals

Physicians

Nurse Practitioners

Physician Assistants

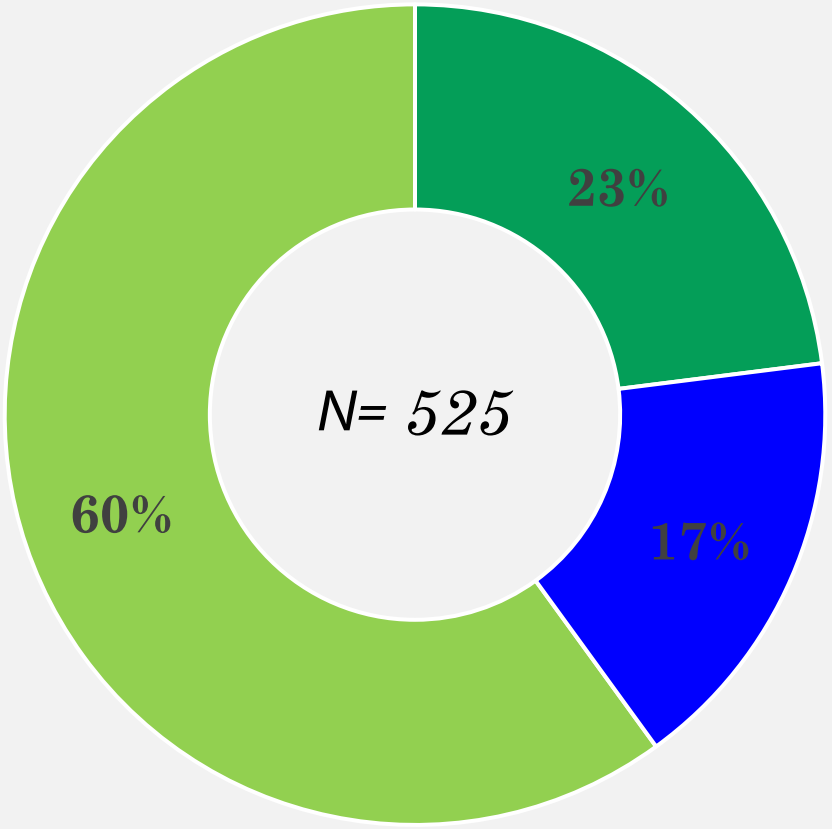
Clinical Leaders

20+

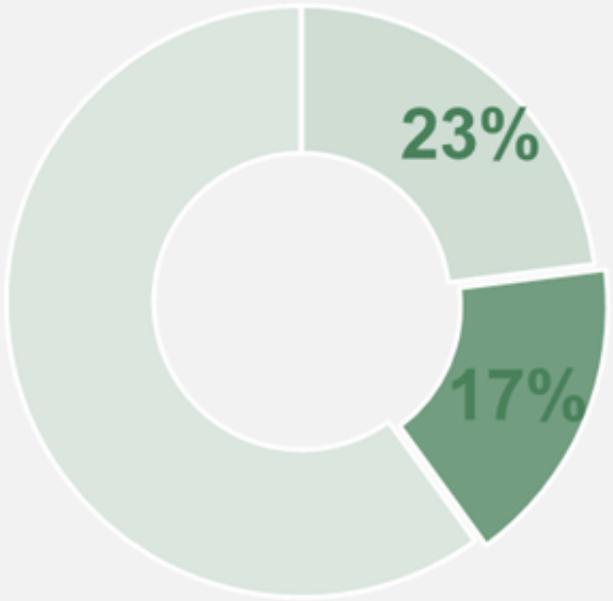
Service lines /areas

60% of participants classified “green”

