

Medical Malpractice and the CRNA – Focus on Patient Safety

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What is Medical Malpractice?

- A breach of the duty which arises out of the relationship between a healthcare provider and a patient
- Covers a variety of causes, including
 - Breach of contract
 - Intentional torts
 - Negligence

Why is there access to courts for medical malpractice claims?

- Compensation to a patient for an injury
 - Civil claims
 - Criminal claims
 - Role of insurance
- Deterrence
 - “Quality Assurance?”

What must be shown?

- Legal Duty
- Injury – and Causation directly related to the care provided
- Breach in the Standard of Care
- Damages

What must be shown?

- Establish a “legal duty”
 - Contractual relationship
 - Express or implied contract
 - Good Samaritan exception
 - Scope of Duty
 - Treat in accordance with the standards of acceptable practice
 - Continue until the natural termination of the relationship

Types of Claims

- Breach of Contract
- Breach of Warranty
- Intentional Tort
 - Assault and Battery
 - Defamation
 - False Imprisonment
 - Invasion of Privacy and Wrongful Disclosure of Confidential Information
 - Misrepresentation
 - Outrage (intentional infliction of emotional distress)
 - Violation of Civil Rights

Professional Negligence

- Standard of Care
 - “The Reasonable Physician”
 - Local, State or National Standard
 - “School rule”
 - Especially important regarding non-physician providers
 - Areas of Expertise/Competence
 - Requirement for referral
 - Standard of Reasonable Prudence

Proving the Standard of Care/ Breach of the Standard

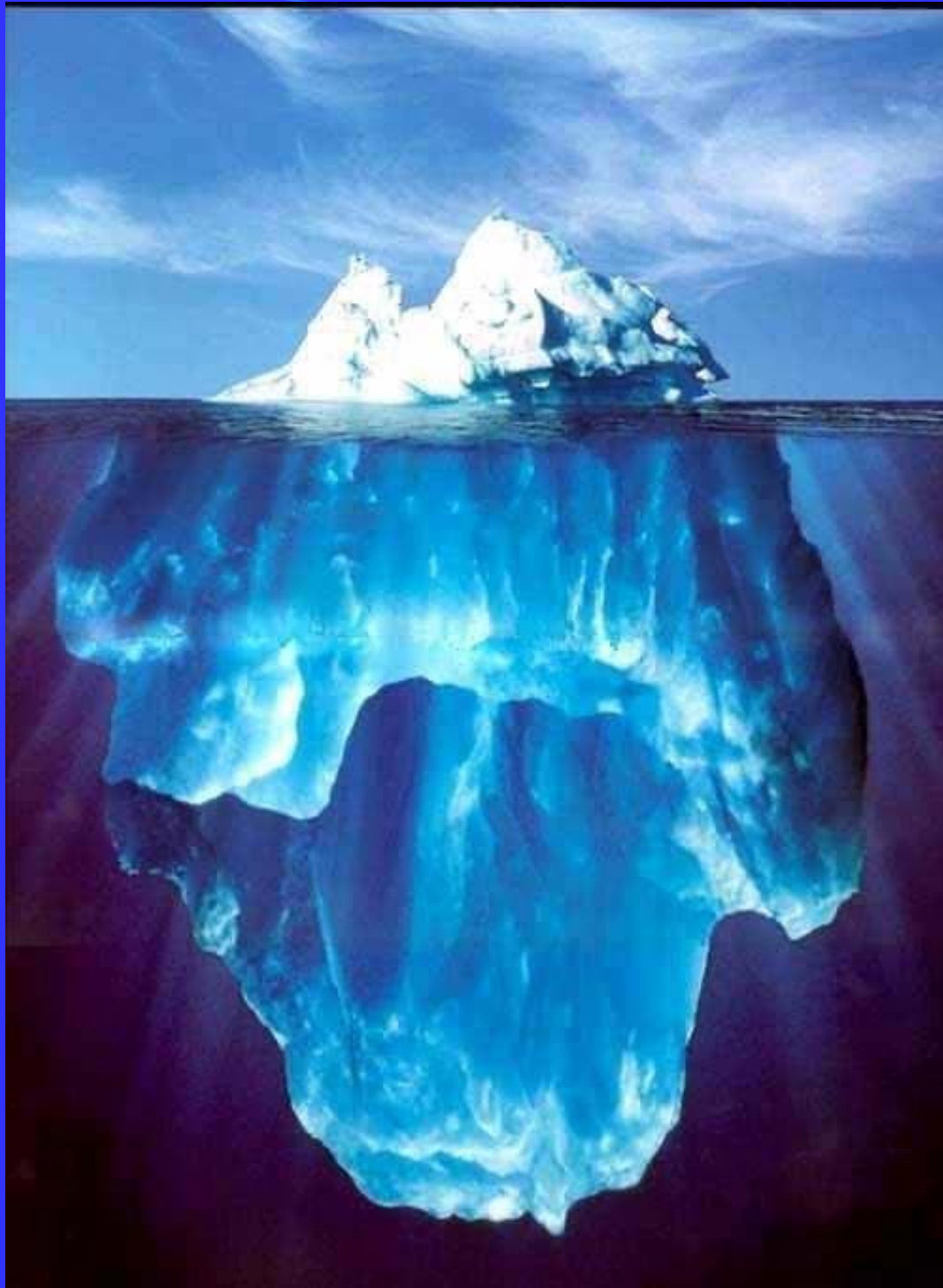
- **Expert Testimony**
 - Experienced and Knowledgeable about the Standard of Care
 - National vs. Local Experts/ Standards
 - Professional Qualifications
- **Negligence Per Se/ Statutory Liability**
- **Common Knowledge Doctrine**
 - Wrong site Surgery

