



**NNAHRA**  
NATIONAL NATIVE AMERICAN HUMAN RESOURCES ASSOCIATION

# 27<sup>th</sup> Annual Conference

Gila River Resorts & Casinos  
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# **From Hiring to Firing:**

## Minimizing Employee Risk in the Workplace

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**JARED SMITH & RICHARD MCGEE**  
**NNAHRA FALL CONFERENCE**  
**SEPTEMBER, 2023**

# Employee Risk: What is it?

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**Definition:** Employee Risk is the potential for current, prospective, or prior employees to derail the execution of an organization's strategic and operational objectives

"Almost everything that can go wrong in a business has a human capital component."  
-DAVID CREELMAN, CEO, CREELMAN RESEARCH

# Top Employee Risk Categories: High Level

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- Hiring
- Engagement & Retention
- Misconduct: Bullying, Harassment & Discrimination
- Mental Wellness
- Terminations & Unemployment



# The Cost of Employee Risk

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The average cost of hiring a new full-time employee at \$4,425

**The average cost to replace a salaried employee is six to nine months of their salary.**

In 2022, the overall cost of voluntary employee turnover amounted to over \$1 trillion.

The average cost of settling out of court for an employment claim is \$75,000.

The average jury award for an employment-related case is \$217,000

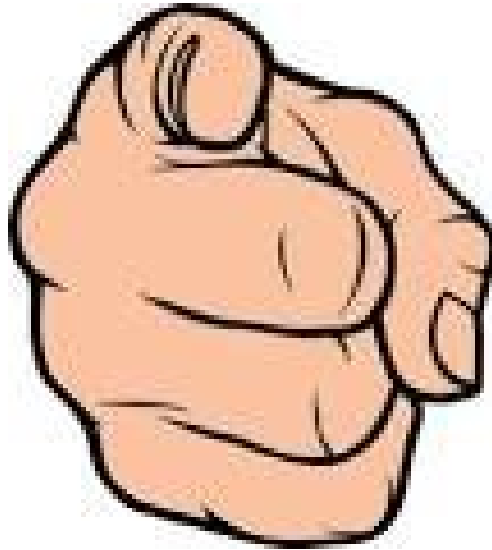
The average cost of a disengaged employee is \$16,000 per year

Productivity losses *related to stress* cost employers \$225.8 billion, or \$1,685 per employee, each year.

**The average amount paid out on an unemployment claim is \$4200**

# Employee Risk: Who's Responsibility is It?

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**Answer: We are all risk managers!!**

**Legal Conept: Vicarious liability.**



# Diving in Deeper

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# Engagement, Retention & Voluntary Turnover: Understanding the Cost

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- New Hire recruitment and onboarding: ACPH \$4129
- Turnover: exit interviews, severance packages, unemployment benefits
- Productivity gap during transition
- Customer satisfaction, loyalty & retention
- Company culture & employee morale
- Internal innovation and forward advancement
- Employer branding
- Loss of knowledge and expertise



# Engagement, Retention & Voluntary Turnover: Best Practices for Success

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- Cast vision and develop positive culture and work environment
- Invest in employee training, career development and recognition
- Establish regular feedback and performance evaluations for team members
- Prioritize work-life balance
- Offer flexible work arrangements, wellness programs & mental health support
- ***Legal Concept:*** Fair employers define the rules on day one, apply those rules in a fair and consistent manner and give employees an opportunity to tell their side of the story.

# Employee Misconduct (bullying, harassment, etc.)

## Understanding the Cost

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- Legal expenses: attorneys, investigations, settlements & fines
- Corporate reputation & stakeholder trust
- Employee morale, productivity, engagement & turnover

# Employee Misconduct (bullying, harassment, etc.)

## Best Practices for Success

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- Define and communicate culture of respect & inclusivity
- Policy and procedure alignment & support
- Multiple channels of reporting
- Impartial investigations
- Regular and frequent employee feedback
- Provide resources for employees adversely affected by misconduct
- Training: awareness, expectations & consequences
- ***Legal Concepts:***
  - Clarity regarding protected traits and characteristics (discrimination and harassment)
  - Understanding that bullying is not a protected class policy.



