

# **2012 Medical Malpractice Annual Report**

**Claims Closed from Jan. 1, 2008 through Dec. 31, 2011**

August 2012

## Rates and Forms Division

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## About this report

Early in the last decade, a “hard market” emerged nationally for most types of insurance. During this period, medical professional liability insurance became expensive and hard to find for many types of medical providers and facilities. Beginning in 2005, the Office of the Insurance Commissioner (OIC) began [publishing closed claim information](#) to help policymakers decide how to respond to affordability and availability problems.

In 2006, the Legislature enacted comprehensive health care liability reform legislation ([2SHB 2292](#)) to address a number of concerns, including the cost and availability of medical professional liability insurance. This law also created reporting requirements for medical malpractice claims that are resolved and closed, with the intent to collect data to support policy decisions. The OIC began publishing [annual reports](#) summarizing these data in 2010.

This is the third annual report. It includes a snapshot of the medical malpractice marketplace and summary closed claim and settlement data.

This report has three sections:

1. The first describes the current condition of the medical professional liability insurance market.
2. The second summarizes closed claim data reported by insurers, risk retention groups and self-insurers.<sup>1</sup>
3. The third summarizes lawsuit resolution data reported by attorneys.

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<sup>1</sup> For simplicity, we will use the term “insurers” when referring to admitted insurers, surplus lines insurers and risk retention groups.

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## Key statistics

### About the medical professional liability insurance market

- Losses are lower.
  - Pure loss ratio peaked at 90.4 percent in 2002, then dropped 26.8 points to 63.6 percent in 2003, due to strong premium growth and improved loss experience.<sup>2</sup> Since 2006, pure loss ratio has been under 40 percent.
  - Incurred losses<sup>3</sup> and defense costs bottomed out at \$88.3 million in 2010 when several insurers lowered reserves for defense costs. Incurred defense costs normalized in 2011, and incurred losses and defense costs rose to \$106.6.
- Lower claim reserves have fueled profitability since 2007. Insurers have lowered reserves for older claims, leading to lower incurred loss and defense costs in recent years.<sup>4</sup> For example, Physicians Insurance has lowered reserves by \$136.2 million over its original estimates. Reserves released from prior years translate into profit for the current year. Physician's Insurance has returned some of these profits to policyholders in the form of policyholder dividends totaling \$20.2 million from 2008 to 2011.
- Profitability has swung from poor to excellent. Results from the two admitted insurers with the largest market shares in Washington state illustrate the cyclical profitability of medical professional liability insurance:
  - From 2002 to 2006, Physicians Insurance and the Doctors Company had operating ratios of 93.8 and 90.0 percent, respectively.<sup>5</sup>
  - From 2007 to 2011, Physicians Insurance had an overall operating ratio of 65.8 percent and the Doctors Company's overall operating ratio was 58.7 percent, and both companies have been very profitable over this period.
- Medical professional liability rates are lower for physicians and surgeons. Physicians Insurance, Washington state's largest provider of medical professional liability insurance for physicians and surgeons, reduced its rates by 7.7 percent in 2005, 12.5 percent in 2008, and by another 10.0 percent in 2009. The Doctor's Company reduced its rates by 5.1 percent in 2011 and 6.6 percent on July 1, 2012.
- In 2011, three insurers<sup>6</sup> introduced new products to insure physicians and surgeons, making the market more competitive.

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<sup>2</sup> Pure loss ratio means incurred losses divided by direct earned premium. Incurred losses include paid claims and the change in reserves for pending and unknown claims. A pure loss ratio does not include defense and cost containment expenses, which are significant part of the cost to resolve claims.

<sup>3</sup> The total amount of paid claims and loss reserves associated with a particular period. Insurers generally use this formula to compute incurred losses: losses incurred during the period, plus outstanding losses at the end of the period, less outstanding losses at the beginning of the period.

<sup>4</sup> Claim reserves are money set aside to meet future payments associated with claims incurred but not settled on a given date. If a claim reserve is too high or an investigation shows there is no legal responsibility to pay the claim, the insurer either lowers the reserve or removes the claim reserve from its books. If an insurer lowers total claim reserves for past years, incurred losses are lower in the current year since both occur in the same accounting period.

<sup>5</sup> Operating ratios measure overall profitability from underwriting and investment activities. Operating ratios are calculated using countrywide data.

<sup>6</sup> Medicus Insurance Company, Capson Physicians Insurance Company, and Freedom Specialty Insurance Company introduced new products.

## About verdicts

Information submitted by insurers and self-insurers cannot be directly compared to lawsuit data submitted by attorneys. Insurers and self-insurers report data separately for each defendant, while attorneys submit one final settlement report that includes payments made by all defendants. In spite of these differences, some information reported by both groups about lawsuits is comparable.

- Over the four-year period ending December 31, 2011:
  - Insurers and self-insurers paid \$15.3 million to plaintiffs when a lawsuit led to a plaintiff verdict or judgment. Judgments and verdict were few in number. Of the 32 plaintiff verdicts or judgments, only 28 had a payment reported,<sup>7</sup> averaging \$545,778.
  - Attorneys reported that defendants paid \$15.1 million to plaintiffs when a lawsuit led to a plaintiff verdict or judgment. Judgments and verdicts were few in number, only 14, and resulted in an average payment of \$1.1 million.<sup>8</sup>
- Most lawsuits are resolved in favor of the defendant. Insurers and self-insurers reported that 172 claims were resolved in their favor in 2011, 104 in 2010, 135 in 2009, and 147 in 2008.
- Defending lawsuits is costly to insurers and self-insurers. Insurers and self-insurers spent \$37.8 million defending lawsuits in which they ultimately prevailed, which is over twice the amount of money paid for plaintiff judgments or verdicts.

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<sup>7</sup> In cases where a lawsuit has more than one defendant, some defendants may not be responsible to compensate the claimant.

<sup>8</sup> These data suggest that lawsuits that get to the trial stage often have more than one defendant, and the compensation to the plaintiff is higher than the average indemnity payment reported by insurers and self-insurers.

## About claim data submitted by insurers and self-insurers

**Total claims:** Insurers and self-insurers reported 3,802 claims closed with an indemnity payment, defense costs, or both types of payments.<sup>9 10</sup> Commercial insurers reported 2,303 claims, self-insured entities reported 1,355 claims, and risk retention groups reported 144 claims.<sup>11 12</sup>

**Payments to claimants:** Insurers and self-insurers paid \$414.7 million on 1,818 claims over the four-year period, or \$228,127 per paid claim.

- Average indemnity payments over the four-year period varied. In 2010, average payments were lowest at \$212,903, while 2009 had the highest average at \$251,516. While average indemnity payments were inconsistent, the median payment was \$50,000 over the entire four-year period.
- The amount paid for economic loss was \$198.5 million, or an average of \$109,166 per paid claim. On average, insurers and self-insurers attributed 47.9 percent of the claim payment to economic loss.
- Insurers and self-insurers closed 47.8 percent of all claims with an indemnity payment to a claimant. Most, but not all, claims with paid indemnity also had defense and cost containment expenses.
- Of those claims closed with an indemnity payment, 6.1 percent closed with a payment of \$1 million or more. These claims account for 48.3 percent of total paid indemnity over the four-year period.

**Defense costs:** Insurers and self-insurers paid \$140.5 million to defend 3,306 claims, or an average of \$42,494 per claim. After two years of declining, average defense costs are up to \$40,988 for claims closed in 2011 compared to \$36,994 in 2010, but this is still below the \$43,114 average for 2009 and well below the \$49,421 spent per claim closed in 2008.

**Method of settlement:** Insurers and self-insurers settled most claims closed with paid indemnity by negotiation between the claimant and the insurer. For claims with an indemnity payment, insurers and self-insurers settled:

- 76.2 percent of claims by negotiation, and these settlements comprised 57.0 percent of the total paid indemnity.

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<sup>9</sup> This report includes claims data reported and edited through May 30, 2012, and these data differ slightly from the statistics reported in the [medical malpractice statistical summary](#) published in June 2012.

<sup>10</sup> For simplicity, this report substitutes “defense costs” for the technical phase “[defense and cost containment expenses](#).” Defense and cost containment expenses are expenses allocated to a specific claim to defend an insured, including expenses such as court costs, fees paid to defense attorneys, and fees for expert witnesses. These expenses do not include the internal costs to operate a claims department.

<sup>11</sup> Commercial insurers include both admitted and surplus lines insurers.

<sup>12</sup> [RCW 48.140.050\(1\)\(a\)\(i\)](#) says the commissioner must analyze trends in frequency and severity of closed claims. The OIC will begin analyzing trends when five years of data are available, and will publish this information in 2013.

- 20.5 percent of claims by alternative dispute resolution (arbitration, mediation, private trial). These settlements comprised 38.5 percent of the total paid indemnity over the four-year period.

**Payments by type of medical provider:** The insurer or self-insurer identified the type of medical provider in 84.6 percent of the closed claim reports.<sup>13</sup> Claimants made the remaining claims against an organization – not an individual medical provider.

- Nursing resulted in the most closed claims at 429. Of these claims, 271 resulted in paid indemnity, averaging \$132,984. Median paid indemnity was \$30,000.
- For physician specialties, General/Family Practice had the most claims at 263, with 107 resulting in paid indemnity, averaging \$199,511. Median paid indemnity was \$87,500. Urological surgery had the highest average paid indemnity of \$559,536, with median paid indemnity at \$170,000. Obstetrics and gynecology had average paid indemnity at \$520,607, and median paid indemnity was high at \$350,000.

#### **Payments and defense costs by age of claim:**

- The amount paid to claimants increased with the age of the claim. Of the 1,818 claims closed with an indemnity payment, the 626 claims closed within one year after report date had average paid indemnity of \$66,907. That figure rose to \$243,890 for 533 claims closed in their second year. The 32 claims that closed six or more years after report date had average paid indemnity of \$753,367.
- The amount paid for defense costs also increased with the age of the claim. Of the 3,306 claims closed with defense costs, 872 closed within one year after report date and had an average defense cost of \$6,197. That figure rose to \$26,286 for 1,158 claims closing in their second year. The 50 claims that closed six or more years after report date had an average defense cost of \$194,519.

**Regional comparisons:** Over one-third of the claims, or 1,327, came from King County. Of these, 50.7 percent resulted in indemnity payments totaling \$189.7 million, or an average of \$281,928 per claim.

#### **Allegations:**

- Improper performance was the most common allegation. This allegation resulted in 714 claims and 344 indemnity payments that averaged \$173,616.
- Failure to diagnose was the second most common allegation. This allegation resulted in 348 claims and 123 indemnity payments that averaged \$425,854.

<sup>13</sup> Physician specialties, dental specialties and other types of medical providers.

## About lawsuits filed and settled by attorneys<sup>14</sup>

If an attorney files a lawsuit to resolve a medical incident, he or she should report data about that lawsuit to the OIC once the litigation is resolved. Here are a few statistics:

**Compensation to claimants:** Attorneys reported that claimants received total compensation of \$284 million on 410 claims, or \$692,881 per settlement. Attorney fees were \$102.0 million, or an average of \$248,719 per settlement with an indemnity payment. On average, the attorney fee was 35.9 percent of the total compensation paid to the claimant.

**How lawsuits settled:** Where an indemnity payment was made, 45.7 percent were settled in mediation. Mediated settlements had an average indemnity payment of \$767,848 and an average legal fee at \$313,835. Only 14 lawsuits were reported as resolved by jury verdicts in favor of the plaintiff. These verdicts resulted in total paid indemnity of \$15.1 million and average paid indemnity of \$1.1 million.

**Regional comparisons:** About one-third of the lawsuits, or 156, came from King County. King County had the highest total paid indemnity at \$133.1 million, the third highest average paid indemnity at \$893,418 and the second highest legal expense per lawsuit at \$350,693.

**Settlement by age of claimant:** The most expensive settlements involved newborns and infants. In these cases, the average settlement was \$2.2 million and the average legal expense was \$895,370.

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<sup>14</sup> Attorneys have recently reported a number of old settlements, so these figures will not match data published by the OIC in earlier statistical summaries or annual reports.

## Introduction

Under [chapter 48.140 RCW](#), insurers, risk retention groups (collectively “insurers”) and self-insurers must submit a report to the OIC every time they close a medical malpractice claim.<sup>15</sup> Under [RCW 7.70.140](#), attorneys must report aggregate settlement data from all defendants after they resolve all claims related to a medical malpractice lawsuit. This report includes data submitted by insurers, self-insurers and attorneys in summary form that protects the confidentiality of persons and organizations involved in the claim or settlement process.<sup>16</sup>

Insurers, self-insurers and attorneys must report claim data for the prior year to the OIC by March 1 of each year.<sup>17</sup> Over the past couple of years, attorney compliance with the reporting law has been disappointing, and the OIC does not have enforcement mechanisms to improve compliance.<sup>18</sup> As a result, this report provides very few summary exhibits for settlement data reported by attorneys, since the OIC cannot draw conclusions from incomplete data. Most of the exhibits in this report focus on data reported by insurers and self-insurers.<sup>19</sup>

This report has three sections:

### 1) Market analysis

This section is an overview of the medical professional liability insurance market in Washington state and around the country that includes:

- An analysis of the profitability of the largest authorized medical malpractice insurers in Washington state.
- Information about medical malpractice rate changes approved last year.
- Information about incurred losses and defense costs for medical professional liability insurance.

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<sup>15</sup> A Risk Retention Group (RRG) is an owner-controlled insurance company authorized by the Federal Risk Retention Act of 1986. A RRG provides liability insurance to members who are in similar or related business or activities. The Federal Act allows one state to charter an RRG and allows the RRG to engage in the business of insurance in all states. The Federal Act preempts state law in many significant ways. See [RCW 49.92.030\(1\)](#). For simplicity, and to protect confidentiality of data, we include them with all other insurers in the analysis included in this report.