Standard of Care/ Breaches

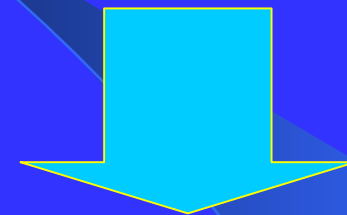
- Res Ipsa Loquitor
 - Incident would not have occurred without someone's negligence
 - Defendant had control of the apparent cause
 - Plaintiff could not have contributed to cause
- Strict Liability
- Causation and Damages
- “Loss of a Chance”

Determination of Damages

- **Actual or Compensatory Damages**
 - Economic loss
 - Medical and Rehabilitation Treatments
 - Loss of earnings
 - Non-economic Loss
 - Pain and Suffering
- **Punitive Damages**
 - Usually awarded only in egregious cases



PATIENT SAFETY



**MORE
THAN
MEETS
THE
EYE**

Basis for Claims

- **Inadequate informed consent**
 - **Poor record keeping**
 - **Mismanaged airway**
 - **Inattention to details**
 - **Violation of standards**
 - **Cover ups**

Highlight of Standards

- PS Classification
- Airway Assessment
- Anesthetic History
- Allergies
- Fasting Status
- History and Physical
- Physical Facility
- Risk Infection
- PNS
- Ventilation
- Oxygenation
- Record Keeping
- Qualified Provider
- Informed Consent
- Monitors
- Equipment

Standard 1

- **Perform a thorough and complete preanesthesia assessment**
 - ASA Classification
 - Airway Assessment
 - Anesthetic History
 - Allergies
 - Fasting Status
 - History and Physical

Standard 2

- **Obtain informed consent for the planned anesthetic intervention from the patient or legal guardian.**

Standard 3

- **Formulate a patient-specific plan for anesthesia care.**

Standard 4

- **Implement and adjust the anesthesia care plan based on the patient's physiological response.**

Standard 5

- **Monitor the patient's physiological condition as appropriate for the type of anesthesia and specific patient needs.**
 - **Ventilation cont.**
 - **Oxygenation cont.**
 - **CV Status cont.**
 - **Body temperature cont.**
 - **Neuromuscular function**
 - **Patient position**

Standard 6

- **There shall be complete, accurate and timely documentation of pertinent information on the patient's medical record.**
 - **Informed consent**
 - **Pre and Post Anesthetic evaluations**
 - **Anesthesia record - monitors, drugs, wastage**
 - **Discharge and follow-up**

Standard 7

- **Transfer the responsibility for care of the patient to other qualified providers in a manner which assures continuity of care and patient safety.**

