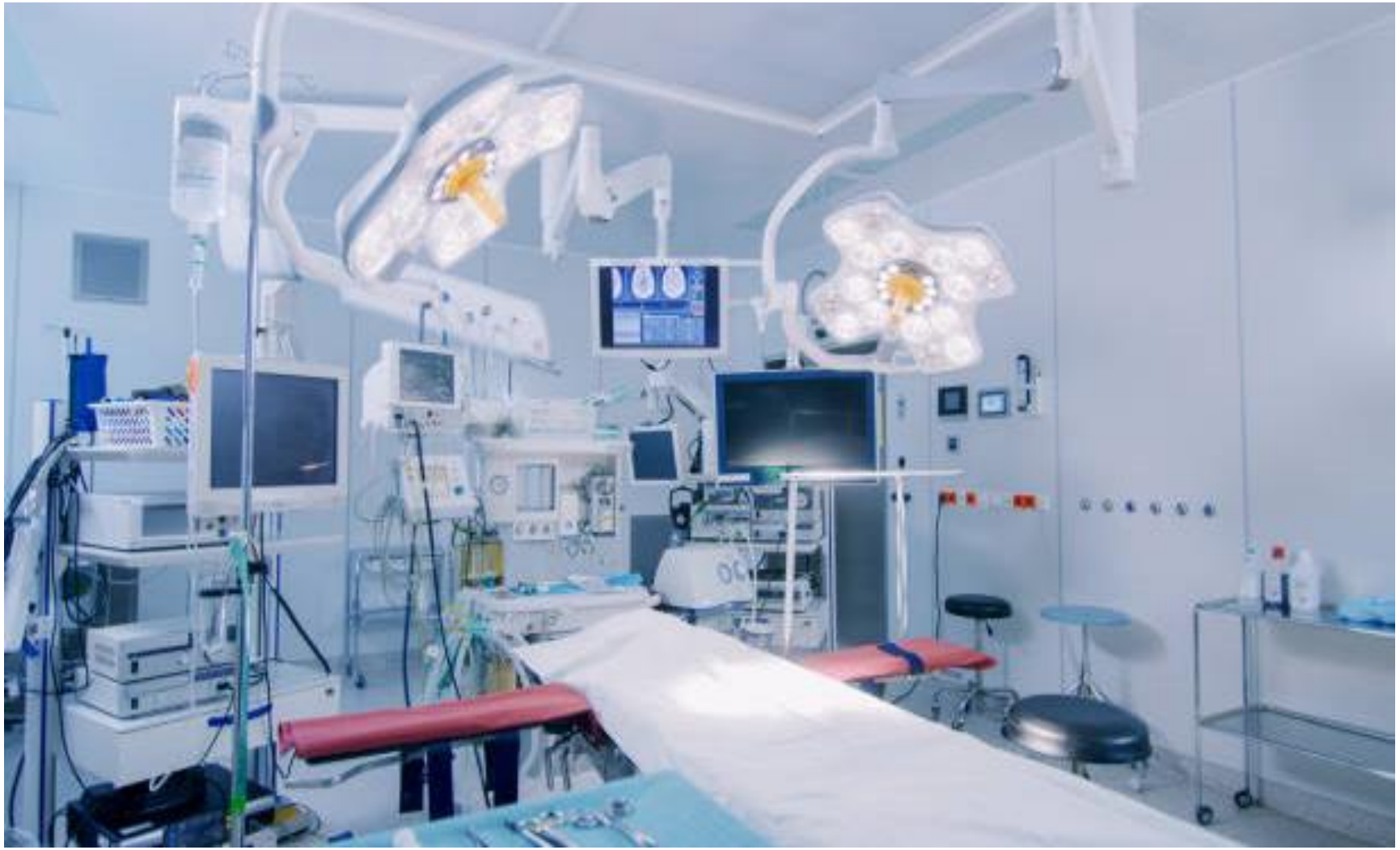


# NORA ADVERSE EVENTS:
# OUT OF THE OPERATING ROOM, INTO THE COURTROOM

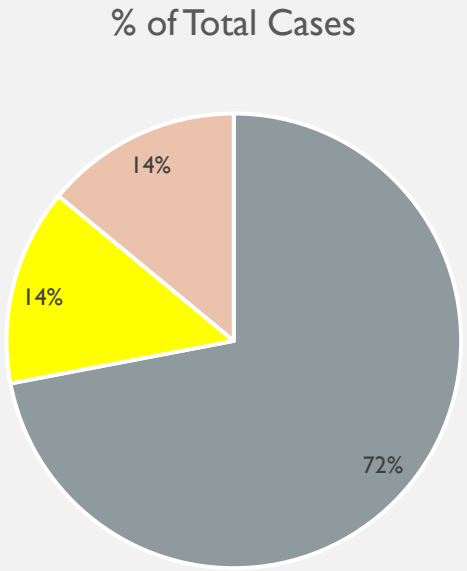
# CONFLICT OF INTEREST DISCLOSURE

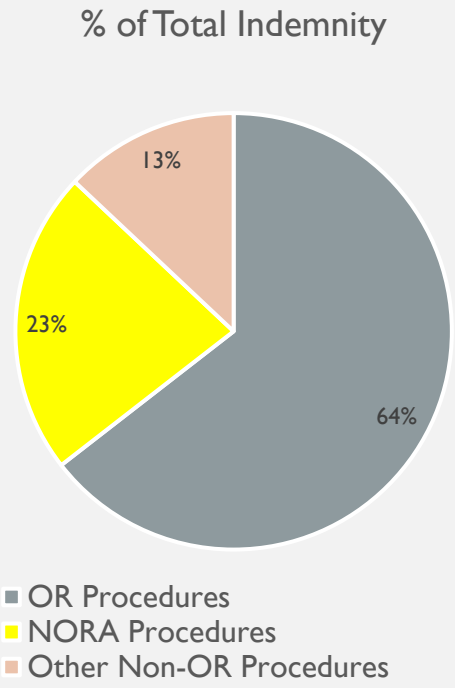
Brian Thomas, JD is the Vice President of Risk Management for Preferred Physicians Medical, a medical professional liability insurance carrier that provides insurance exclusively for anesthesia professionals and their practices. The speaker has no additional financial relationships with a commercial interest to disclose nor any undisclosed conflicts of interest.

# PPM CLOSED CLAIMS DATA

Of the last 200 closed claims resulting in an indemnity payment, 14% involved a NORA procedure, including:

- Endoscopy
- Cardiac Catheterization
- IR & Imaging
- Office Based Surgery
- Electroconvulsive Therapy