<sup>16</sup> [RCW 48.140.040\(3\)](#) says the OIC must take steps to protect the confidentiality of claim data, and [RCW 48.140.060](#) required the OIC to adopt rules to achieve this result.

<sup>17</sup> See [RCW 48.140.020\(2\)](#) and [WAC 284-24E-090](#).

<sup>18</sup> In 2010, the OIC proposed legislation, which the Legislature did not enact, that would have added enforcement mechanisms to the existing law. These bills were introduced as [SB 6412](#) and [HB 2963](#)

<sup>19</sup> [RCW 48.140.050](#) lists information that must be provided by this report.

## **2) Closed claim statistics reported by insurers, risk retention groups and self-insurers**

Insurers and self-insurers report claims they close with an indemnity payment and/or defense costs.<sup>20</sup> <sup>21</sup> Each closed claim report is associated with one defendant.<sup>22</sup>

People make medical malpractice claims for a variety of reasons, or “allegations.” People can make allegations against an organization, such as a hospital, against a medical provider, or both.

Settlement data reported by attorneys are different from closed claim data. Attorneys report settlement data after all claims are resolved, and the settlement amount they report is the *total* compensation a plaintiff received from *all* defendants. Average settlement data submitted by attorneys will have much higher average payments, because many settlements involve more than one defendant.

Insurers and self-insurers reported three primary types of closed claim data:

1. Defense costs: These are expenses paid to defend claims, and include expenses allocated to a specific claim, such as court costs and fees paid to defense attorneys or expert witnesses. They do not include internal costs to settle claims, such as salaries for claims staff or operating overhead for a claims department.<sup>23</sup>
2. Economic damages: Most of these amounts are estimates of the claimant’s economic damages made by the insurer or self-insurer when it makes a payment to settle the claim.<sup>24</sup> In a few cases, a court itemized economic damages when it issued a verdict, and these amounts are included in the totals.
3. Paid indemnity: The amount the insurer or self-insurer paid to the claimant to resolve the claim.

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<sup>20</sup> [RCW 48.140.010](#)(1) defines a claim.

<sup>21</sup> Under [WAC 284-24D-060](#), if an insurer or self-insurer closes a claim without an indemnity payment or defense costs, it is not required to report the claim to the OIC.

<sup>22</sup> [RCW 48.140.010](#)(3) defines a closed claim.

<sup>23</sup> See [WAC 284-24D-020](#)(1), [WAC 284-24D-330](#) and [WAC 284-24D-340](#).

<sup>24</sup> See [RCW 4.56.250](#)(1)(a), [WAC 284-24D-350](#), [WAC 284-24D-360](#), [WAC 284-24D-362](#), [WAC 284-24D-364](#), and [WAC 284-24D-370](#).

### **3) Lawsuit statistics reported by attorneys**

If an attorney files a lawsuit alleging medical malpractice, the attorney must report data after the lawsuit is resolved. The OIC has worked with the Washington State Association for Justice and Washington State Bar Association to improve compliance.<sup>25</sup> Despite these efforts, many attorneys do not comply with RCW 7.70.140, so data in this report are incomplete. The OIC cannot draw conclusions from incomplete data, so the section of the report containing lawsuit resolution data submitted by attorney is not as detailed as the closed claim section.

Attorneys report two primary types of settlement data:

1. Total paid indemnity: Total compensation paid by all defendants to the claimant as the result of the lawsuit. Indemnity payments may come from several defendants if a lawsuit named more than one party.<sup>26</sup>
2. Legal expenses: All sums paid by the claimant to the attorney, including attorney fees, expert witness fees, court costs, and all other legal expenses.<sup>27 28</sup>

#### **Closed claim and lawsuit statistics are different**

One cannot compare data reported by insurers and self-insurers to the data reported by attorneys because insurers and self-insurers report:

- All closed claims if the insurer or self-insurer makes payments or incurs expenses to defend the claim. Attorneys report data only if they filed a lawsuit against one or more defendants.
- Data separately for each defendant, while attorneys submit one final settlement report that includes payments made by all defendants they sued.

*Example: If an attorney sues several medical providers for their actions related to an incident with a poor medical outcome, some providers may resolve the litigation early, while others may be involved in the dispute resolution process for years. Insurers and self-insurers report claims as they resolve the claims against their customers, while an attorney waits until claims against all defendants are resolved to report the settlement.*

One final reason the OIC cannot make comparisons: Insurers, self-insurers and risk retention groups have been much more diligent in reporting closed claim data, and the OIC can draw more information from their reports.

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<sup>25</sup> The Washington State Association for Justice was formerly the Washington State Trial Lawyers Association.

<sup>26</sup> [WAC 284-24E-150](#).

<sup>27</sup> Attorney fees for legal representation are generally contingent fees that are payable if indemnity payments are made by one or more defendants.

<sup>28</sup> [RCW 7.70.140\(2\)\(b\)\(v\)](#).

## **Snapshot of the medical professional liability insurance market**

This section of the report provides an overview of the medical malpractice market in Washington state primarily using calendar year premium and loss data obtained from the National Association of Insurance Commissioners (NAIC).

### **Market participants**

The medical professional liability insurance market has three primary participants:

- Admitted insurers regulated by the OIC.
- Unregulated surplus lines insurers.
- Risk retention groups regulated by their home state.

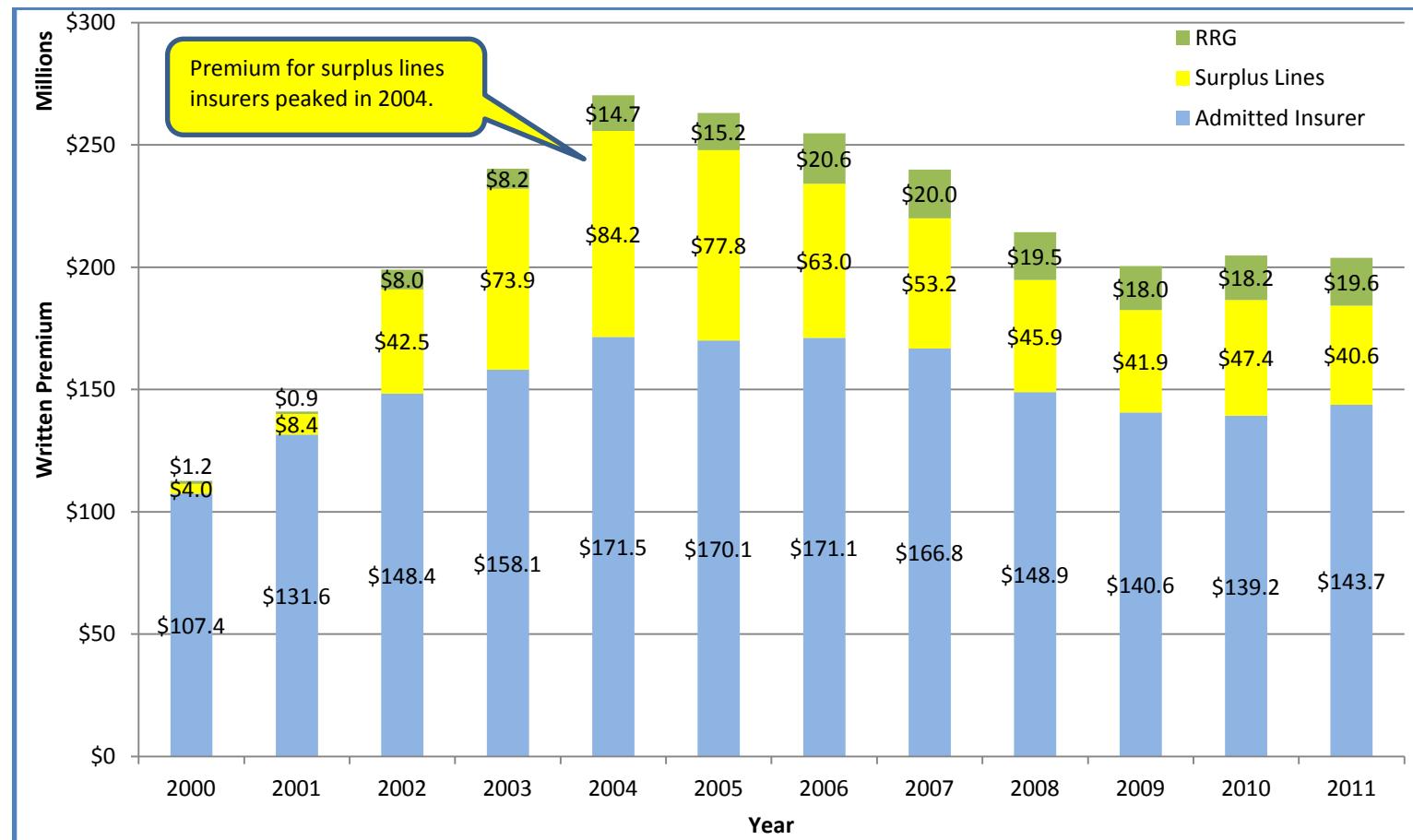
In 2000, admitted insurers wrote 95.4 percent of medical professional liability insurance premiums in Washington state. Physicians Insurance Group led the market with 52.7 percent of the admitted market share and 50.3 percent of total market share.<sup>29</sup> By 2011, the admitted market wrote only 70.5 percent of premium, and the remainder of the market belonged to surplus lines insurers and risk retention groups. Physicians Insurance still had 50.7 percent of the admitted market share, but its share of the overall market was much lower at 35.7 percent.

The market for medical professional liability insurance is changing. In the hard market, many physicians absorbed double-digit premium increases, and many have sought relief by becoming hospital employees. Physician groups are also consolidating into larger entities, further limiting new and renewal business opportunities for insurers. In response to changing market conditions, Physicians Insurance filed a new program for hospitals and employed physicians, reflecting the company's need to expand its product offerings in the face of continued movement of physicians from independent practice to employment with hospitals or in large physician groups.

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<sup>29</sup> In 2000, Physicians Insurance Group sold insurance through three companies: Physicians Insurance, A Mutual Company, Western Professional Insurance Company and Northwest Dentists Insurance Company. Western Professional Insurance Company is no longer actively writing insurance, and a group including the ODS Companies and the Washington State Dental Association purchased Northwest Dentists Insurance Company in 2007.

This chart shows the distribution of written premium for each segment of the medical professional liability insurance market. Combined, surplus lines insurers and risk retention groups increased their annual written premium substantially since 2000. Largely due to surplus lines premiums, total written premium peaked in 2004, declined for five consecutive years, then stabilized.



## Loss history

Overall, medical professional liability insurance loss ratios in Washington state dropped significantly since 2002, which had a period-high pure loss ratio of 90.4 percent.<sup>30</sup> Incurred defense costs were also high in 2002, which led to an incurred loss and defense cost ratio of 114.2 percent. Premiums increased significantly the following two years and, combined with lower incurred losses and defense costs, led to large decreases in both the pure loss ratio and the loss and defense cost ratio through 2004. Also notable is the decline in incurred defense costs. In 2005, insurers collectively incurred \$45.4 million in defense costs, as compared to \$36.9 million in 2011. The unusual drop in 2010 is the result of significant decreases in defense cost reserves by a few insurers, and defense costs normalized in 2011. The following table summarizes this period for the total market, which includes admitted insurers, surplus lines insurers and risk retention groups.

Year	Direct Written Premium	Direct Earned Premiums	Direct Incurred Losses	Pure Loss Ratio	Direct Incurred Defense Costs	Incurred Losses & Defense Costs	Incurred Loss & Defense Cost Ratio
2000	\$112,633,177	\$109,996,218	\$86,819,505	78.9%	\$21,039,714	\$107,859,219	98.1%
2001	\$140,929,627	\$134,008,616	\$112,729,787	84.1%	\$32,745,710	\$145,475,497	108.6%
2002	\$198,969,671	\$181,843,628	\$164,372,251	90.4%	\$43,275,166	\$207,647,417	114.2%
2003	\$240,251,605	\$234,439,488	\$149,126,311	63.6%	\$40,242,563	\$189,368,874	80.8%
2004	\$270,352,631	\$258,075,781	\$139,822,747	54.2%	\$36,610,655	\$176,433,402	68.4%
2005	\$263,090,674	\$258,403,214	\$118,070,079	45.7%	\$45,446,560	\$163,516,639	63.3%
2006	\$254,759,071	\$253,104,467	\$98,628,303	39.0%	\$39,005,295	\$137,633,598	54.4%
2007	\$239,959,432	\$241,654,054	\$92,960,987	38.5%	\$35,676,308	\$128,637,295	53.2%
2008	\$214,357,164	\$218,726,595	\$85,445,904	39.1%	\$36,841,513	\$122,287,417	55.9%
2009	\$200,445,437	\$202,466,303	\$62,633,183	30.9%	\$34,721,641	\$97,354,824	48.1%
2010	\$204,786,151	\$199,165,328	\$70,634,175	35.5%	\$17,701,695	\$88,335,870	44.4%
2011	\$203,869,400	\$201,195,699	\$69,646,648	34.6%	\$36,923,847	\$106,570,495	53.0%

<sup>30</sup> We calculated loss ratios using direct premiums and incurred losses, which exclude amounts ceded to reinsurers.

This chart shows total incurred losses and defense costs by calendar year. Incurred losses and defense costs began to decline in 2003, due to reductions in claim reserves and fewer overall claims, until they bottomed out in 2009.<sup>31</sup>



<sup>31</sup> If an insurer finds that it will not use a claim reserve to pay a claim, the insurer will remove the claim reserve from its incurred losses. Incurred losses are paid losses plus the change in outstanding reserves for a given period, so this action will reduce incurred losses in the current year.