# Employee Mental Wellness

## Understanding the Cost

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- Productivity & job satisfaction
- Healthcare costs
- Higher turnover & decreased employee engagement
- Strained employee relationships & negative impact on company culture

# Employee Mental Wellness

## Best Practices for Success

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- Prioritize mental health and promote transparency and wellbeing
- Awareness training
- Provide mental health resources
- Provide alternative work arrangements if possible
- ***Legal Concepts:***
  - The federal and state disability laws likely do not apply to tribal employers, therefore you must define what this protection means.
  - The federal FMLA is silent on applicability and therefore tribal employers must be clear about its application.

# Employee Terminations (involuntary)

## Understanding the Cost

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- New Hire recruitment and onboarding: ACPH \$4129
  - Exit interviews, severance packages
  - Productivity gap during transition
  - Customer satisfaction, loyalty & retention
  - Company culture & employee morale
  - Internal innovation and forward advancement
  - Employer branding
  - Loss of knowledge and expertise
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- |                       |                       |
|-----------------------|-----------------------|
| - Unemployment claims | - Litigation          |
| - Employee morale     | - Settlement \$\$     |
| - Grievances          | - Employer reputation |



# Employee Terminations (involuntary)

## Best Practices for Success

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- Update employee handbooks and require employee signatures of acknowledgement
- Update policies and follow them
- Limit “at will” terminations as much as possible
- Document, document, document (What is your business reason?)
- Emphasize and implement regular supervisor training
- ***Legal Concept:***
  - At will is a legal definition and not a management tool (liability shields and sharp sticks).

