

2018 Medical Malpractice Statistical Summary

Settlement data submitted by attorneys

Lawsuits with final disposition from Jan. 1, 2014 through Dec. 31, 2018

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Mike Kreidler, *Insurance Commissioner*

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Introduction

In 2006, the Washington state Legislature enacted comprehensive health care liability reform,¹ requiring attorneys to report medical malpractice settlement data to the Office of the Insurance Commissioner (OIC). Each year, the OIC must post summary statistics about medical malpractice lawsuits that are resolved.² [RCW 7.70.140](#) does not have tools for the OIC to use to make attorneys report data. Voluntary compliance has been poor and data in this summary are incomplete. The OIC cannot draw conclusions from incomplete data, so this statistical summary is limited to calendar-year statistics.

There are two types of data displayed in this statistical summary:

- **Total paid indemnity:** Total compensation paid by all defendants to the claimant stemming from a lawsuit. Indemnity payments may come from several defendants if a lawsuit named more than one party.³
- **Legal expenses:** All sums paid by the claimant to the attorney to prosecute the claim, including attorney fees, expert witness fees, court costs, and all other legal expenses.⁴

¹ [HB 2292 - 2005-06](#)

² [RCW 48.140.040\(2\)](#). On March 15, 2019, Insurance Commissioner Mike Kreidler notified the Legislature that the OIC would post statistical summaries by June 1.

³ [WAC 284-24E-150](#)

⁴ [RCW 7.70.140\(2\)\(b\)\(v\)](#).

Key statistics about medical malpractice lawsuits resolved in 2018:

- Attorneys reported that 19 lawsuits were resolved with paid indemnity in 2018.
- In cases where indemnity payments were made to the claimant, average compensation to the claimant was \$872,519.
- Average attorney fees were \$308,902.

Calendar year comparison: Attorneys reported these data for the five-year period ending Dec. 31, 2018.⁵

	Calendar year				
	2014	2015	2016	2017	2018
Settlements reported by attorneys	53	47	37	32	19
Total legal expenses	\$27,209,251	\$29,348,515	\$25,170,702	\$10,952,767	\$6,763,079
Average legal expense per lawsuit	\$513,382	\$624,436	\$680,289	\$342,274	\$355,952
Number of lawsuits with paid indemnity	52	44	35	29	19
Total paid indemnity	\$70,617,961	\$74,402,000	\$61,303,662	\$26,514,000	\$16,577,870
Average indemnity payment	\$1,358,038	\$1,690,955	\$1,751,533	\$914,276	\$872,519
Number of lawsuits with attorney fees	52	43	34	27	19
Total attorney fees	\$23,910,626	\$25,973,603	\$22,798,754	\$9,282,988	\$5,869,130
Average fee paid to attorney	\$459,820	\$604,037	\$670,552	\$343,814	\$308,902
Average attorney fee ÷ average indemnity payment	33.9%	35.7%	38.3%	37.6%	35.4%

Number of resolved lawsuits: Attorneys submitted 19 reports about medical malpractice lawsuits that were resolved in calendar year 2018, a 40.6% decrease from the previous year.

Indemnity payments to claimants: In 2018, attorneys reported 19 lawsuits in which a claimant received compensation. Payments totaled \$16.6 million, or an average of \$872,519 per reported settlement. The average indemnity payment decreased 4.6% compared to 2017.

Total legal expenses: Claimants must pay fees and costs to file a lawsuit regardless of whether they receive a settlement. In 2018, claimants paid \$6.8 million in legal fees to resolve 19 lawsuits, or an average of \$355,952 per reported lawsuit.

Attorney fees: Claimants pay attorney fees based on their contracts, and these fees are related to the total indemnity paid to the claimant to resolve the lawsuit. For 2018, attorneys reported 19 settlements with average attorney fees of \$308,902.

⁵ Data submitted by attorneys as of May 8, 2019.

Reporting compliance: Attorneys reported a small fraction of the 200 to 350 medical malpractice lawsuits resolved each year. There is no enforcement mechanism in the law, so the OIC expects that attorneys will continue to ignore the law and fail to report settlement data.