## **Lower claim reserves**

Data reported to the NAIC by Physicians Insurance and The Doctors Company show favorable loss development trends. Loss development is the change in the estimated cost of a particular group of claims between the beginning and end of a period in time. Favorable development means that later estimates of losses and defense costs were lower than the first estimates.<sup>32</sup>

Reserves released from prior years translate into profit for the current year, and favorable reserve development generally results in lower insurance rates over time. Appendix C shows a summary of the medical professional liability rate filings filed recently with the OIC. In July of 2012, The Doctors Company filed rate decreases for some specialties and increased its claims-free discount, for an overall rate decrease of 6.6 percent.

Appendix B, page 1, shows data from Physicians Insurance's 2011 annual statement.<sup>33</sup> This table shows the change in incurred loss and defense cost reserves over time. Overall, Physicians Insurance has had very favorable incurred loss development. Two-year development was (\$42.0) million, and cumulative development over the entire period was (\$136.2) million. Physician's Insurance has returned some of these profits to policyholders in the form of policyholder dividends totaling \$20.2 million from 2008 to 2011.<sup>34</sup>

Appendix B, page 2, shows favorable development for The Doctors Company, which is one of the top writers of medical professional liability insurance in the United States, with \$591.1 million in direct written premium in 2011. Nationally, The Doctors Company has seen two-year development of (\$217.3) million, and 2007 in particular was over-reserved. Only 3.8 percent of The Doctors Company written premiums come from Washington state, so much of the reserve development is the result of lower estimates in other states. However, these data do show that Washington state is one of many states where loss experience has improved for medical professional liability insurance.

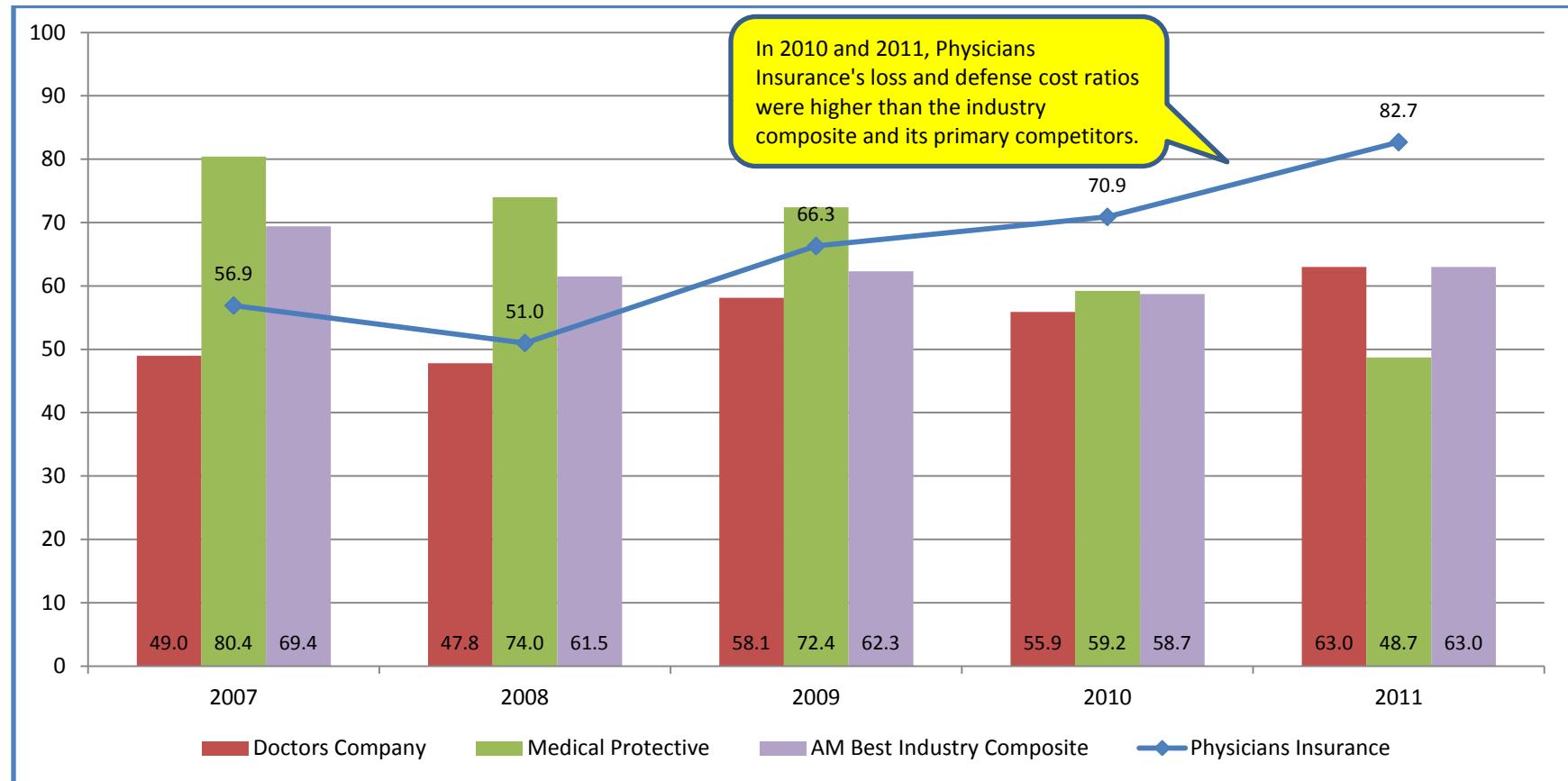
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<sup>32</sup> Insurers compile the first estimate of incurred losses three months after the end of the year. Medical malpractice claims often take a long time to resolve and the first estimate of incurred losses may be very inaccurate and subject to revisions in later years. There will be changes to total incurred losses from one period to the next, as more claims are paid and the insurer revises reserves for other claims using new information. "Loss development" is the technical term for the change in incurred losses from period to period.

<sup>33</sup> Consolidated data from Schedule P, part 2, sections 1 and 2 for medical professional liability occurrence and claims made policies. These data are for policies written in all states. Washington-specific data are not available.

<sup>34</sup> Insurers may be reluctant to lower rates in Washington state until they understand the impact of recent state Supreme Court decisions. Waples v. Yi, 169 Wn.2d 152 (2010) and Putnam v. Wenatchee Valley Med. Ctr., 166 Wn.2d 974, 216 P.3d 374 (2009) ruled [RCW 7.70.100\(1\)](#) and [RCW 7.70.150](#) unconstitutional. Mohr v. Grantham, 172 Wn.2d 844; 262 P.3d 490 (2011) held that there is a cause of action in the medical malpractice context for the loss of a chance of a better outcome.

This chart compares loss and defense cost ratios from Physicians Insurance, The Doctors Company, and Medical Protective to cumulative data obtained from A.M. Best.<sup>35</sup> Loss ratios have been stable for five years, allowing for underwriting profits.<sup>36</sup>

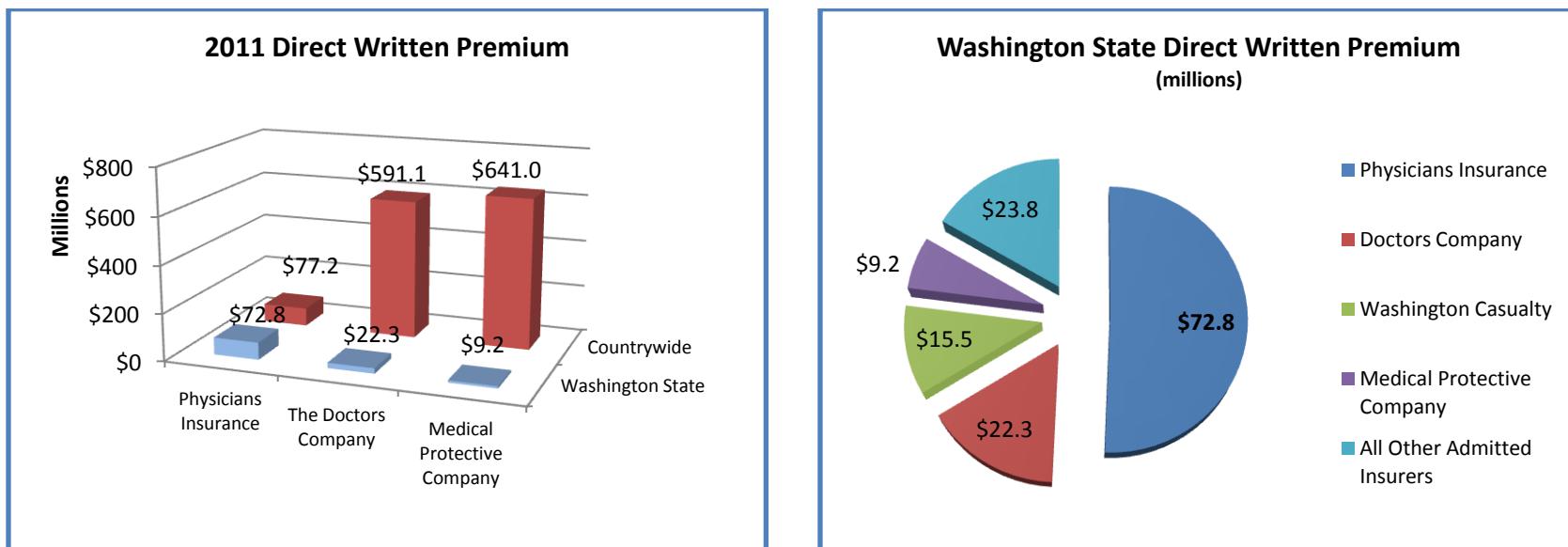


<sup>35</sup> Best's Special Report – U.S. Medical Professional Liability Insurance Segment Review, May 1, 2012. Current and historical results represent all companies that have filed with A.M. Best as of 4/6/12 or approximately 96 percent of the total composite.

<sup>36</sup> Underwriting profit is the profit that an insurance company generates after paying out claims and expenses. It comes from insurance operations, and does not include investment income.

## Washington state market in 2011

Physicians Insurance Company dominates the admitted medical professional liability insurance market in Washington state. The Doctors Company and Medical Protective are second and third in market share, and are important participants in the market due both to premium volume and their strong position in the national medical professional liability marketplace.<sup>37 38</sup> These charts show the distribution of direct written premiums and market share countrywide and in Washington state for 2011.



Physicians Insurance primarily insures medical providers and sells most of its insurance in Washington state. Its results are the best barometer of the profitability of medical professional liability insurance sold to physicians in this state. Data from the Doctors Company and Medical Protective provide a snapshot of the overall profitability of medical professional liability insurance nationwide.

<sup>37</sup> The Doctors Company acquired Northwest Physicians Insurance Company in 2006.

<sup>38</sup> Washington Casualty Company had financial problems and was placed into receivership to rehabilitate the company in March 2003. Washington Casualty emerged from receivership in 2006 and FinCor Holdings bought it. ProMutual Group bought FinCor Holdings in 2010.

## The national market in 2011

Appendix A shows the profitability for these insurers for the ten-year period ending December 31, 2011 using two ratios:

1. The operating ratio, which is the combined ratio minus the net investment income ratio.<sup>39 40</sup>
2. The combined ratio, which is the sum of the expense ratio, loss ratio and dividend ratio.<sup>41 42 43 44</sup>

This table summarizes overall profitability by operating ratios.<sup>45 46</sup> Operating ratios for Physicians Insurance and The Doctors Company were high from 2002 to 2004 and then improved. The improvement was due to higher premiums and lower incurred losses and defense costs.

Year	Physicians Insurance	Doctors Company	Medical Protective
2002	129.8%	115.2%	
2003	99.3%	116.3%	
2004	90.2%	93.2%	
2005	82.1%	72.4%	
2006	74.9%	66.7%	71.6%
2007	48.5%	62.0%	79.2%
2008	53.3%	49.1%	68.8%
2009	69.3%	67.4%	65.8%
2010	74.1%	52.5%	51.9%
2011	86.2%	61.6%	41.9%

<sup>39</sup> The operating ratio measures a company's overall operational profitability from underwriting and investment activities. If an operating ratio is below 100, the company is making a profit from its underwriting and investment activities.

<sup>40</sup> The net investment income ratio is calculated by dividing net investment income by net earned premiums.

<sup>41</sup> The combined ratio measures how well an insurance company is performing in its daily operations. A ratio below 100 percent means the company is making an underwriting profit. A company can make an operating profit if the combined ratio is above 100%, because the ratio does not include investment income.

<sup>42</sup> The expense ratio is calculated by dividing incurred underwriting expenses by net written premiums.