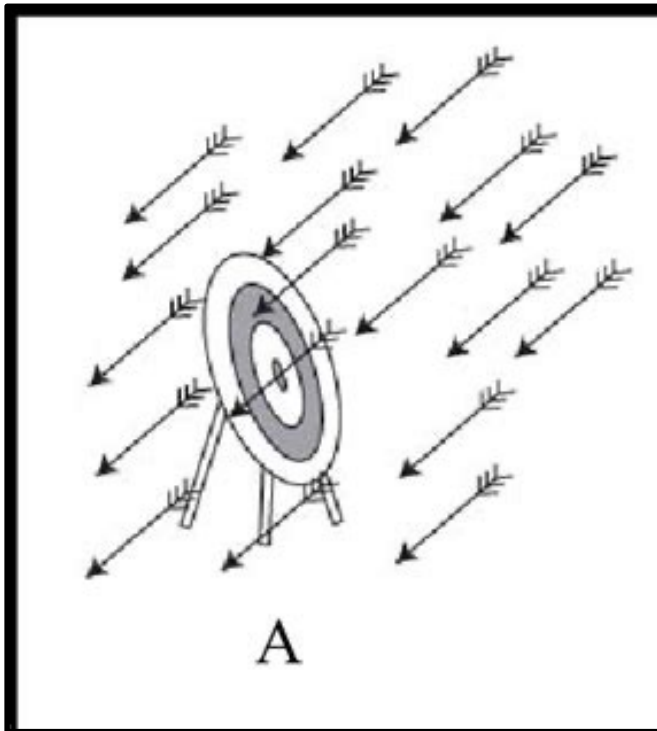
# A Few Common Threads

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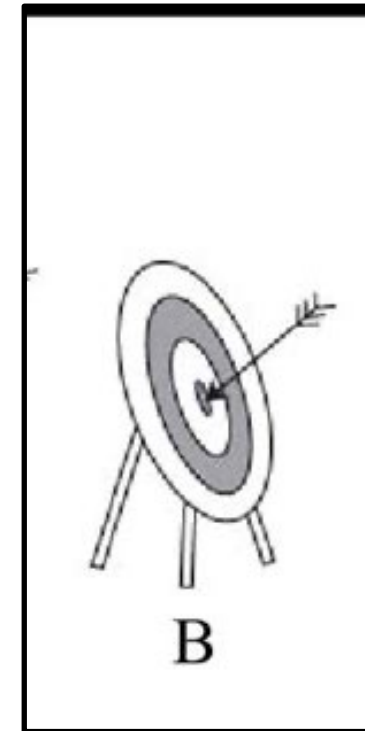
- ❖ Define culture
- ❖ Cast vision & communicate
- ❖ Follow-Through
- ❖ Adjust when necessary

# Employee Risk: Historical Approach?

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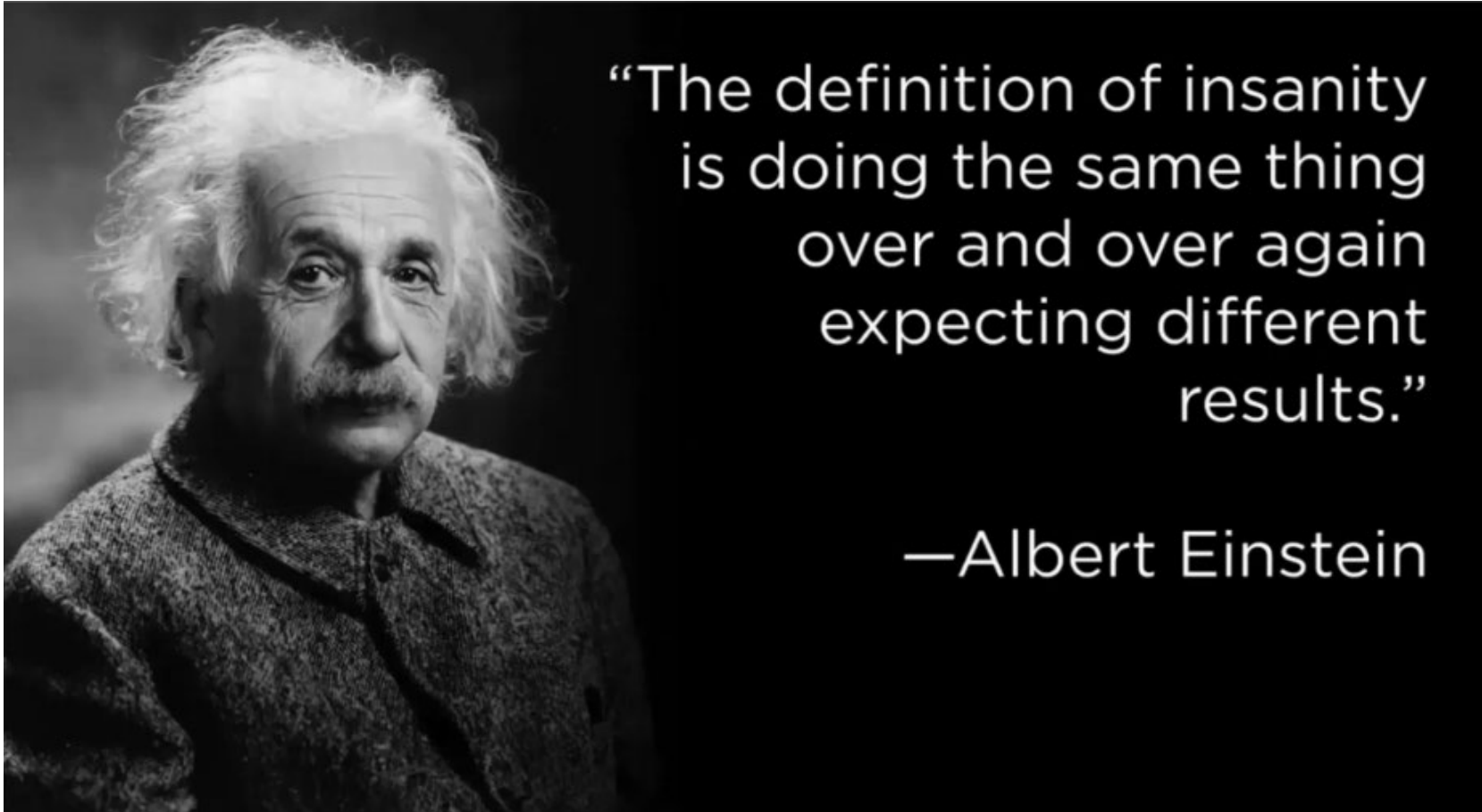
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# Is there a Better Way?