Results through September 30, 2023



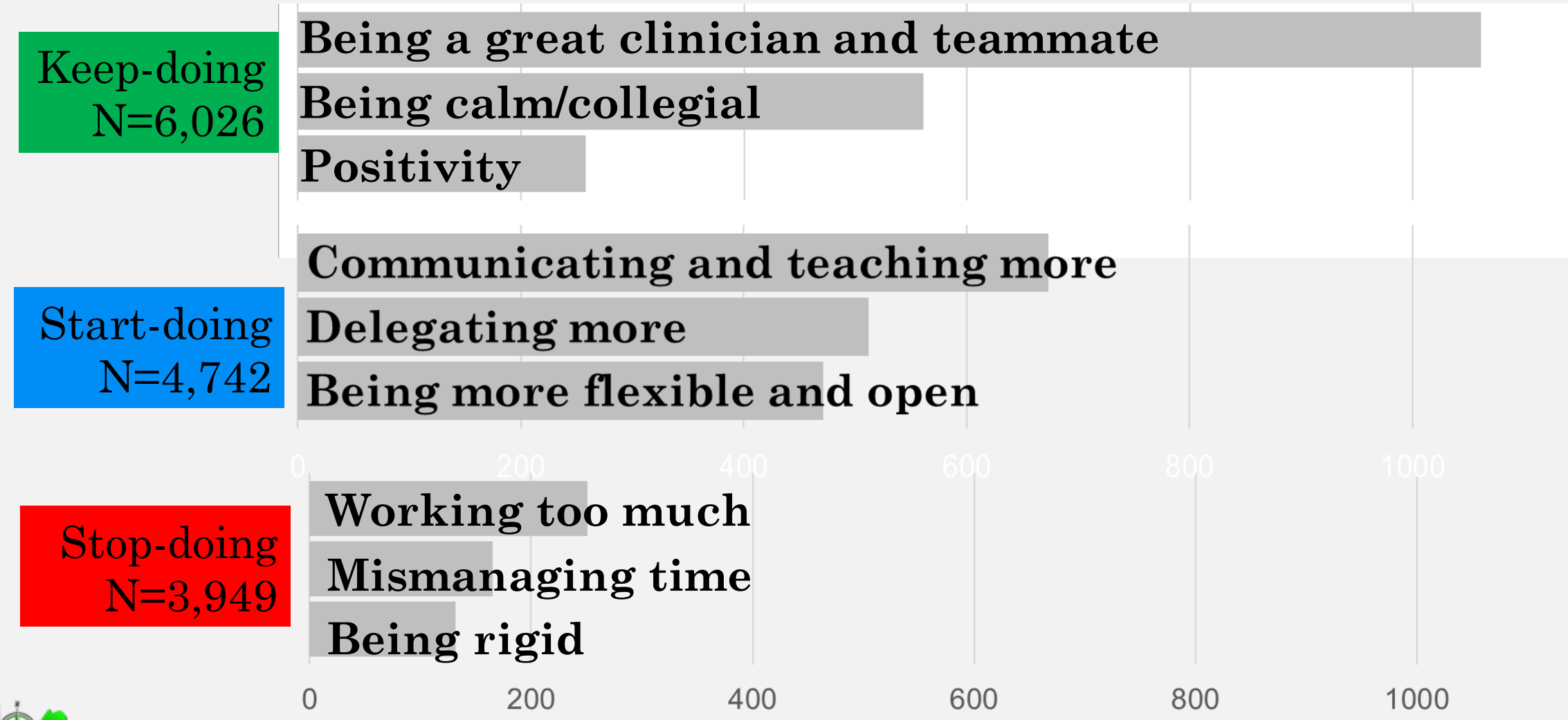
Less than half of coaching-eligible participants utilizing coaching



40%
are eligible
for coaching

47% of those eligible are currently participating

Behavioral Themes



~ 15,000 Responses

Observations

Both subjects and raters are engaged

Feedback is appreciated and motivating for those being rated

Raters provide meaningful comments

Behaviors in the yellow and red groups highlight concerns regarding:

Individuals' well being (burnout, lack of focus, absent-mindedness

Mentoring, training, delegation of and communication with staff

Patient satisfaction (e.g. patient complaints, interactions with patients

Level of respect/patience with others

Thematic insights

May help inform organizational priorities around improving culture and employee satisfaction