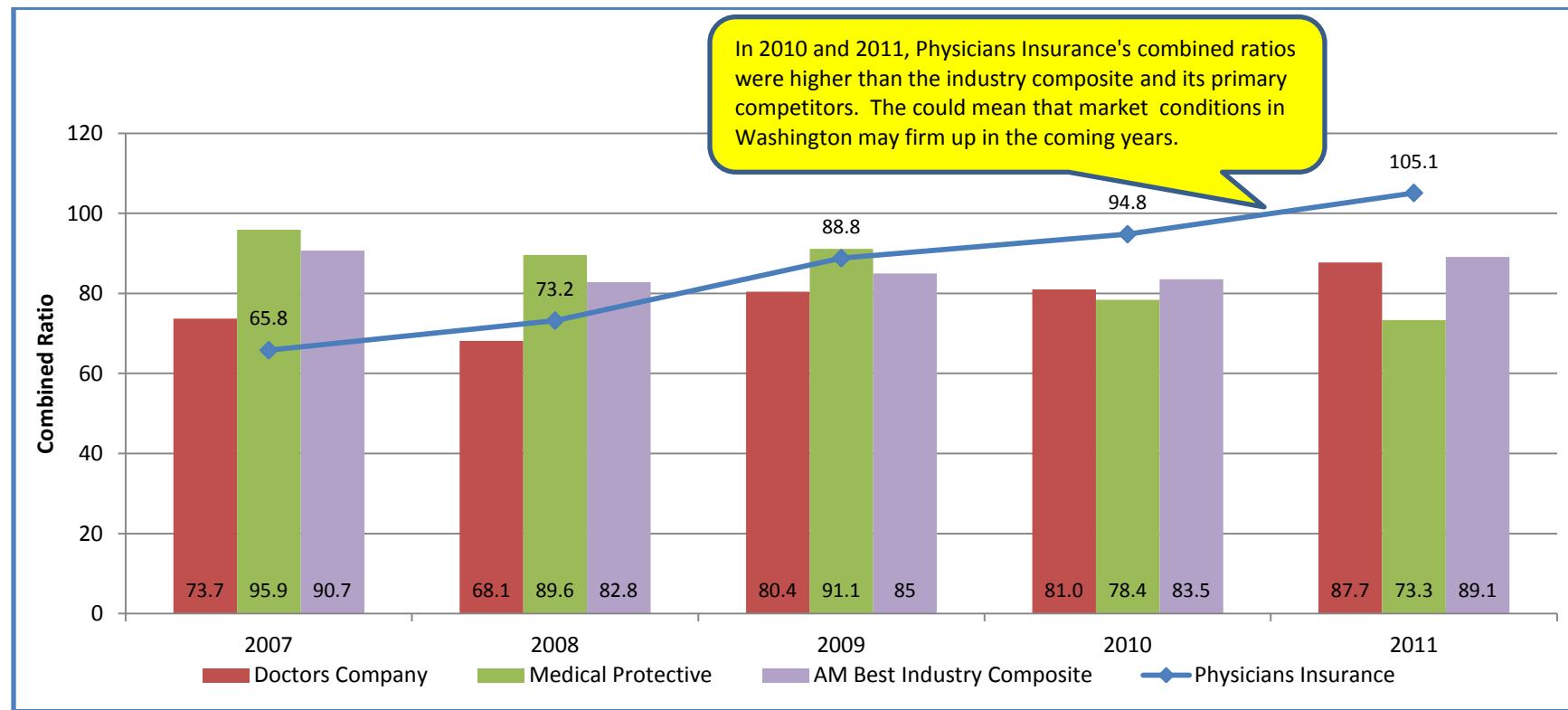
<sup>43</sup> The loss ratio is calculated by dividing losses and defense costs by net earned premiums.

<sup>44</sup> The dividend ratio is calculated by dividing policyholder dividends by net earned premiums.

<sup>45</sup> Changes in ownership have distorted operating ratio data for Washington Casualty Company, so it is not provided.

<sup>46</sup> Acquisition by Berkshire Hathaway distorted historical operating ratios of the Medical Protective Company. As a result, we only provide operating ratios for calendar years 2006-2011. Refer to Appendix A.

This chart compares combined ratios from Physicians Insurance, The Doctors Company, and Medical Protective to cumulative data obtained from A.M. Best.<sup>47 48</sup> Financial results for Physicians Insurance can be more volatile due to its smaller size and geographical concentration of business.



<sup>47</sup> Most of our analysis uses operating ratios as a measure of profitability, since it measures overall operational profitability from underwriting and investment activities. A.M. Best has published only combined ratio data for 2011, so we substituted this profitability measure in this table.

<sup>48</sup> Best's Special Report – U.S. Medical Professional Liability Insurance Segment Review, May 1, 2012. These are cumulative countrywide data reported to A.M. Best and published in their reports. Current and historical results represent all companies that have filed with A.M. Best as of 4/6/12 or approximately 96% of the total industry composite.

## Information about medical malpractice claims

	Year Closed				Four-year Total
	2008	2009	2010	2011	
Total Claims Closed	884	854	926	1,138	3,802
Number of Indemnity Payments	458	404	455	501	1,818
Total Paid Indemnity	\$107,815,931	\$101,612,279	\$96,870,959	\$108,435,146	\$414,734,315
Average Indemnity Payment	\$235,406	\$251,516	\$212,903	\$216,437	\$228,127
Median Indemnity Payment	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000
Most Frequent Payment (Mode)	\$250,000	\$25,000	\$50,000	\$20,000	\$50,000
Total Economic Loss	\$53,123,399	\$44,640,566	\$50,881,195	\$49,818,610	\$198,463,770
Average Economic Loss	\$115,990	\$110,496	\$111,827	\$99,438	\$109,166
Median Economic Loss	\$36,305	\$25,000	\$29,800	\$25,000	\$29,019
Number of Claims With Defense Costs	775	743	788	1,000	3,306
Total Defense Costs	\$38,301,604	\$32,033,539	\$29,151,322	\$40,998,128	\$140,484,593
Average Defense Cost	\$49,421	\$43,114	\$36,994	\$40,998	\$42,494
Median Defense Cost	\$10,758	\$9,043	\$6,211	\$9,379	\$8,711

### Payments to claimants

Over the four-year period, insurers and self-insurers paid \$414.7 million on 1,818 claims, or \$228,127 per paid claim.<sup>49</sup> There was one abnormally large payment in 2009.<sup>50</sup> If we remove that indemnity payment, average indemnity payment for 2009 drops to \$215,995, leading to very stable average paid indemnity figures for the four-year period ending December 31, 2011. Average paid indemnity was highest in 2008, and the most frequent payment was abnormally high at \$250,000. Median paid indemnity has been stable at \$50,000.<sup>51</sup>

Over the four-year period, total economic loss was \$198.5 million, or an average of \$109,166 per paid claim. On average, insurers and self-insurers attributed 47.9 percent of each claim payment to economic loss. Over the four-year period, median economic loss was \$29,018.

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<sup>49</sup> These data differ from what we reported in prior reports, because reporting entities can edit their data. For example, a reporting entity can re-open a claim, make additional payments, and edit the report to show it closed a year later than earlier reported.

<sup>50</sup> An entity made a payment of \$14.35 million in 2009 and, due to the public nature of the claim resolution, gave us permission to footnote this report with indemnity payment information.

<sup>51</sup> The median is the number in the middle of a set of numbers (half the numbers have values greater than the median, and half have values that are less).

In 2011, total paid indemnity increased 11.9 percent from the prior year, and average paid indemnity increased only 1.7 percent over the same period. The increase in total paid indemnity was primarily the result of more claims rather than higher payments.

#### **Defense costs**

Insurers and self-insurers paid \$140.5 million to defend 3,306 claims, or an average of \$42,494 per claim with defense costs. Average and median defense costs were higher than in 2010, but were still lower than the average and median in 2008. Insurers and self-insurers closed 87.0 percent of all claims with defense costs.

#### **Related claims**

Insurers and self-insurers identified medical incidents for which they defended more than one claim. This happens if a claimant alleges more than one medical provider or facility is responsible for their injury and the insurer or self-insurer covers both parties. There were 396 incidents identified by insurers and self-insurers, and 192 of these incidents had indemnity payments. The aggregate average indemnity payment for each incident was \$518,919 – which is 2.3 times the average “per claim” indemnity payment of \$228,127.

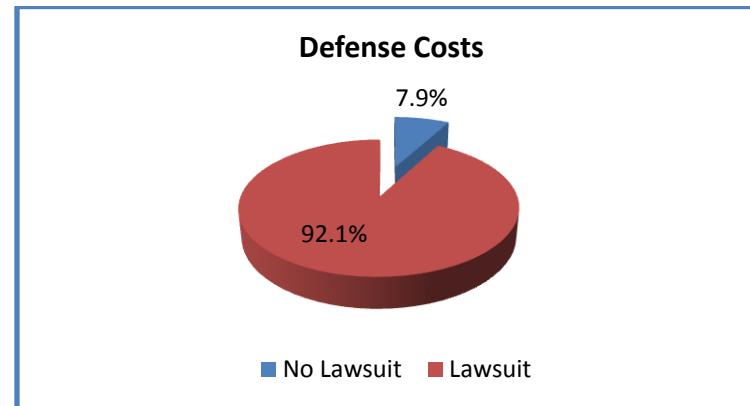
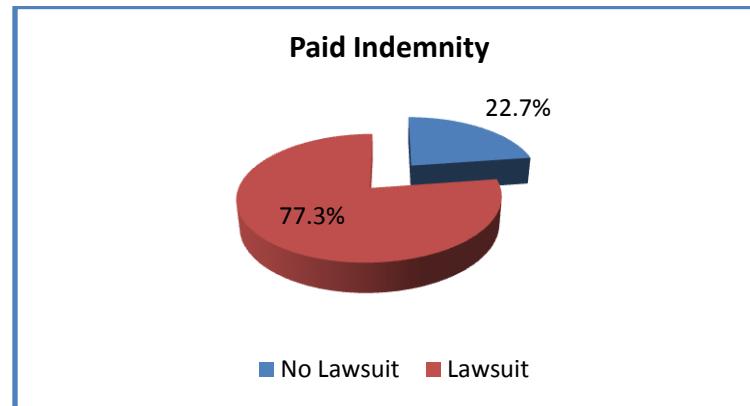
Often, not all of the individual claims related to a given incident are resolved at the same time, so there can be a lag between the insurer’s or self-insurer’s first claim report related to an incident and their final report that closes the series of related claims. This means that average indemnity payments at the incident level will increase over time as additional claims, related to previously reported incidents, are resolved.

## Lawsuit summary

This table summarizes data related to litigation.<sup>52</sup>

Lawsuits	Four-year period ending December 31, 2011								
	Total Reported Claims	Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity	Claims with Defense Costs	Total Defense Costs	Average Defense Cost	Median Defense Cost
No Lawsuit Filed	1,993	1,003	\$94,098,041	\$93,817	\$17,500	1,525	\$11,116,736	\$7,290	\$1,216
Lawsuit Filed	1,809	815	\$320,636,274	\$393,419	\$147,571	1,781	\$129,367,857	\$72,638	\$35,000
Totals & Averages	3,802	1,818	\$414,734,315	\$228,127	\$50,000	3,306	\$140,484,593	\$42,494	\$8,711

Of the 3,802 total claims, claimants filed lawsuits 47.6 percent of the time. Insurers and self-insurers incurred defense costs in 98.5 percent of the claims in which the plaintiff filed a lawsuit, averaging \$72,638. Lawsuits resulted in indemnity payments 45.1 percent of the time, averaging \$393,419. For claims without litigation, claimants were compensated 50.3 percent of the time, the average indemnity was \$93,817, and the median payment was comparatively low at \$17,500.



<sup>52</sup> These data are not comparable to lawsuit settlement data reported by attorneys. Insurers and self-insurers report data separately for each defendant. Attorneys submit one settlement report that includes payments made by all defendants named in the lawsuit.

## Method of settlement

This table shows that insurers and self-insurers settled most claims by negotiation, comprising 41.1 percent of the reported claims and 57.0 percent of total paid indemnity.

Method of Claim Resolution	Four-year period ending December 31, 2011								
	Total Reported Claims	Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity	Claims with Defense Costs	Total Defense Costs	Average Defense Cost	Median Defense Cost
Abandoned by Claimant	1,204	21	\$68,588	\$3,266	\$1,001	1,193	\$13,370,215	\$11,207	\$1,643
Settled by Parties	1,561	1,385	\$236,303,860	\$170,617	\$30,000	1,086	\$50,554,245	\$46,551	\$14,405
Court disposed Claim	590	40	\$18,636,862	\$465,922	\$57,891	589	\$42,558,178	\$72,255	\$20,593
Alternative Dispute Resolution	447	372	\$159,725,005	\$429,368	\$200,000	438	\$34,001,955	\$77,630	\$45,587
Total & Averages	3,802	1,818	\$414,734,315	\$228,127	\$50,000	3,306	\$140,484,593	\$42,494	\$8,711

Plaintiff verdicts or judgments are few in number. Insurers and self-insurers reported 32 claims resolved by plaintiff verdict or judgment, of which 28 claims resulted in an indemnity payment.<sup>53</sup> In eight other claims disposed by the courts, the insurer or self-insurer made an indemnity payment after it had received a favorable court decision.<sup>54</sup> The 32 claims resolved by plaintiff verdict or judgment comprised 0.8 percent of total claims and 5.5 percent all claims resolved by the courts. The courts ruled in favor of the defendant in the vast majority of cases.

The 28 plaintiff verdicts or judgments resulted in the highest average paid indemnity at \$545,778. While this figure is large, it is much lower than the average paid indemnity of \$748,916 in the [2010 Annual Report](#).

Of the 1,561 claims settled by the parties, insurers and self-insurers resolved most through informal negotiation. These settlements occurred before requesting an arbitration, mediation or private trial 45.5 percent of the time, and an additional 52.0 percent of claims settled before the start of a trial or hearing.

Of the 1,204 claims abandoned by the claimant, 99.6 percent of these claims were abandoned before a formal trial or hearing.

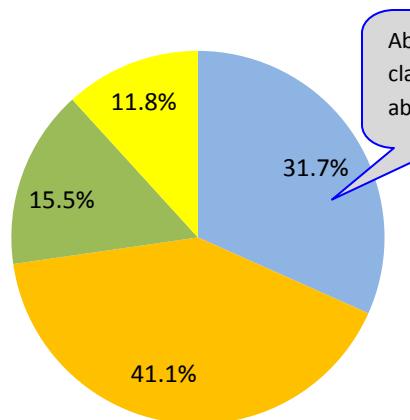
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<sup>53</sup> In cases where a lawsuit has more than one defendant, some defendants may not be responsible to compensate the claimant.