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# A Proven Formula to Minimizing Employee Risk

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$$\begin{array}{ccccccc} \text{Intentional} & & & & & & \\ \text{Focus} & + & \text{Technology} & + & \text{Process} & = & \text{Risk} \\ & & \text{Utilization} & & \text{Integration} & & \text{Mitigation} \end{array}$$

# Intentional Focus

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## Four Predominant Areas of Employee Risk

- Retention & Engagement
- Mental Wellness
- Misconduct
- Terminations

Intentional  
Focus + Technology Utilization + Process Integration = Risk Mitigation



# Technology Utilization

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CREATE LEVERAGE  
& EFFICIENCIES



GENERATE  
ANALYTICS



TELL THE "STORY"

Intentional

Focus

+ Technology

Utilization

+

Process

Integration

=

Risk  
Mitigation

# Process Integration

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Intentional

Focus

+ Technology

Utilization

+ Process

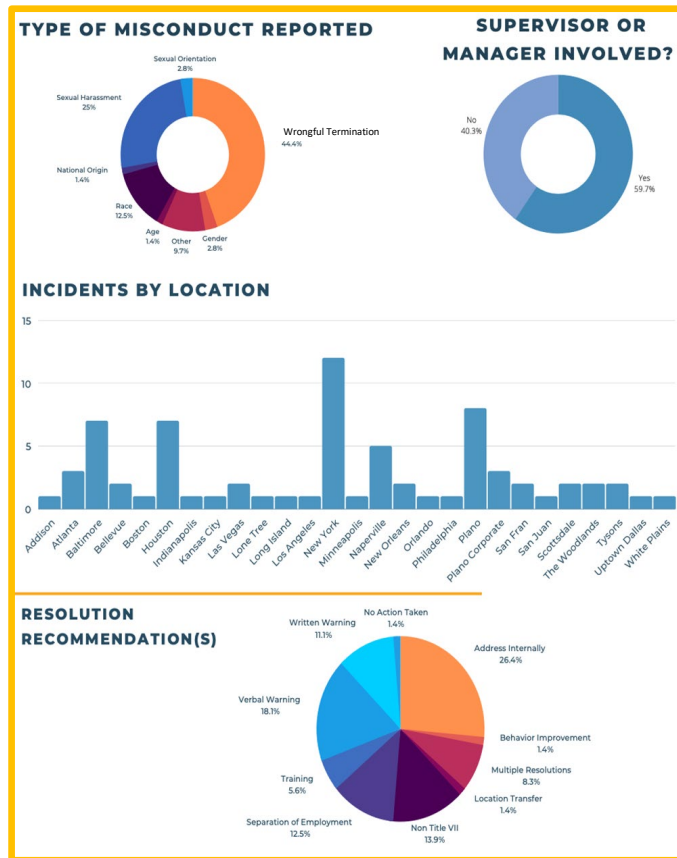
Integration

=

Risk  
Mitigation

## Case Study – Focus Area: Workplace Misconduct

# Technology Analytics



## Story

- Toxic environment
- Wrongful termination & sexual harassment claims
- Financial liability and hiring struggles