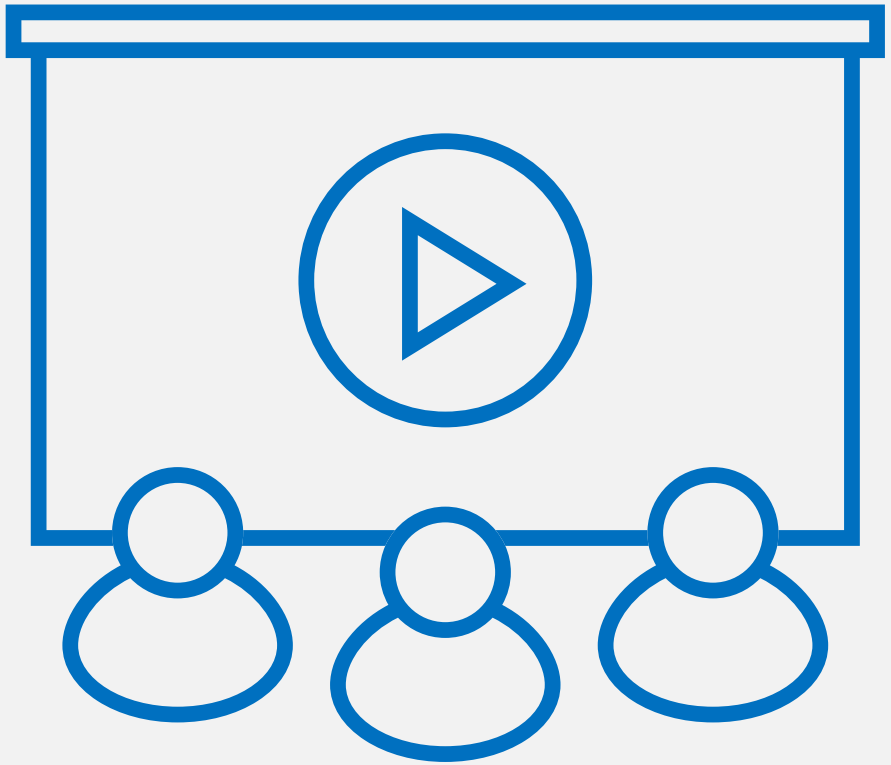
Broader Lessons

- Culture and EPL risk go hand-in-hand
- Feedback tools/coaching support individuals and can help them be more effective in working and communicating with others
- Addressing worrisome behaviors early can avert crisis

Education and Training

Provide ongoing education—
the what, where, & why to report

Develop a mechanism to strengthen feedback & close the loop on reported safety events



Education and Training

Create a Diversity Awareness Program

Initiate Unconscious Bias Training (including generational gaps)

Provide peer training/coaching on difficult conversations with other team members

Education and Training

TEAMSTEPPS

- e.g. CUS (I am concerned, I am uncomfortable, this is a safety issue)

Cultivate teamwork with simulation programs

- Extend simulation exercises to include topics such as conflict resolution and speaking up
- Include debriefs