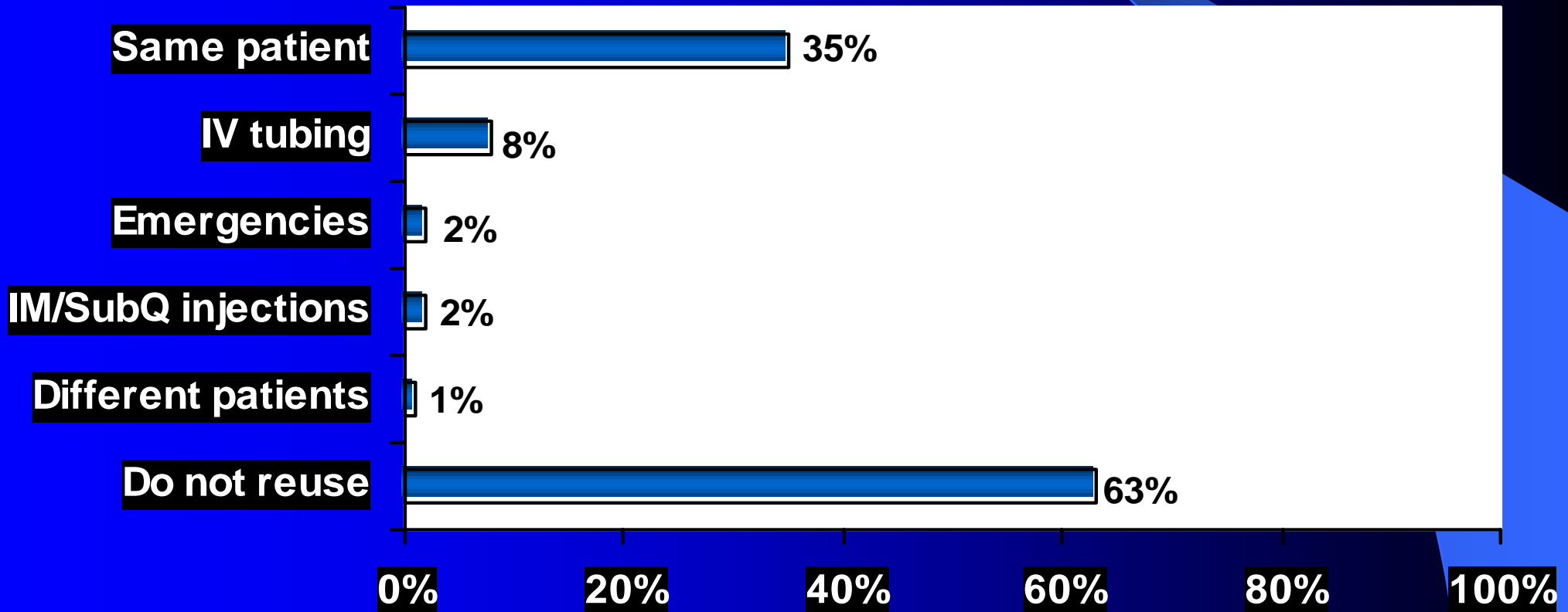
Standard 8

- **Adhere to appropriate safety precautions, as established within the institution, to minimize the risks of fire, explosion, electrical shock and equipment malfunction. Document checking: the patient's medical record, anesthesia machine, equipment.**

Standard 9

- **Precautions shall be taken to minimize the risk of infection to the patient, CRNA and other providers.**