## Action

- Supervisor & Harassment Training
- Swift investigations & commitment to resolution
- Accountability
- Corporate expectations & metrics sharing

## Results

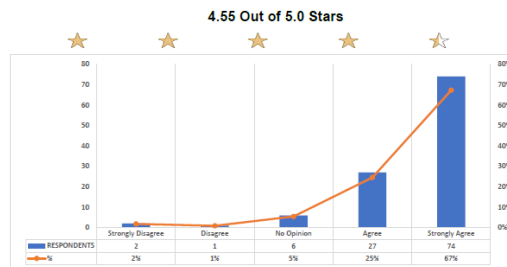
- Significant reduction in misconduct claims
- Increased morale; reduced toxicity
- Financial/legal savings
- Improved corporate reputation and recruiting

# Case Study – Focus Area: Retention

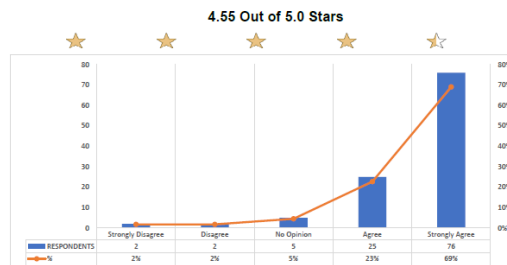
## Technology Analytics

1.0	Management Values At Work	Management values are a physical/behavioral representation of what the managers and leaders of the company see as important to success in the workforce. A manager is defined as the person's direct supervisor. A manager is defined as the top leadership of an organization.
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1.1 My manager strives to exceed the expectations of the people that we serve.

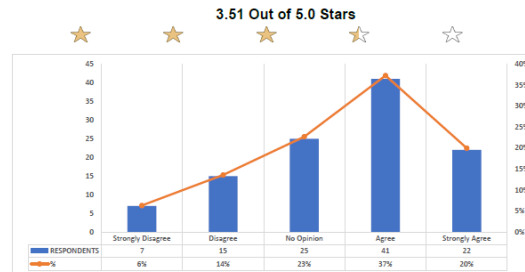


1.2 My manager works with a sense of pride.

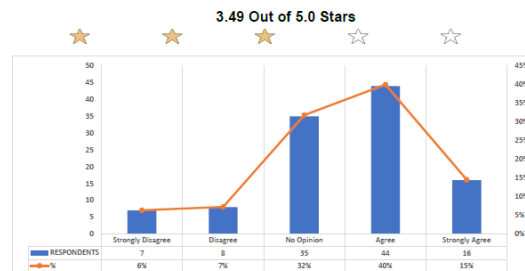


10.0	Organizational Change	How well the organization responds to change and growth.
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10.1 When organizational changes are made that affect me, I am always told the reasons for the change.



10.2 When organizational changes are made, I feel that I always have an opportunity to help implement them.



## Story

- Disengaged employees
- High voluntary turnover

## Action

- Invest in first-class onboarding program
- 30-, 60- and 90-day check-ins
- Supervisor expectations & communications
- Quarterly pulse and continued exit surveys
- Shared results and bonus metrics