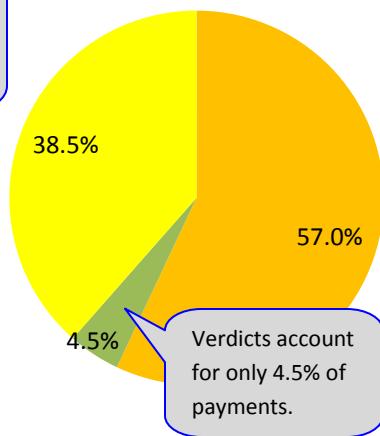
<sup>54</sup> Insurers and self-insurers reported 40 claims with an indemnity payment in which a court disposed the claim.

These charts show the distribution of claims, indemnity payments and defense costs by method of settlement.

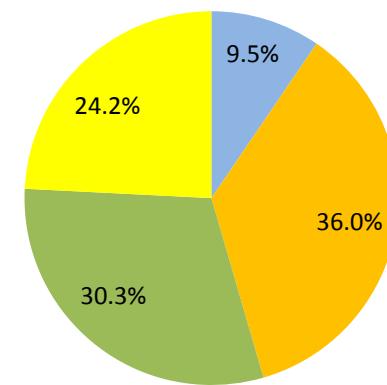
### Claim Counts



### Indemnity



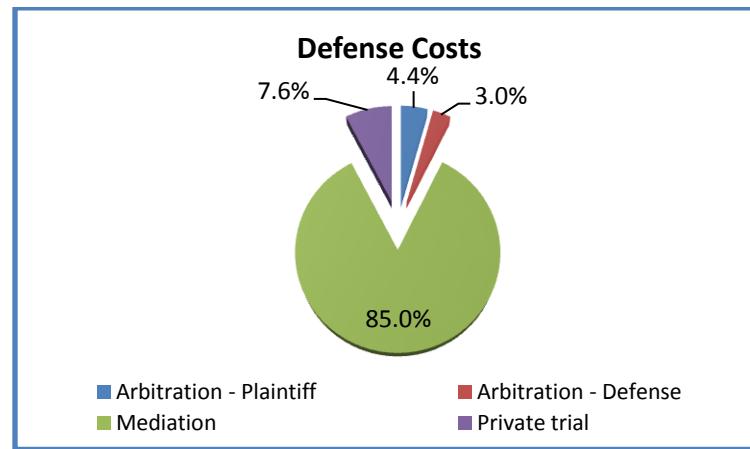
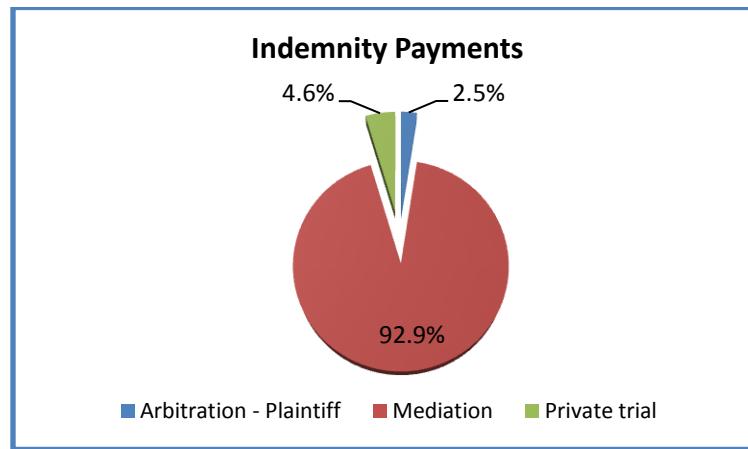
### Defense Costs



- Abandoned by Claimant
- Settled by Parties
- Court disposed Claim
- Settled by Alternative Dispute Resolution

Insurers and self-insurers used alternative dispute resolution to settle 447 claims. Mediation was used to resolve 87.9 percent of these claims. Mediation led to the second highest average paid indemnity at \$433,914. Median paid indemnity for claims settled by mediation was \$200,000 and median defense costs were \$43,559. Private trials were the most costly form of alternative dispute resolution for both average paid indemnity and average defense costs.<sup>55</sup>

Alternative Dispute Resolution Process	Four-year period ending December 31, 2011						
	Total Reported Claims	Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Claims with Defense Costs	Total Defense Costs	Average Defense Cost
Arbitration - Plaintiff Award	18	17	\$3,929,412	\$231,142	16	\$1,483,058	\$92,691
Arbitration - Defense Decision	16	0	\$0	\$0	16	\$1,013,115	\$63,320
Mediation	393	342	\$148,398,740	\$433,914	387	\$28,907,894	\$74,697
Private trial	20	13	\$7,396,853	\$568,989	19	\$2,597,888	\$136,731
Total & Averages	447	372	\$159,725,005	\$429,368	438	\$34,001,955	\$77,630



<sup>55</sup> A private trial most closely resembles an actual court trial and the procedures used are almost identical. The main difference is that the parties must agree to an individual, usually a retired judge, to sit as a "judge pro tempore" (temporary judge) and render a decision. As its title suggests, the trial is held in private and may be confidential.

## Size of indemnity payments

This table<sup>56</sup> shows that insurers and self-insurers settled 65.5 percent of the claims with a payment \$100,000 or less, and the average indemnity payment in this range was \$28,457. The median payment for claims settled for \$100,000 or less was \$18,000, which indicates insurers and self-insurers settled many of these claims for nominal amounts.

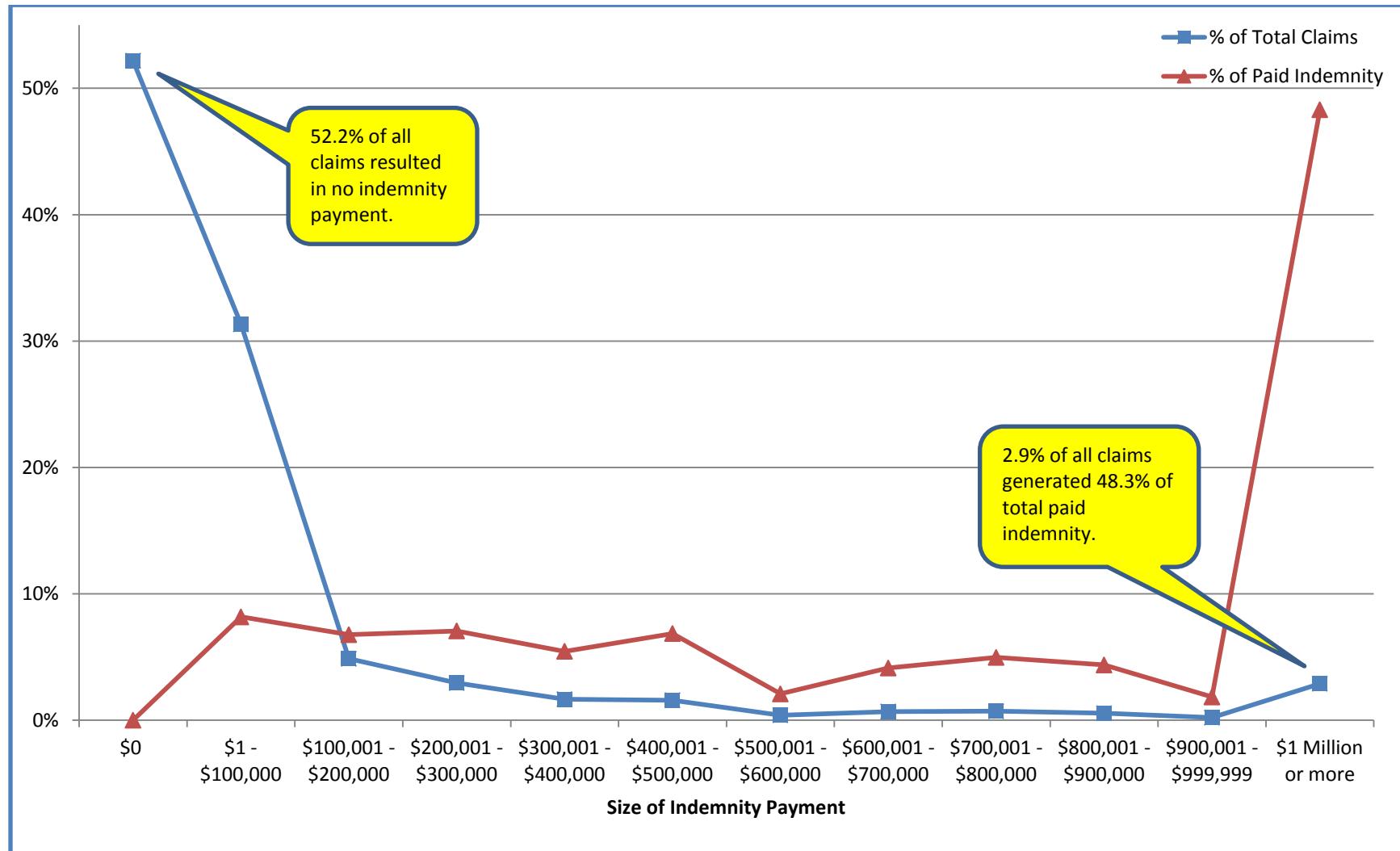
There were 110 claims settled for \$1 million or more, and those claims produced 48.3 percent of the total paid indemnity, or an average of \$1.8 million per claim. The median payment for claims over \$1 million was \$1.2 million.

Range of Paid Indemnity	Four-year period ending December 31, 2011						
	Total Claims	% of Total Claims	Total Paid Indemnity	Average	Median	% of Claims with Paid Indemnity	% of Total Paid Indemnity
				Paid Indemnity	Paid Indemnity		
\$0	1,984	52.2%					
\$100,000 or less	1,191	31.3%	\$33,892,086	\$28,457	\$18,000	65.5%	8.2%
\$100,001 - \$200,000	185	4.9%	\$28,067,625	\$151,717	\$150,000	10.2%	6.8%
\$200,001 - \$300,000	112	2.9%	\$29,290,281	\$261,520	\$250,000	6.2%	7.1%
\$300,001 - \$400,000	63	1.7%	\$22,602,805	\$358,775	\$350,000	3.5%	5.4%
\$400,001 - \$500,000	60	1.6%	\$28,446,347	\$474,106	\$500,000	3.3%	6.9%
\$500,001 - \$600,000	15	0.4%	\$8,620,513	\$574,701	\$585,000	0.8%	2.1%
\$600,001 - \$700,000	26	0.7%	\$17,125,970	\$658,691	\$650,000	1.4%	4.1%
\$700,001 - \$800,000	27	0.7%	\$20,606,073	\$763,188	\$750,000	1.5%	5.0%
\$800,001 - \$900,000	21	0.6%	\$18,124,789	\$863,085	\$850,000	1.2%	4.4%
\$900,001 - \$999,999	8	0.2%	\$7,614,926	\$951,866	\$950,000	0.4%	1.8%
\$1 Million or more	110	2.9%	\$200,342,900	\$1,821,299	\$1,200,000	6.1%	48.3%
Total	3,802	100.0%	\$414,734,315	\$228,127	\$50,000	100.0%	100.0%

This chart shows the distribution of claims and indemnity payments by size of indemnity payment.

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<sup>56</sup> In this table, the ranges of paid indemnity cap the minimum and maximum payments. As a result, averages tend to fall toward the middle of each range.

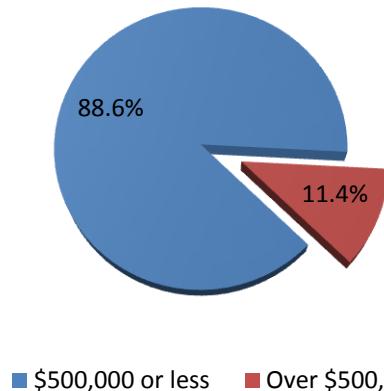


### Claims with paid indemnity below and above \$500,000

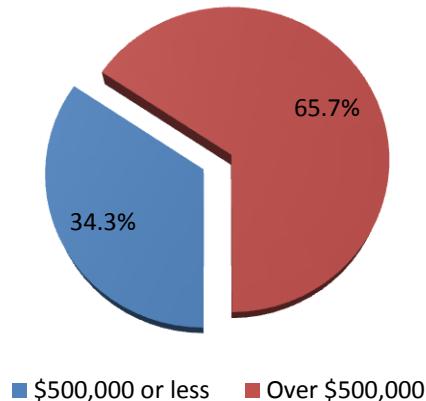
Most claims were resolved with an indemnity payment of \$500,000 or less, and median paid indemnity for these claims was \$35,000. Insurers and self-insurers paid much more money to settle claims over \$500,000, and median paid indemnity for these claims was \$1 million. Many physicians carry a policy limit of \$1 million per incident, so the median figure skews toward the policy limit.