Needle or Syringe Reuse: Applications



Standard 10

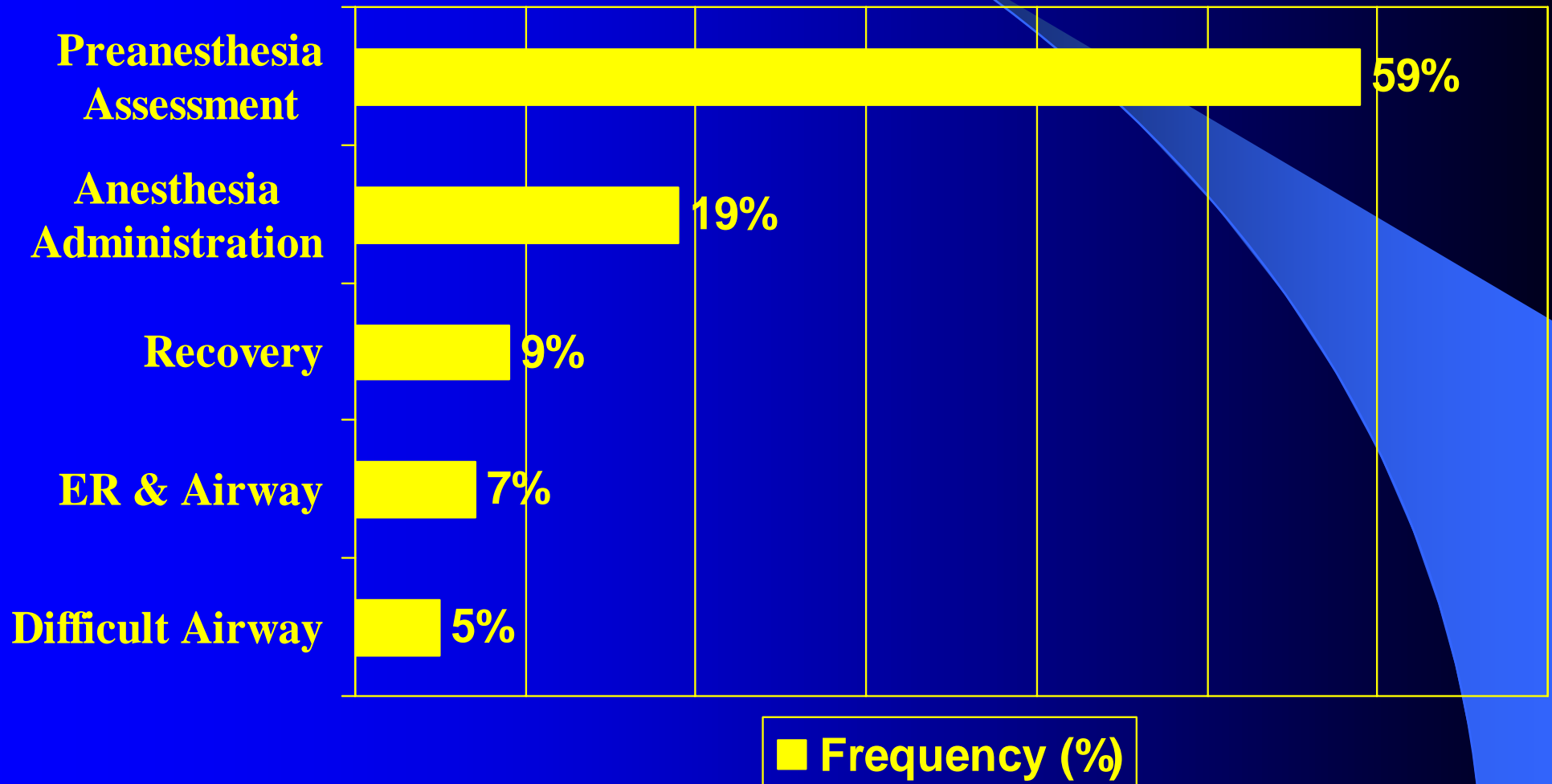
- **Anesthesia care shall be assessed to assure its quality and contribution to positive patient outcomes.**