Leadership - Accountability

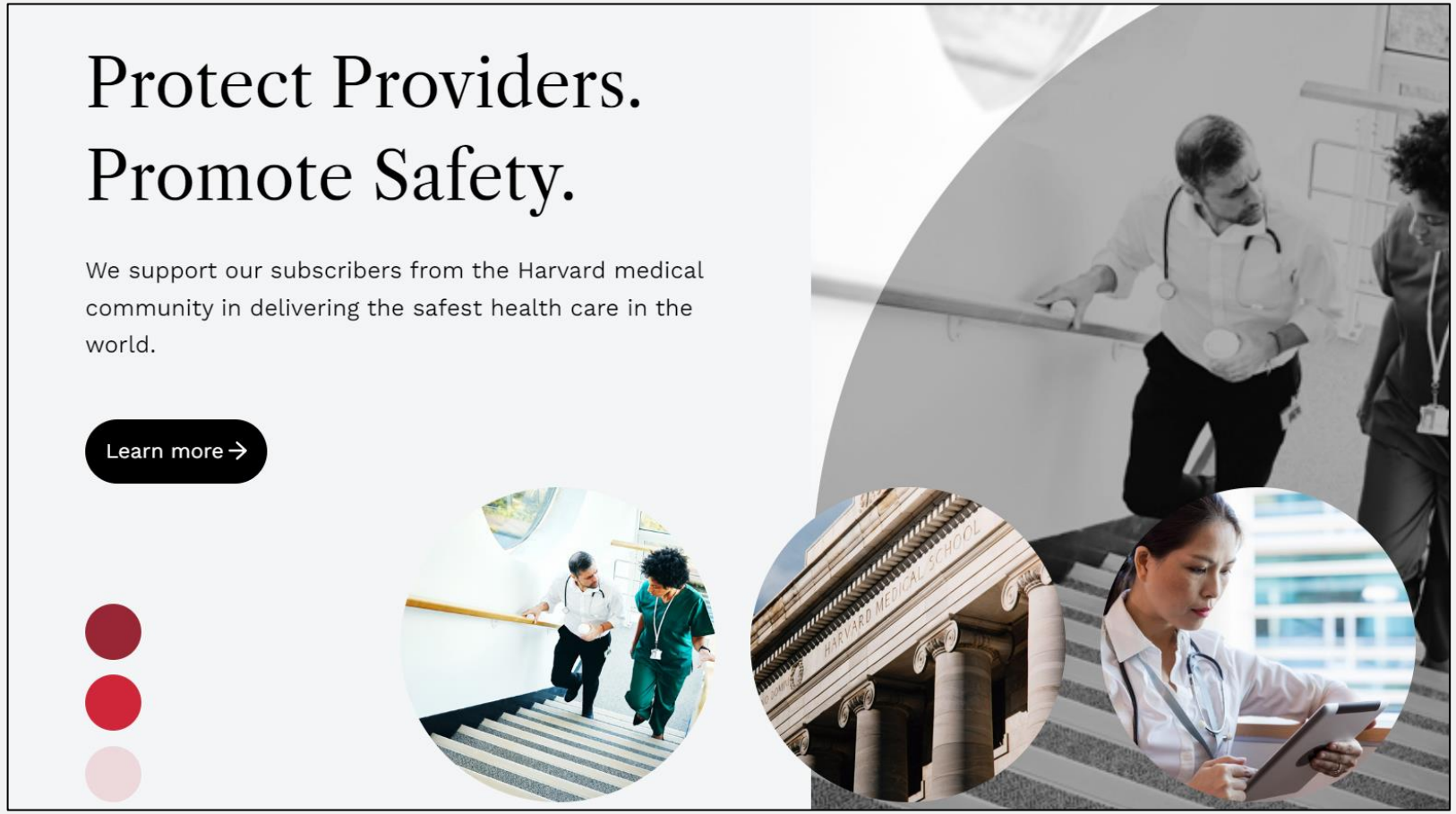
- Professionalism – addressing disrespectful behavior across all disciplines
- Develop an inter-professional model for open communication and shared decision making
- Consider 360 evaluations