<u>Paid Indemnity Range</u>	<u>Four-year period ending December 31, 2011</u>					
	Number of Claims with Paid Indemnity	% of Claims with Paid Indemnity	Total Paid Indemnity	% of Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity
\$500,000 or less	1,611	88.6%	\$142,299,144	34.3%	\$88,330	\$35,000
Over \$500,000	207	11.4%	\$272,435,171	65.7%	\$1,316,112	\$1,000,000
Total & Averages	1,818	100.0%	\$414,734,315	100.0%	\$228,127	\$50,000

Percentage of Claims with Paid Indemnity



Percentage of Total Paid Indemnity



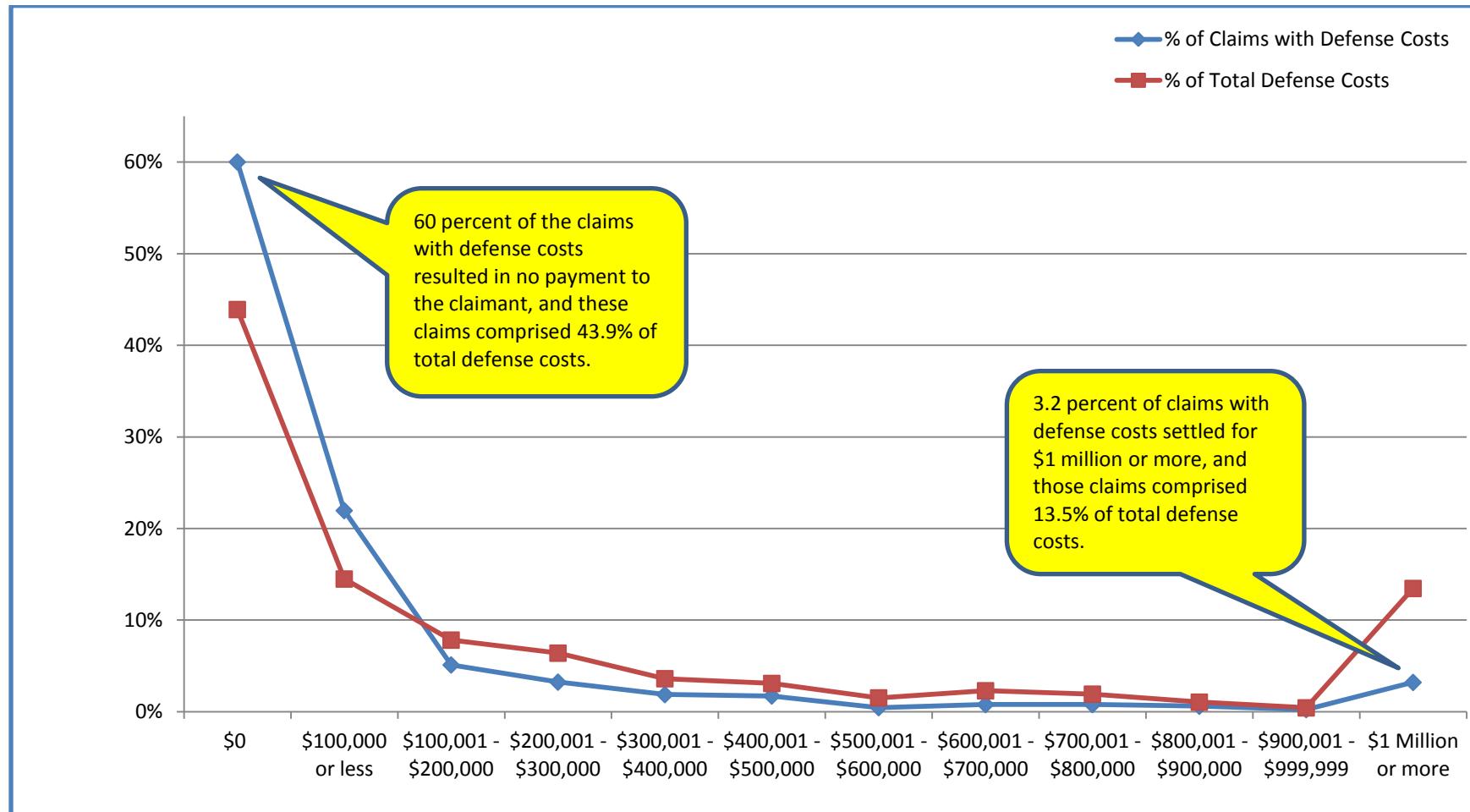
### Defense costs by size of indemnity payment

This table shows the percent of claims closed with defense costs by range of paid indemnity. Insurers and self-insurers did not make an indemnity payment for 60 percent of claims with defense costs, yet these claims accounted for 43.9 percent of all defense costs. Average defense costs for these claims were \$31,089, yet the median defense cost was much lower at \$4,408.

There were 106 claims with defense costs that settled for \$1 million or more, and those claims produced 13.5 percent of the total defense costs, or an average of \$178,365 per claim. Median defense costs for claims settled for \$1 million or more were \$123,616.

Range of Paid Indemnity	Four-year period ending December 31, 2011					
	Number of Claims with Defense Costs	% of Claims with Defense Costs	Total Defense Costs	Percent of Total Defense Costs	Average Defense Cost	Median Defense Cost
\$0	1,984	60.0%	\$61,680,651	43.9%	\$31,089	\$4,408
\$100,000 or less	726	22.0%	\$20,358,605	14.5%	\$28,042	\$8,087
\$100,001 - \$200,000	169	5.1%	\$10,994,463	7.8%	\$65,056	\$38,673
\$200,001 - \$300,000	107	3.2%	\$8,990,721	6.4%	\$84,025	\$53,810
\$300,001 - \$400,000	62	1.9%	\$5,072,156	3.6%	\$81,809	\$48,954
\$400,001 - \$500,000	57	1.7%	\$4,347,335	3.1%	\$76,269	\$38,151
\$500,001 - \$600,000	15	0.5%	\$2,130,139	1.5%	\$142,009	\$95,097
\$600,001 - \$700,000	26	0.8%	\$3,220,746	2.3%	\$123,875	\$85,580
\$700,001 - \$800,000	26	0.8%	\$2,702,894	1.9%	\$103,957	\$64,390
\$800,001 - \$900,000	20	0.6%	\$1,478,424	1.1%	\$73,921	\$33,707
\$900,001 - \$999,999	8	0.2%	\$601,764	0.4%	\$75,221	\$55,878
\$1 Million or more	106	3.2%	\$18,906,695	13.5%	\$178,365	\$123,616
Totals & Averages	3,306	100.0%	\$140,484,593	100.0%	\$42,494	\$8,711

This chart shows the distribution of claims and defense costs by the size of indemnity payment.

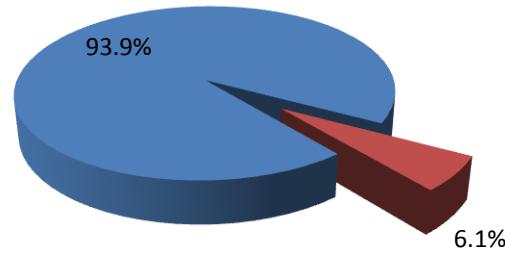


### Defense costs for claims with paid indemnity below and above \$500,000

Most claims with defense costs and the majority of total defense costs were for claims with paid indemnity in the \$0 to \$500,000 range. Median defense costs for claims up to \$500,000 were \$7,175, versus \$88,500 for claims settled for over \$500,000. Many medical malpractice claims have relatively small amounts paid for defense costs.

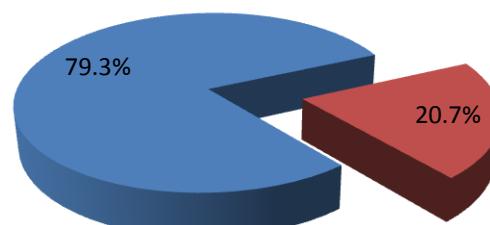
Range of Paid Indemnity	<u>Four-year period ending December 31, 2011</u>					
	Number of Claims with Defense Costs	% of Claims with Defense Costs	Total Defense Costs	% of Total Defense Costs	Average Defense Cost	Median Defense Cost
\$0 to \$500,000	3,105	93.9%	\$111,443,931	79.3%	\$35,892	\$7,175
Over \$500,000	201	6.1%	\$29,040,662	20.7%	\$144,481	\$88,500
Total & Average	3,306	100.0%	\$140,484,593	100.0%	\$42,494	\$8,711

**Percentage of Claims with Defense Costs**



■ \$0 to \$500,000 ■ Over \$500,000

**Percentage of Total Defense Costs**



■ \$0 to \$500,000 ■ Over \$500,000

## Paid indemnity and defense costs by age of claim

This table shows claims by age at the date they are closed, and shows that in all age groups, average indemnity and average defense costs increased with the age of the claim.<sup>57</sup>

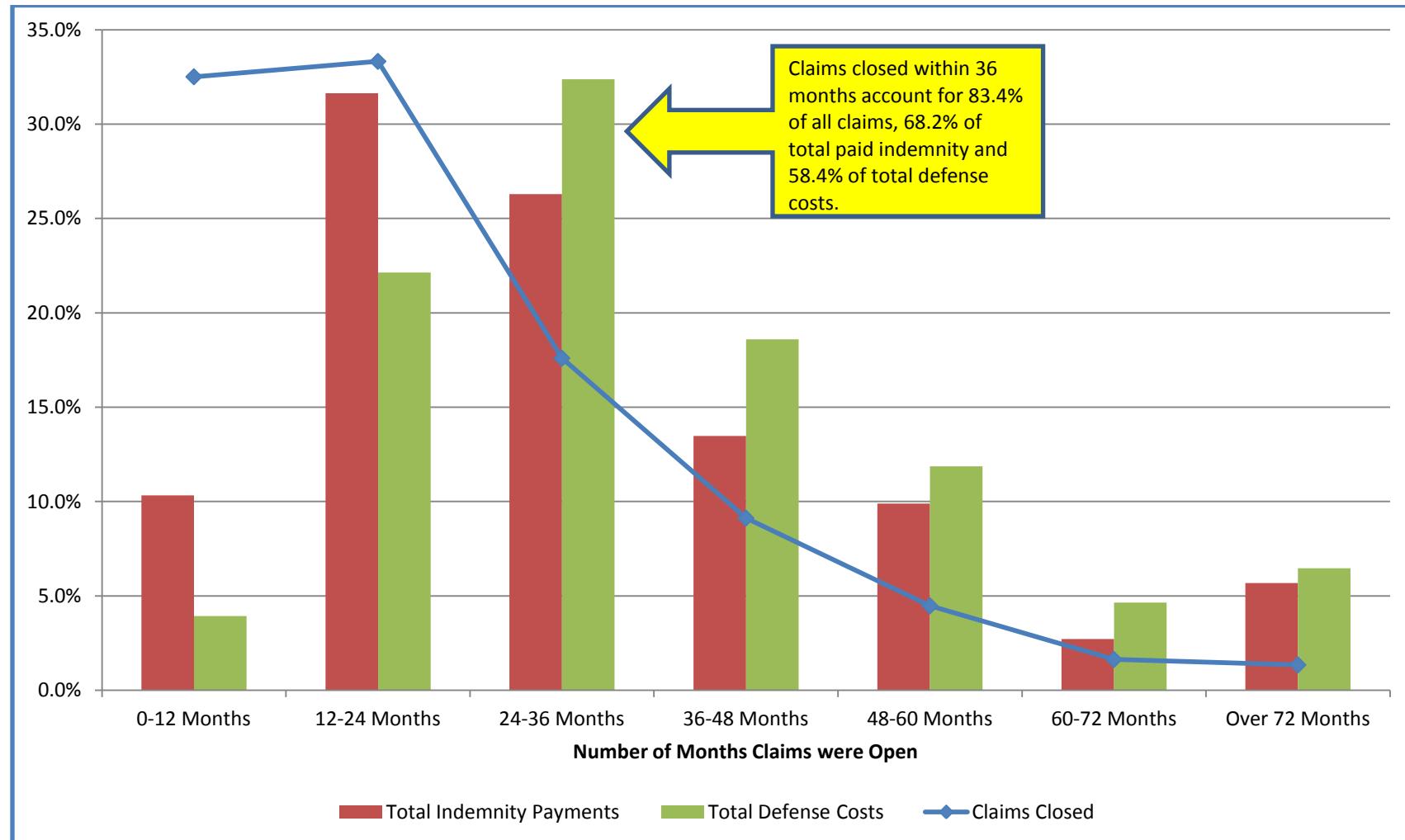
Notice Date to <u>Closed Date</u>	Four year period ending December 31, 2011							
	Total Number of Closed Claims	% of Total Claims Closed	Number of Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Number of Claims with Defense Costs	Total Defense Costs	Average Defense Costs
0-12 Months	1,236	32.5%	629	42,812,026	\$68,064	887	5,526,935	\$6,231
12-24 Months	1,267	33.3%	547	131,228,492	\$239,906	1,177	31,088,339	\$26,413
24-36 Months	669	17.6%	332	109,008,469	\$328,339	640	45,492,877	\$71,083
36-48 Months	347	9.1%	167	55,876,093	\$334,587	337	26,127,175	\$77,529
48-60 Months	170	4.5%	91	41,000,602	\$450,556	162	16,657,587	\$102,825
60-72 Months	62	1.6%	24	11,271,214	\$469,634	59	6,519,094	\$110,493
Over 72 Months	51	1.3%	28	23,537,419	\$840,622	44	9,072,586	\$206,195
Total	3,802	100.0%	1,818	\$414,734,315	\$228,127	3,306	\$140,484,593	\$42,494

Claims closed within the first 12 months represented 32.5 percent of total claims and had the lowest average defense costs and average paid indemnity. For the entire group of 3,802 claims, the average length of time between loss date and date closed was 22.5 months and the median length of time was 18.4 months. The oldest group of claims had the highest average defense costs and average paid indemnity. Insurers and self-insurers closed 83.4 percent of all claims within 36 months after they received notice of the claim. Overall, claims closed within 36 months account for 68.2 percent of total paid indemnity and 58.4 percent of total defense costs.