Standard 11

- **The CRNA shall respect and maintain the basic rights of patients.**

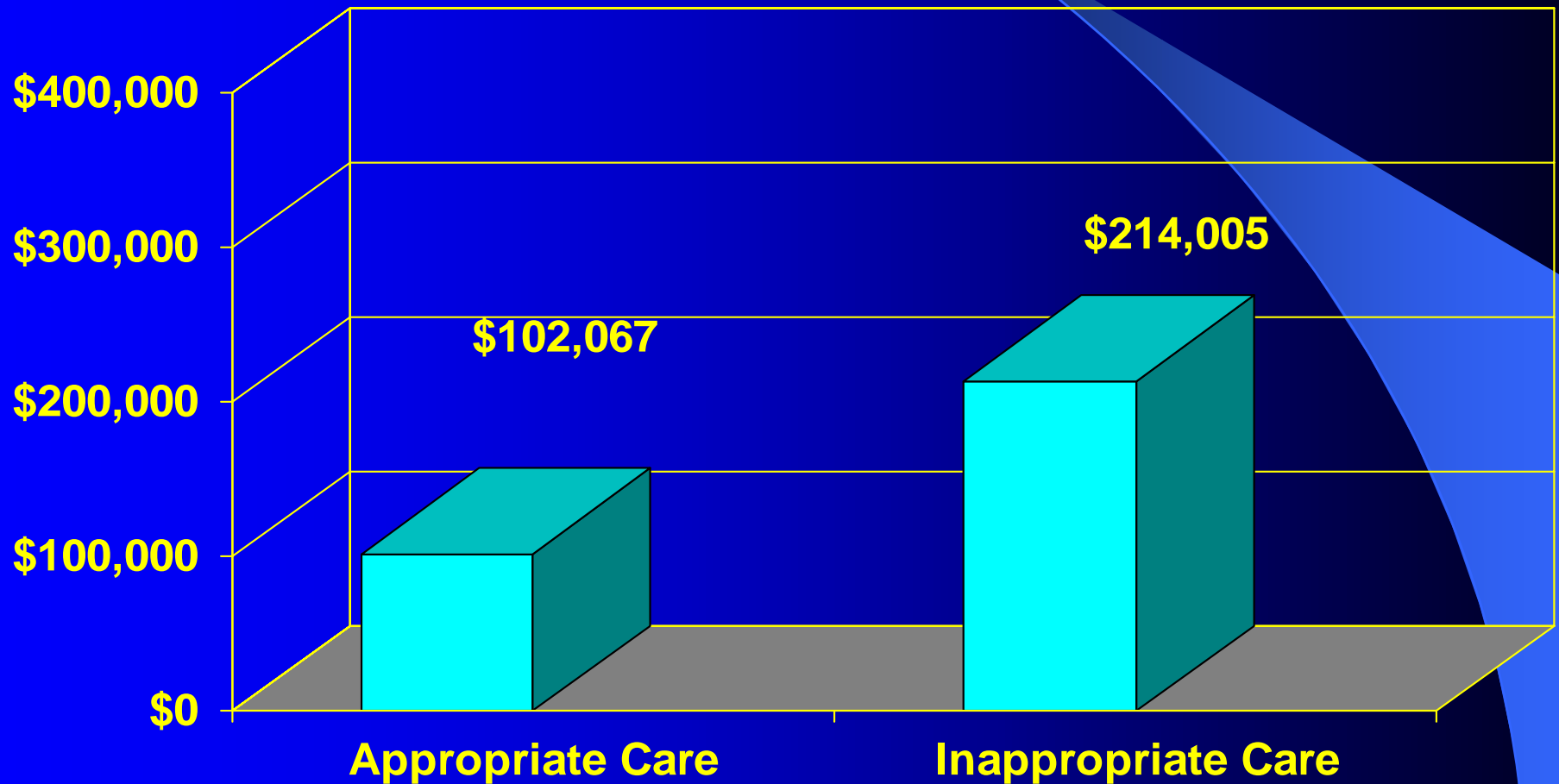
AANA Code of Ethics

Most Frequent Non-Compliant Guideline Groups