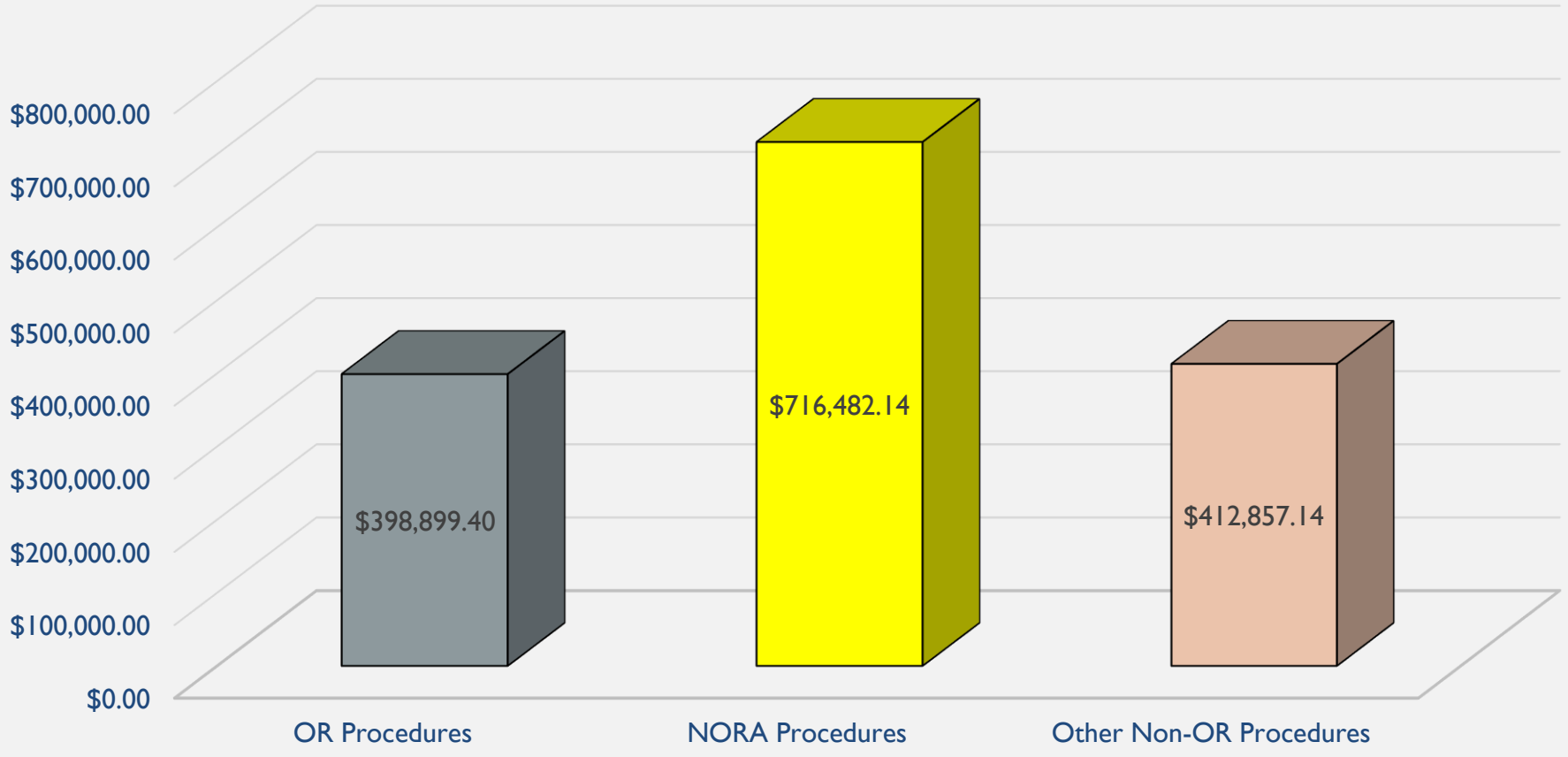



1/1/2010 to 9/1/2022

# PPM CLOSED CLAIMS DATA

## AVERAGE INDEMNITY PAYMENT




1/1/2010 to 9/1/2022

# ENDOSCOPIC SENTINEL EVENTS – PPM LOSS DATA

- Increased number of claims and lawsuits arising from complications during endoscopic procedures; many resulting in catastrophic injuries, such as brain damage and death
- 12 closed claims with payments in the last 10 years (11 deaths, 1 brain injury):
  - Indemnity payments = $8,576,500
  - Defense costs = $972,579
- 4 pending lawsuits alleging patient death or brain injury during elective endoscopic procedure:
  - Indemnity reserves = $2,450,000

# ENDOSCOPIC SENTINEL EVENTS – CASE STUDY

- 64-year-old male, ASA III d/t morbid obesity (5'10, 140 Kg, BMI 44), suspected OSA, DM, HTN, and diverticulitis presented for elective colonoscopy
- MAC w/ sedation (propofol and lidocaine) O2 nasal cannula at 4L/min
- During procedure, gastroenterologist noted irregular heart rhythm and hypotension followed by bradycardia
- When lights turned back on, patient was noted to be cyanotic
- O2 SAT was 75% and HR 49; mask ventilation started, O2 SAT 43%, bradycardia to asystole
- Code called, patient resuscitated but never woke up; family removed supportive measures and the patient expired four days post-op
- COD - hypercarbia, cardiac arrest, and anoxic brain damage

# ENDOSCOPIC SENTINEL EVENTS – EXPERT CRITICISMS

Failure to secure airway with LMA or intubate due to high risk

Failure to use capnography or chart ETCO2