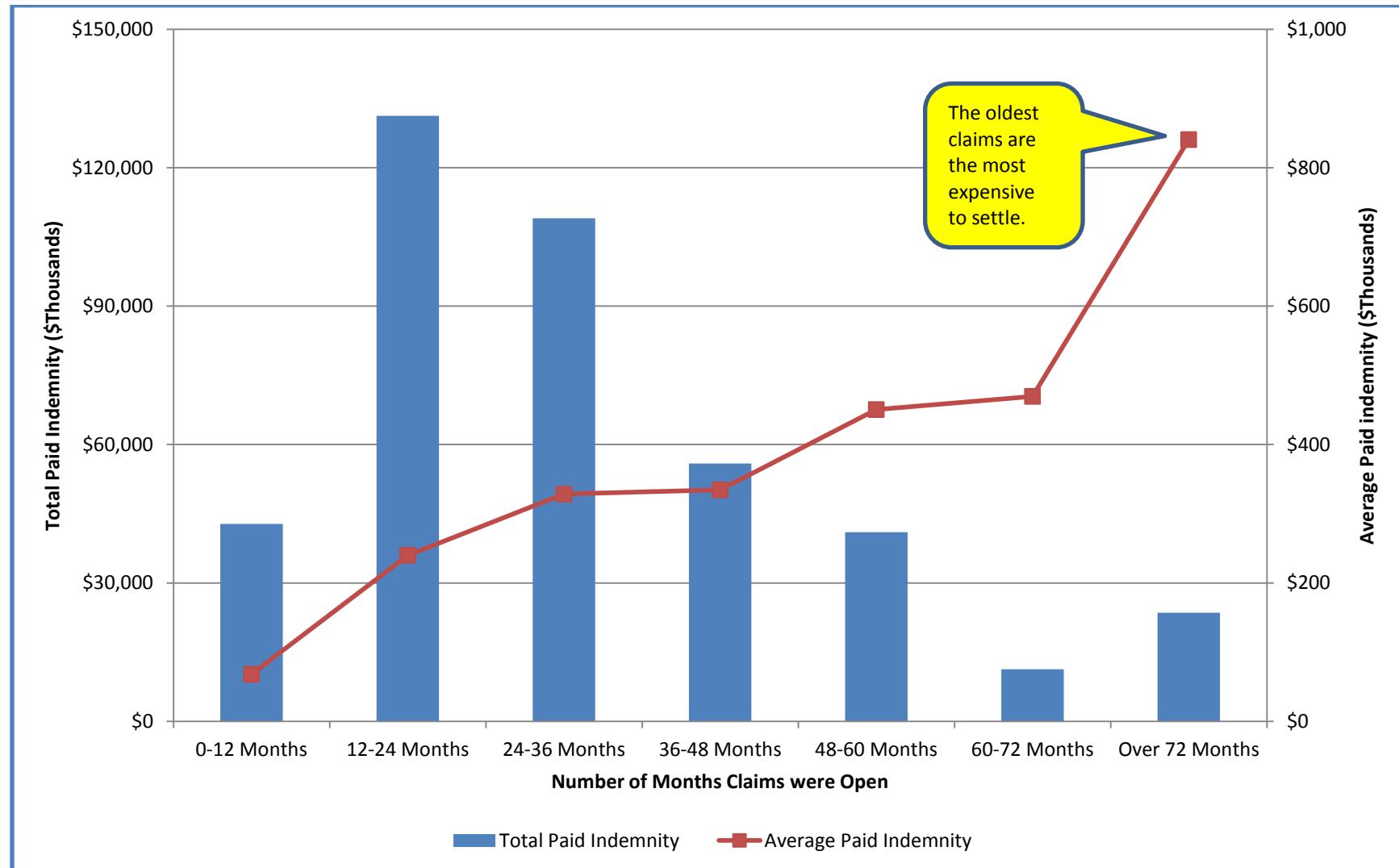
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<sup>57</sup> How long a claim is open, or the “duration” of the claim, is an indicator of how costly the claim will be to resolve. Duration means the length of time between the date the insurer or self-insurer received notice of the claim and the date the insurer or self-insurer closed the claim.

This chart shows the distribution of claims, indemnity payments and defense costs in relation to the time between the date the claim was made and the date it was settled.



This chart shows the distribution of total and average paid indemnity by age of claim.

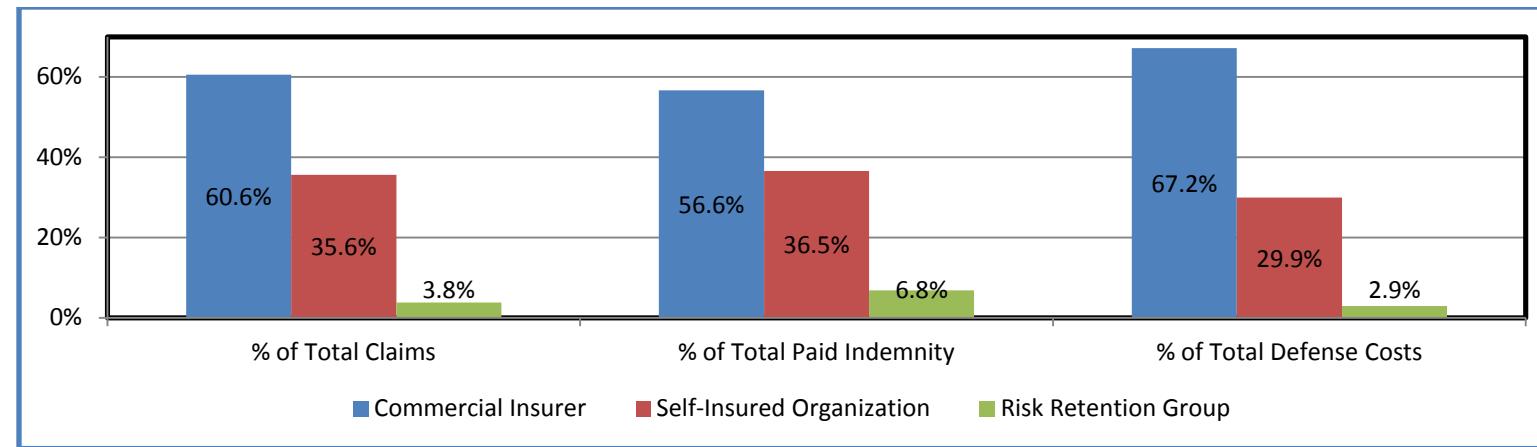


## Type of insuring entity

Commercial insurers reported the highest number of claims and had the highest average and median defense costs.<sup>58</sup> Self-insured organizations reported the second highest number of claims, and had the lowest average and median defense costs. Risk retention groups had the highest average paid indemnity due to one large indemnity payment of \$14.35 million. If we exclude this claim, average paid indemnity drops from \$368,352 to \$184,383 and average defense costs drop from \$36,689 to \$28,633.

Reporting Entity	Four-year period ending December 31, 2011								
	Total Claims	Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity	Claims with Defense Costs	Total Defense Costs	Average Defense Cost	Median Defense Cost
Commercial Insurer	2,303	1,060	\$234,827,837	\$221,536	\$59,997	2,056	\$94,338,193	\$45,884	\$11,352
Self-Insured Organization	1,355	681	\$151,543,394	\$222,531	\$33,665	1,138	\$42,037,287	\$36,940	\$6,320
Risk Retention Group	144	77	\$28,363,084	\$368,352	\$19,999	112	\$4,109,113	\$36,689	\$7,853
Totals & Averages	3,802	1,818	\$414,734,315	\$228,127	\$50,000	3,306	\$140,484,593	\$42,494	\$8,711

This chart shows the distribution of claims, indemnity payments and defense costs for each type of reporting entity.



<sup>58</sup> Commercial insurers include admitted (licensed) and surplus lines insurers.

## Severity of injury

This table shows compensation by severity of injury.<sup>59</sup> Insurers and self-insurers most often classified injuries as minor and temporary, and these claims had the second lowest average paid indemnity of \$34,689. Minor temporary injuries comprised 26 percent of total claims, 4.5 percent of total paid indemnity and 9.1 percent of defense costs.

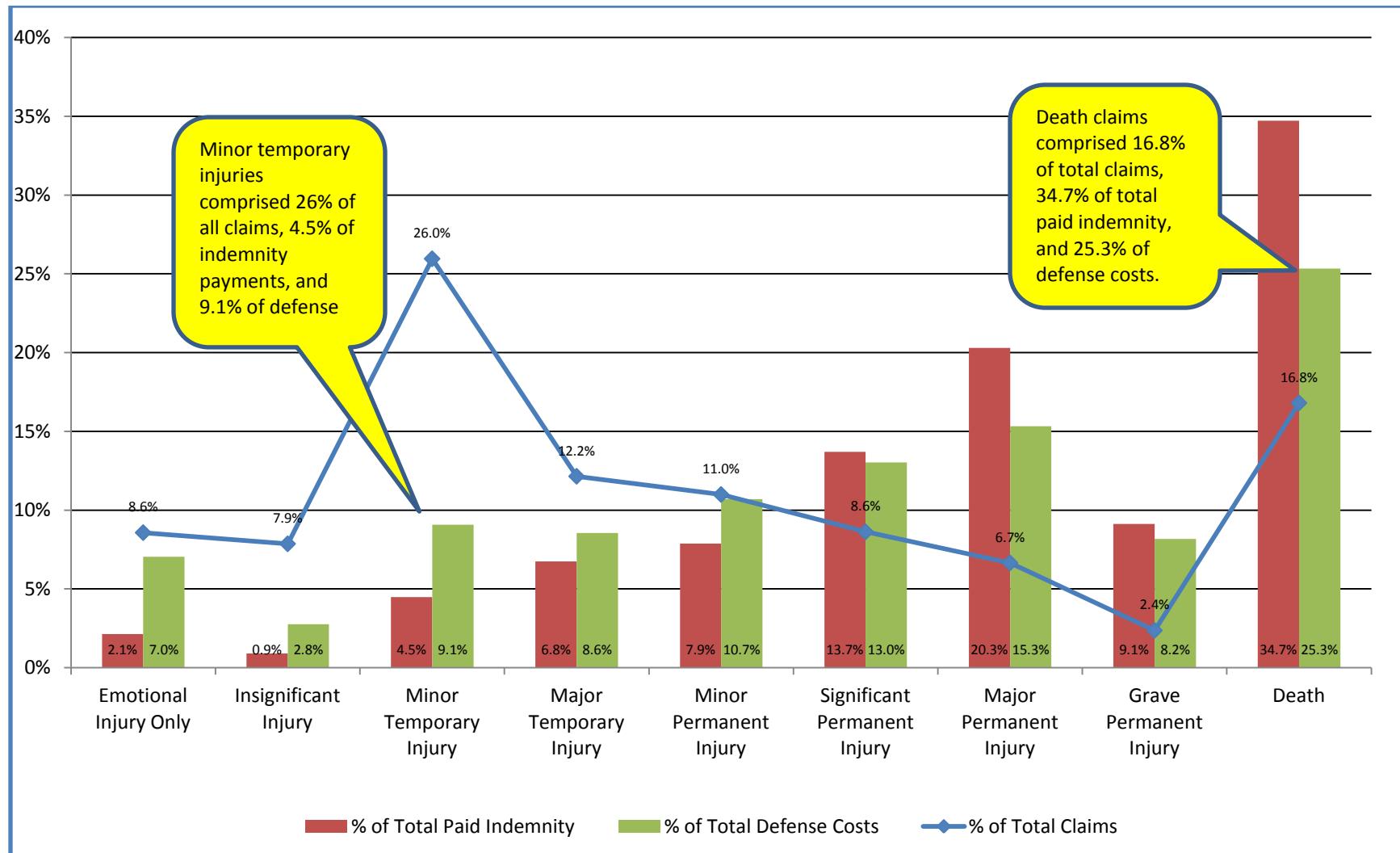
Injury Outcome	Four-year period ending December 31, 2011								
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity	Claims with Defense Costs	Total Defense Costs	Average Defense Cost	Median Defense Cost
Emotional Injury Only	326	144	\$8,871,351	\$61,607	\$18,000	259	\$9,891,998	\$38,193	\$7,148
Insignificant Injury	299	122	\$3,735,684	\$30,620	\$9,430	243	\$3,873,574	\$15,941	\$3,273
Minor Temporary Injury	987	535	\$18,558,881	\$34,689	\$11,500	761	\$12,749,385	\$16,753	\$2,100
Major Temporary Injury	462	222	\$28,005,433	\$126,151	\$49,750	399	\$12,023,500	\$30,134	\$6,711
Minor Permanent Injury	418	225	\$32,687,962	\$145,280	\$75,000	359	\$15,024,990	\$41,852	\$13,521
Significant Permanent Injury	328	148	\$56,849,266	\$384,117	\$192,500	318	\$18,309,298	\$57,576	\$17,782
Major Permanent Injury	253	110	\$84,197,976	\$765,436	\$371,875	251	\$21,531,965	\$85,785	\$23,948
Grave Permanent Injury	90	34	\$37,822,445	\$1,112,425	\$537,687	88	\$11,484,137	\$130,502	\$21,439
Death	639	278	\$144,005,317	\$518,005	\$300,000	628	\$35,595,746	\$56,681	\$41,876
Totals	3,802	1,818	\$414,734,315	\$228,127	\$50,000	3,306	\$140,484,593	\$42,494	\$8,711

Grave permanent injuries had the highest average paid indemnity at \$1.1 million and median paid indemnity at \$537,697.<sup>60</sup> Major permanent injuries had the second highest average paid indemnity at \$765,436 and median paid indemnity at \$371,875. Death of the patient had the third highest average paid indemnity at \$518,005 and median paid indemnity at \$300,000.