CRNA Payout for CRNA Claims

Appropriate Care versus Inappropriate Care



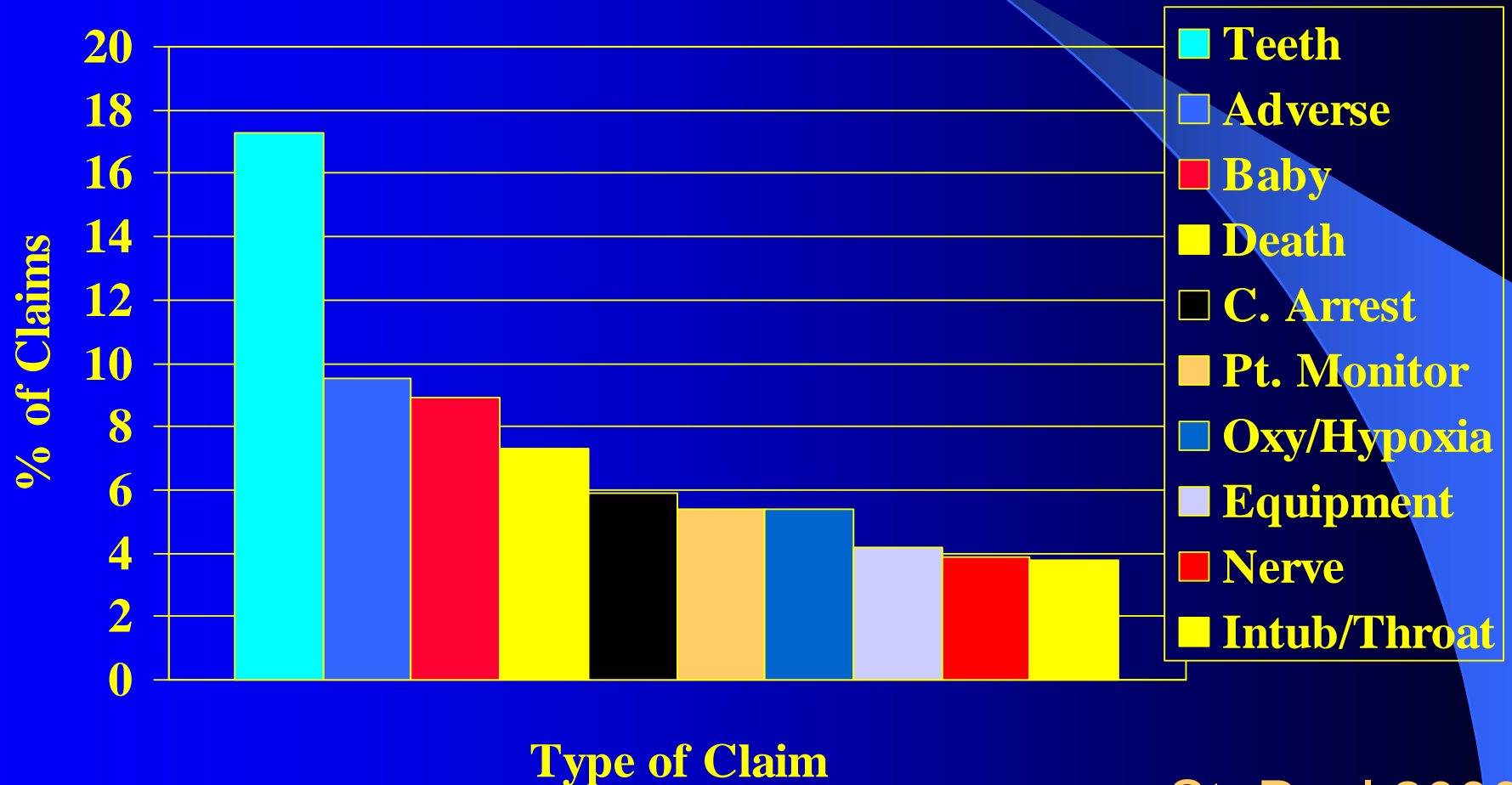
AANA Foundation, 2003

“Following orders” does not shield CRNAs from liability.