Failure to recognize and treat hypoventilation

Lack of vigilance

Gastroenterologist's anticipated deposition testimony: MDA was "not paying attention, talking too much, showing pictures of his grandchildren on his cell phone"

# NORA ADVERSE EVENTS

# COMMON ALLEGATIONS

- Inappropriate patient selection for planned procedure at the facility
- Inadequate preanesthesia assessment
- Lack of or insufficient supply of necessary equipment (e.g., monitoring devices, video laryngoscope, etc.), medication, support staff, familiarity with specialized facility, proceduralist, and staff
- Failure to communicate with proceduralist and other staff
- Distractions (e.g., PEDs, music, loud environment, etc.)
- Lack of vigilance

# NORA ADVERSE EVENTS – DEFENSE CHALLENGES

Substandard care (e.g., distractions from non-clinical PED use, lack of vigilance, etc.)

Metadata evidence

Lack of expert support

Finger-pointing by other staff members

Potential jurors' perception that these cases are "safe" or "low-risk"

Increased risk of significant jury verdicts; possibly exceeding available insurance policy limits

# NORA ADVERSE EVENTS – HOW CAN PROFESSIONAL LIABILITY INSURANCE COMPANIES HELP?

UNDERWRITING

IDENTIFY LOSS TRENDS

WORK WITH ANESTHESIA PROFESSIONALS AND FACILITIES TO DEVELOP AND IMPLEMENT APPROPRIATE POLICIES AND PROTOCOLS

FOCUSED RISK MANAGEMENT RESOURCES AND STRATEGIES


# THANK YOU!

**Brian Thomas, JD**
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