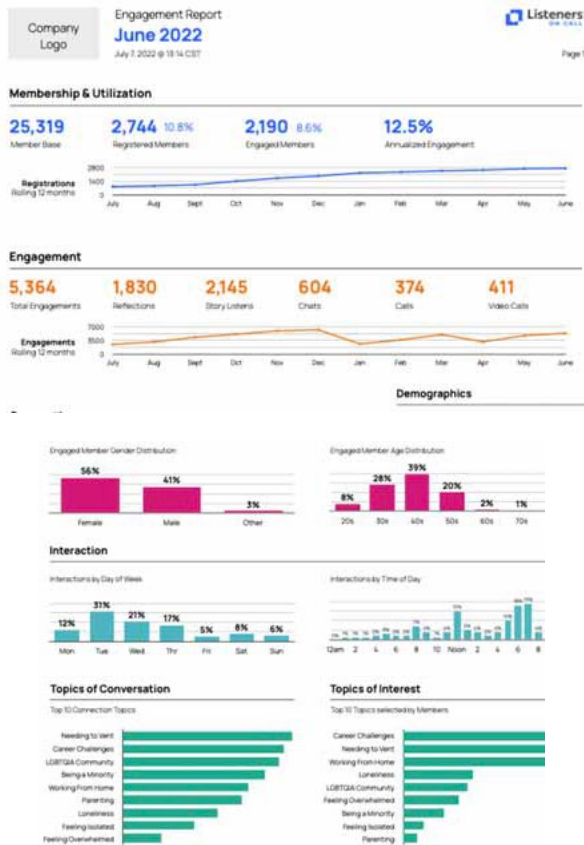
## Results

- Improved morale
- Reduced turnover
- Supervisor/employee alignment



# Case Study – Focus Area: Mental Wellness

## Technology Analytics



Career Uncertainty,  
Need to Vent

## Story

- High absenteeism & low productivity due to work-related stress
- Mid-week report and early evening reporting

## Action

- Stronger employee communication
- Career path mapping and vision sharing
- Tuesday afternoon corporate highlight emails

## Results

- Less reported on-the-job stress
- Fewer employee incidents reported
- Lower absenteeism

# Case Study – Focus Area: Separations

## Technology Analytics: Unemployment Losses

S3 MANAGEMENT GROUP CLAIMS SUMMARY Q1 2023					
	Q1	Q2	Q3	Q4	Total
At-Will					5
COVID - Unpaid Leave					
Family Circumstance					
Final Incident Not Misconduct	1				1
Good Reason Caused by Employer					
Lack of Work					
Medical					
No Protest - Client Request	2				2
No Protest - Insufficient Documentation					
No Protest - No Documentation					
Performance < 90 days	1				1
Performance > 90 days					5
Temporary Employee					
Total Non-Protestable Claims <sup>1, 2</sup>	4	-	-	-	4
Allowed					
Allowed - Employer Appeal Pending	1				1
Disallowed	8				8
Disallowed - Fraudulent Claims	2				2
Pending Determination	3				3
Total Protestable Claims <sup>3</sup>	14	-	-	-	14
Total Claims	18	-	-	-	18
Protestable Claims Success Rate					
	Q1	Q2	Q3	Q4	Year End
	91%				91%

### Story

- Low morale and distrust of management
- Excessive At-will and Job Performance terminations
- Increasing unemployment liabilities

### Action

- Supervisor training
- Mandated HR involvement in terminations
- Revised employee job descriptions and regular performance reviews

### Results

- Improved morale
- Reduced turnover / increased productivity
- Lower unemployment costs

# What's your story?

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## 4 Predominant Areas of Employee Risk

- Retention & Engagement
- Mental Wellness
- Misconduct
- Terminations

Intentional  
Focus + Technology + Process = Risk  
Utilization Integration Mitigation

# The S3 Sentinel

sen·try | \ 'sen-trē - Definition - A Program That Protects from Employee Risk



## Strategic Hiring

- Objectively assess "inner wiring" of applicants
- S3 Talent Matching System (TMS) connects people with the right jobs
- Additional screening tools such as Nurse Retention and IntegrScreen



## Employee Mental Wellness

- Peer-to-peer connection 24/7/365
- Pre-clinical employee support
- Data/Analytics with observations and recommendations



## Training & Compliance

- E-Learning platform with targeted employee training courses
- Employee handbook creation & maintenance
- Compliance library & calendar



## Misconduct

- Safe employee portal for incident reporting
- Efficient investigations with response times exceeding industry standards
- Resolution recommendations based on applicable laws & best practices



## Unemployment

- Claims administration & corporate risk assessment
- Pre-emptive fraud protection
- Stop loss insurance

**Thank you!**