Follow the Standards

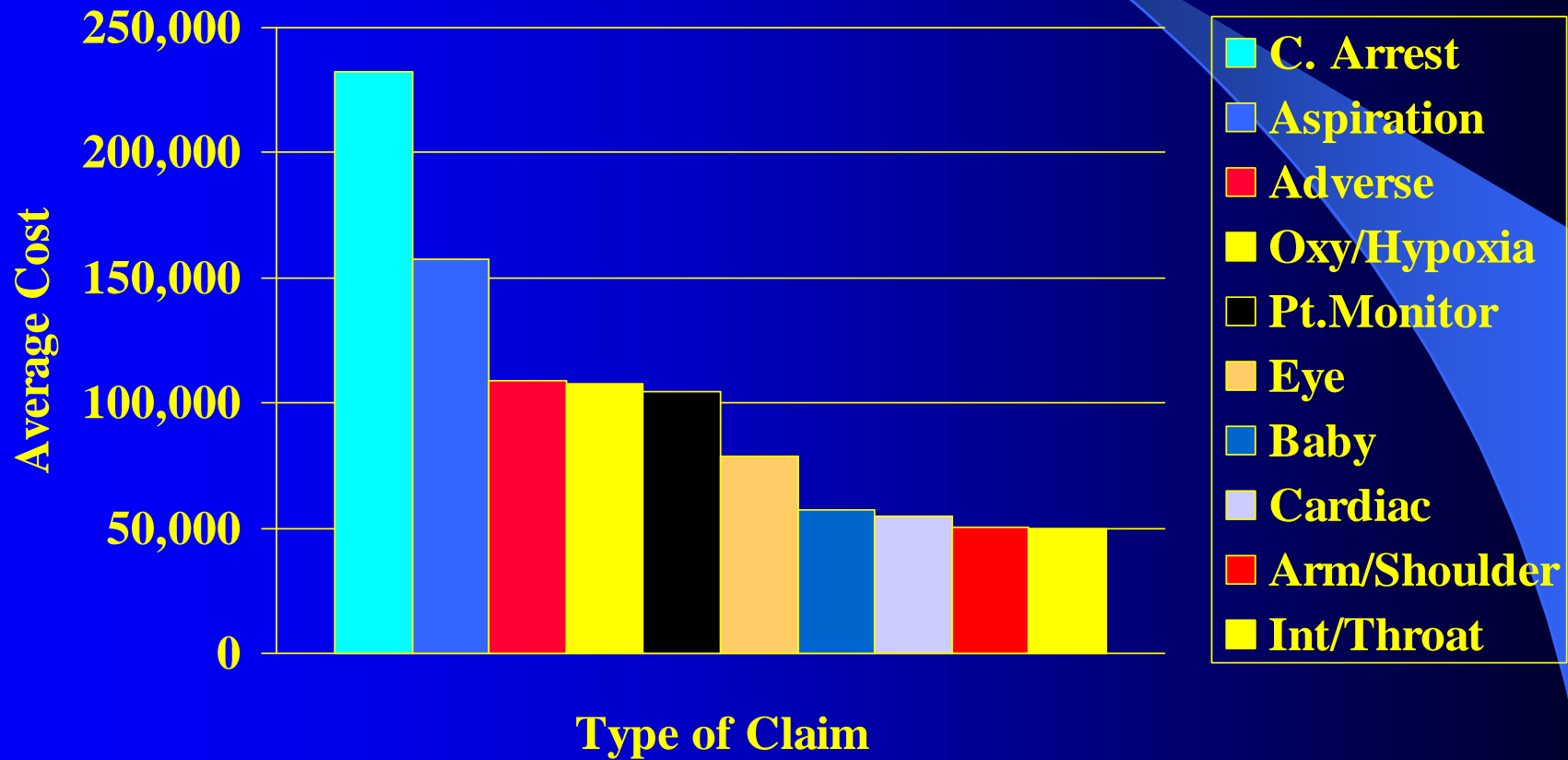
1. Read, know, and understand the Standards.
2. Incorporate the standards into your practice.
3. Monitor your practice to assure that you are meeting the standards.