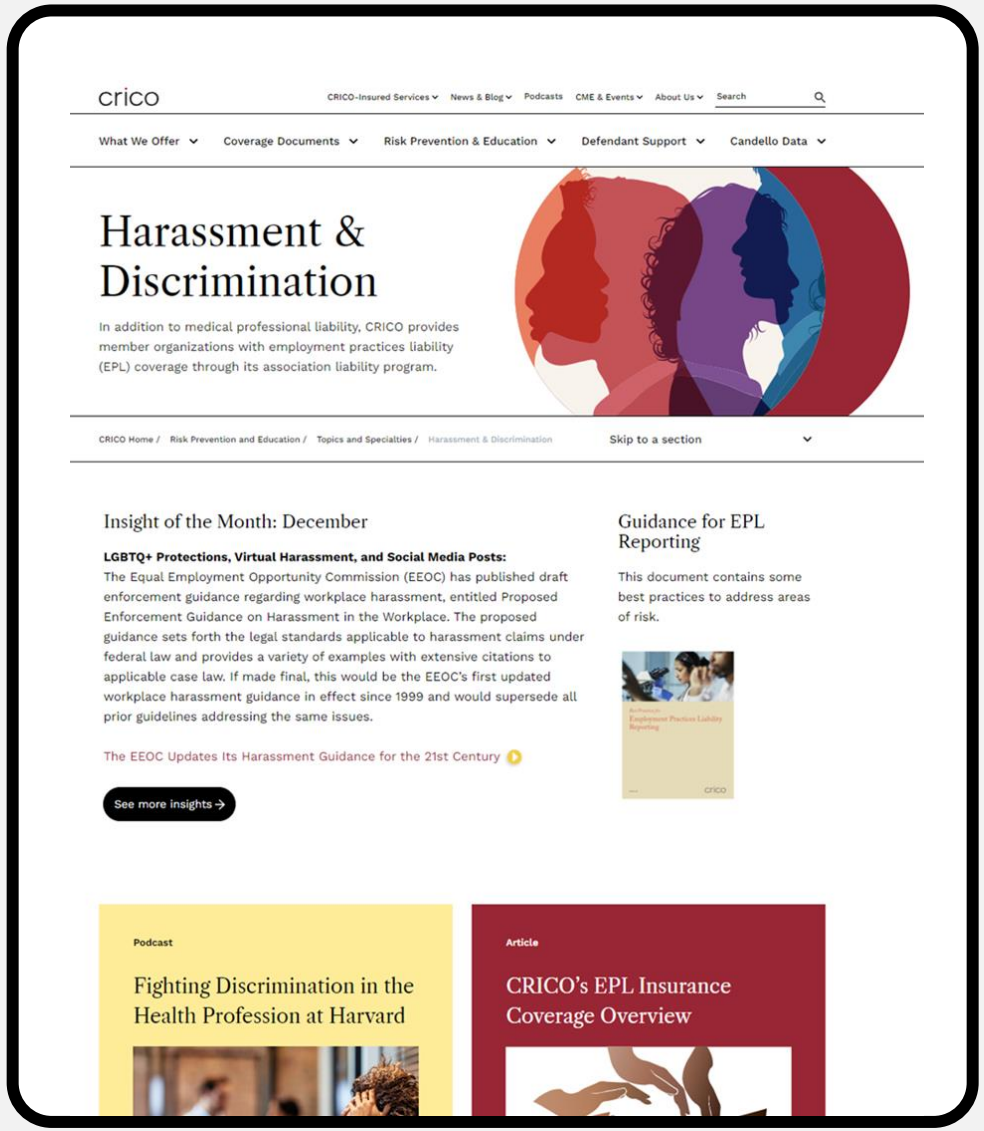
Next steps

- Expand 360 reviews to subscriber organizations
- Require mandatory coaching for yellow and red results
- Develop best practice for management of staff in these categories
- Conduct forum to train faculty on SmART (Smart Appropriate Response Training for Residents)
- Develop best practices for disability accommodations