Most Frequently Reported Claims



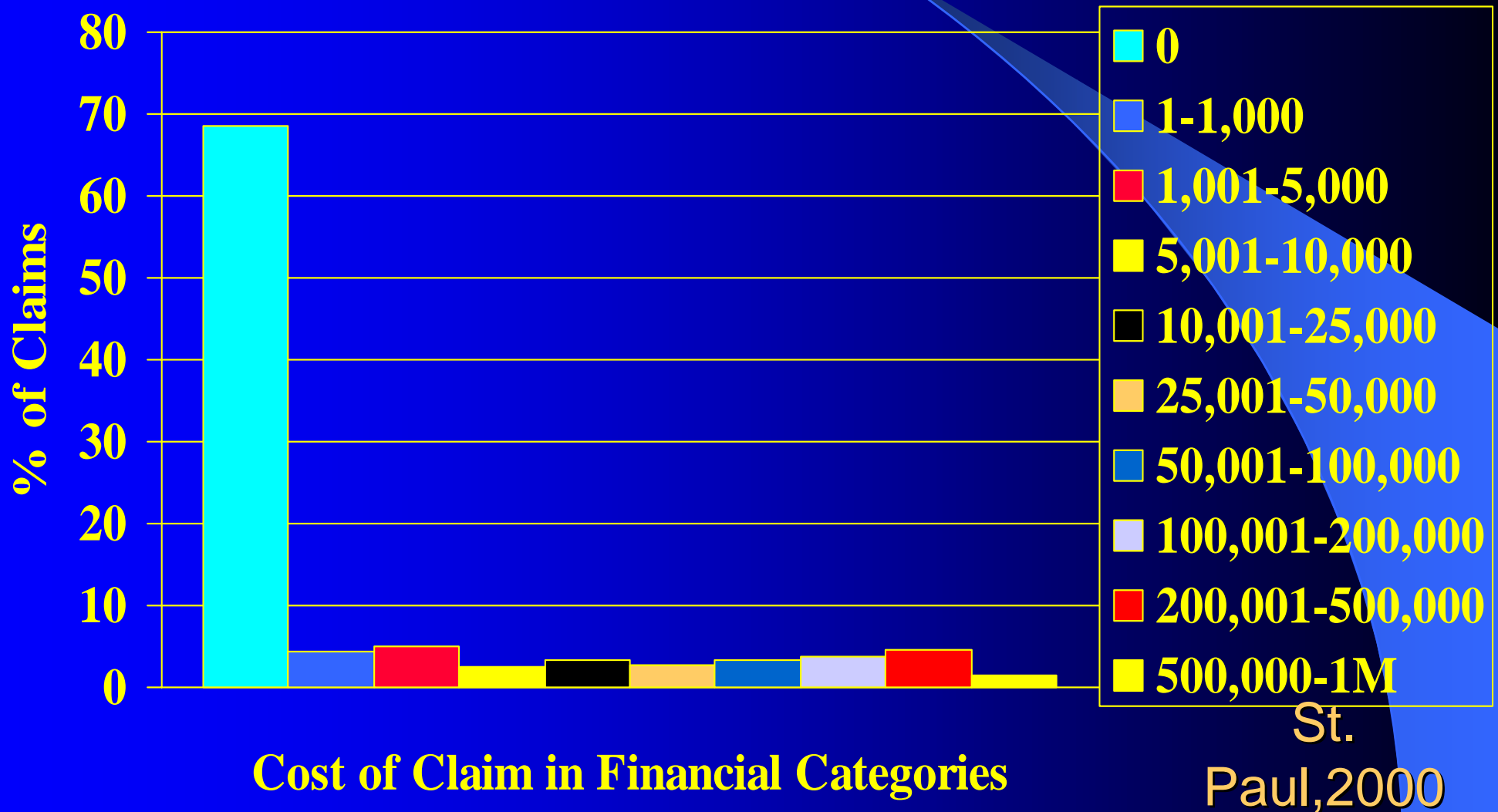
St. Paul, 2000

Most Costly Claims



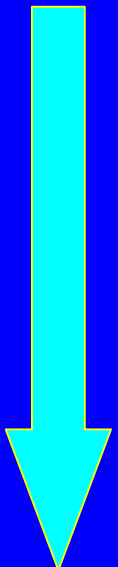
St. Paul, 2000

Indemnity Payments Loss Profile: 1995-1999



Most Frequent Procedure Type Identified in Claims

Most



Least

2001	2003
Orthopedic	General Surgery
General Surgery	Orthopedic
Gynecologic	Gynecologic
Obstetrics	Obstetrics
ENT	Plastics
Ophthalmic	ENT

Most Frequent Claims Resulting in Death or Brain Injury

Most



Least

2001	2003
ENT	ENT
Obstetrics	Obstetrics
General Surgery	Gynecologic
Gynecologic	General Surgery
Orthopedic	Orthopedic
	Plastics*

● **“Exhaustive research documents the fact that today, in America, there is no guarantee that any individual will receive high-quality care for any particular health problem. The health care industry is plagued with over utilization of health services, underutilization of services and errors in health care practice.”**

(Advisory Commission on Consumer Protection & Quality in the Health Care Industry, 1998)