Resources

www.rmf.harvard.edu

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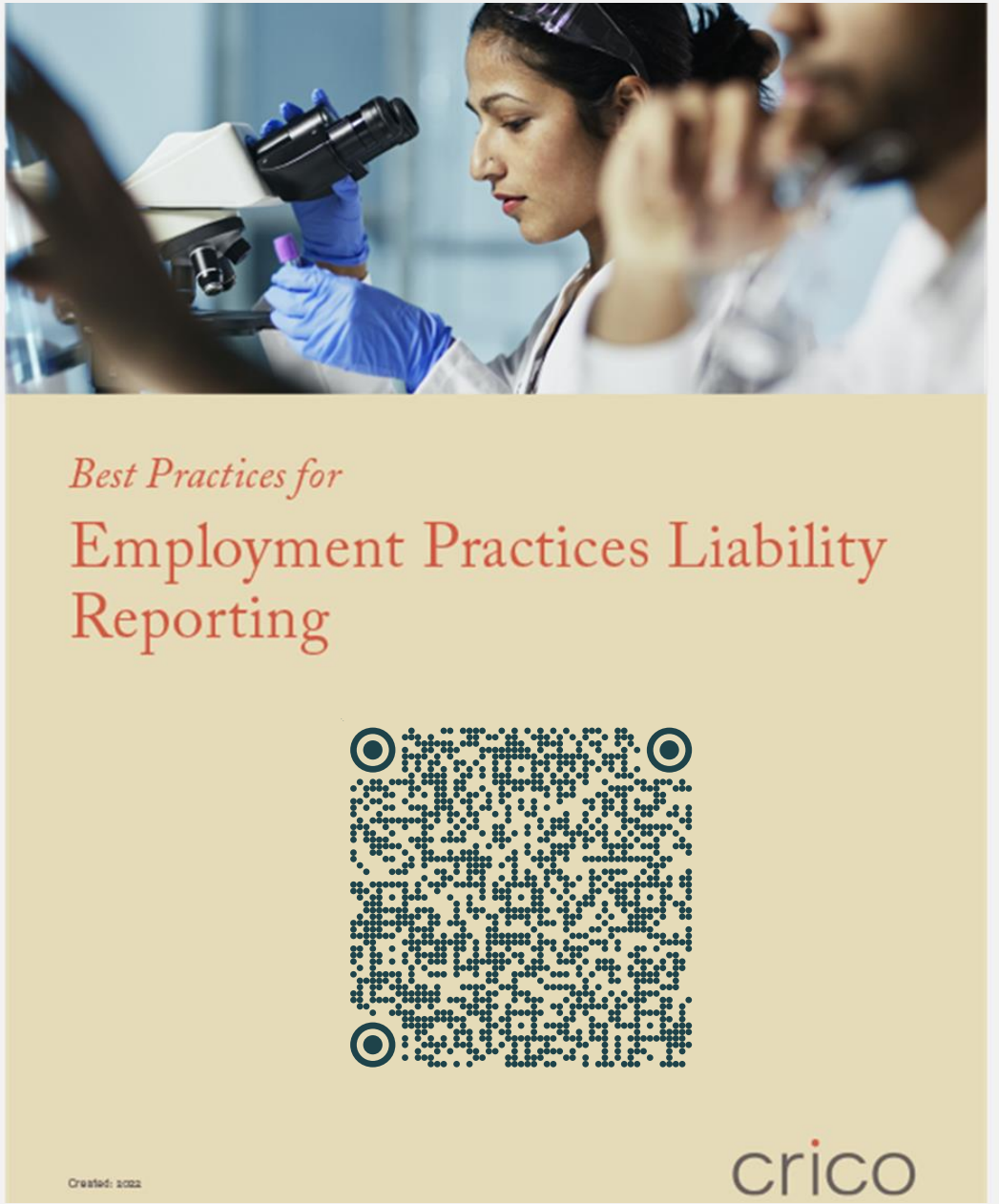
In addition to medical professional liability, CRICO provides member organizations with employment practices liability (EPL) coverage through its association liability program.
CRICO Home / Risk Prevention and Education / Topics and Specialties / Harassment & Discrimination
Skip to a section
Insight of the Month: December
LGBTQ+ Protections, Virtual Harassment, and Social Media Posts:
The Equal Employment Opportunity Commission (EEOC) has published draft enforcement guidance regarding workplace harassment, entitled Proposed Enforcement Guidance on Harassment in the Workplace. The proposed guidance sets forth the legal standards applicable to harassment claims under federal law and provides a variety of examples with extensive citations to applicable case law. If made final, this would be the EEOC's first updated workplace harassment guidance in effect since 1999 and would supersede all prior guidelines addressing the same issues.
The EEOC Updates Its Harassment Guidance for the 21st Century
See more insights
Guidance for EPL Reporting
This document contains some best practices to address areas of risk.
Podcast
Fighting Discrimination in the Health Profession at Harvard
Article
CRICO's EPL Insurance Coverage Overview


Best Practices for
Employment Practices Liability Reporting
Created: 2022
crico

EPL Insight of the Month

Questions/Discussion

Thank you

Please contact with follow up questions
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