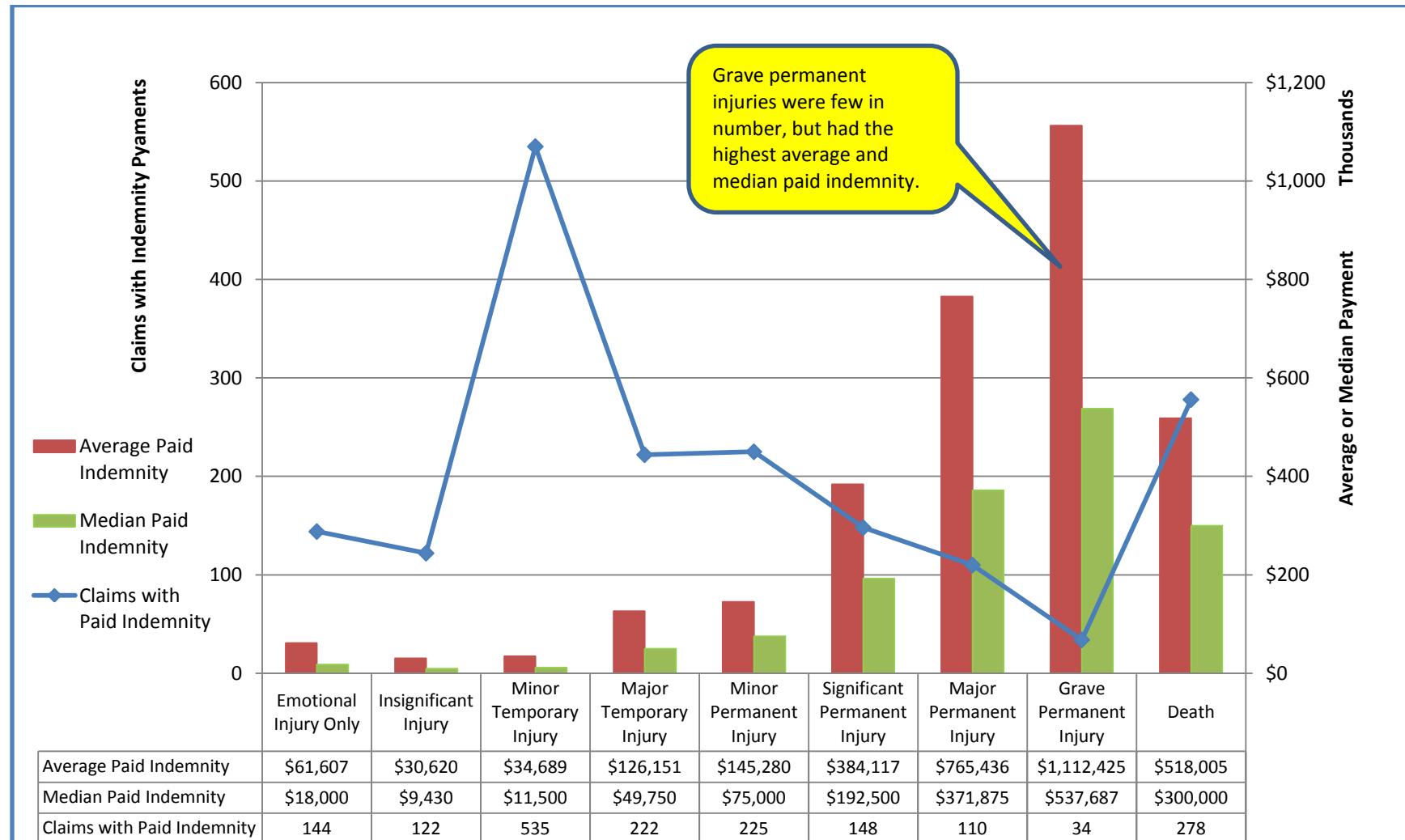
<sup>59</sup> For a description of each type of injury outcome, see [WAC 284-24D-220](#).

<sup>60</sup> Grave permanent injuries include quadriplegia and severe brain damage, requiring lifelong dependent care.

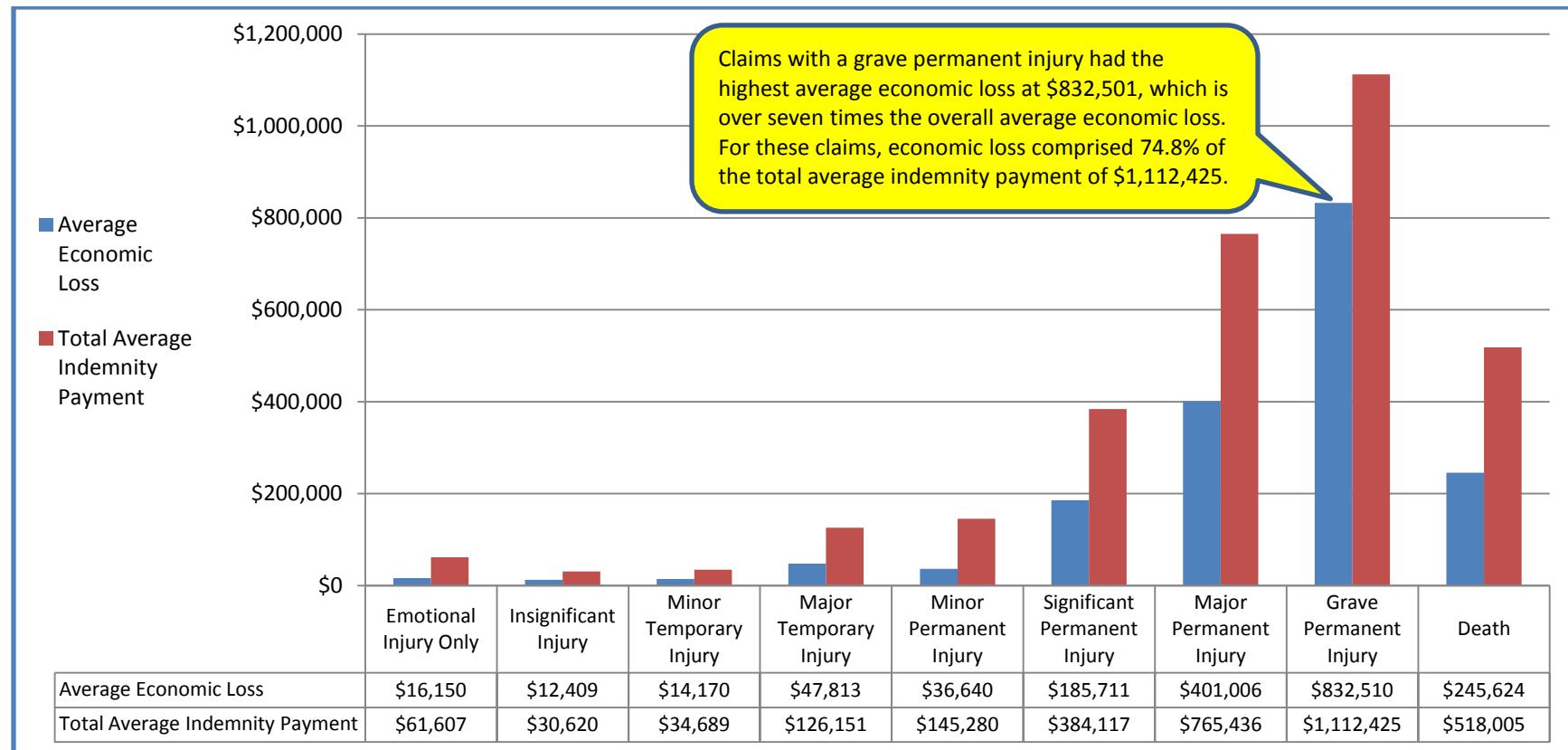
This chart shows distributions of claims, indemnity payments and defense costs by severity of injury.



This chart shows the relationship between injury outcome, average paid indemnity, and median paid indemnity and the number of claims with paid indemnity.



If they make an indemnity payment, insurers and self-insurers reported the economic loss related to the injury.<sup>61</sup> The insurer or self-insurer either estimated the economic losses or reported the amount of economic loss awarded by a court. Claims involving death of the patient had lower average paid indemnity and average economic loss than claims for major permanent injury or grave permanent injury. If a person dies, compensation for economic loss is largely comprised of lost income and services that the deceased would have provided. This chart shows the relationship between injury outcome and average paid indemnity and average economic loss.



<sup>61</sup> Economic damages are defined in RCW [4.56.250](#), and the components of economic losses are described in [WAC 284-24D-360](#).

## Type of health care organization

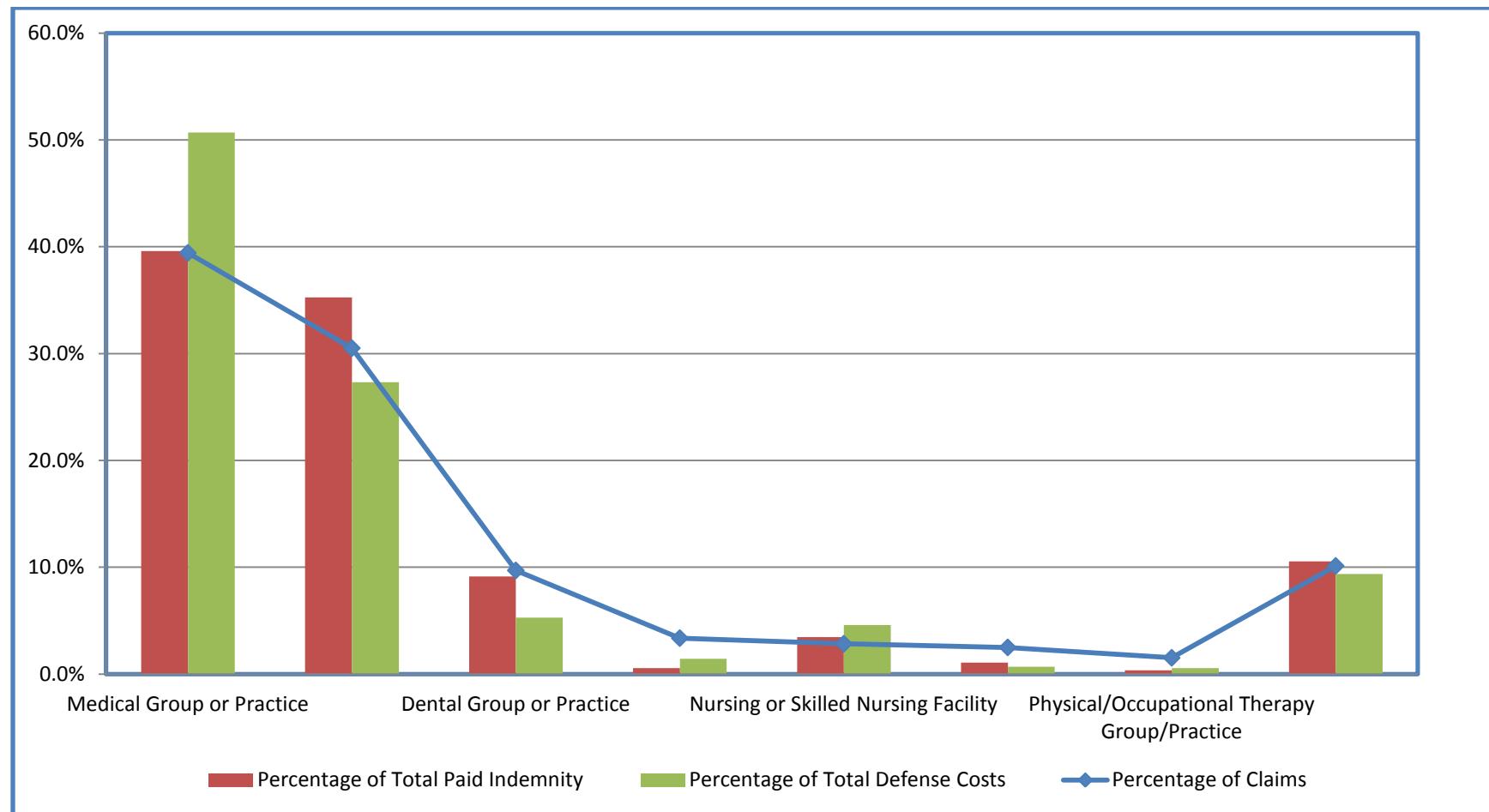
This exhibit shows data for 14 types of health care organizations or provider groups.<sup>62</sup>

<u>Health Care Organization</u>	Four-year period ending December 31, 2011									
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	% of Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity	Claims with Defense Costs	Total Defense Costs	% of Total Defense Costs	Average Defense Cost
Medical Group or Practice	1,499	603	\$164,230,698	39.6%	\$272,356	\$100,000	1,387	\$71,225,343	50.7%	\$51,352
General or Acute Care Hospital	1,160	572	\$146,269,294	35.3%	\$255,716	\$38,750	977	\$38,386,169	27.3%	\$39,290
Dental Group or Practice	369	256	\$37,852,981	9.1%	\$147,863	\$22,500	287	\$7,415,931	5.3%	\$25,839
Local or State Correctional Facility	128	66	\$2,304,944	0.6%	\$34,923	\$16,500	101	\$2,025,746	1.4%	\$20,057
Nursing or Skilled Nursing Facility	109	68	\$14,379,311	3.5%	\$211,460	\$136,614	105	\$6,468,917	4.6%	\$61,609
Ambulatory Clinic or Center	95	37	\$4,469,837	1.1%	\$120,806	\$25,000	79	\$983,342	0.7%	\$12,447
Physical/Occupational Therapy Group/Practice	58	49	\$1,509,831	0.4%	\$30,813	\$10,000	18	\$803,226	0.6%	\$44,624
Podiatric Group or Practice	44	16	\$2,867,000	0.7%	\$179,188	\$90,000	44	\$1,400,516	1.0%	\$31,830
Chiropractic Group or Practice	43	19	\$2,978,854	0.7%	\$156,782	\$35,000	42	\$1,083,277	0.8%	\$25,792
Mental Health/Substance Abuse Group/Practice	29	9	\$812,500	0.2%	\$90,278	\$65,000	29	\$1,083,211	0.8%	\$37,352
Pharmacy	26	25	\$2,185,689	0.5%	\$87,428	\$10,000	13	\$45,871	0.0%	\$3,529
Health Center/Community Health Center	23	10	\$1,261,733	0.3%	\$126,173	\$6,250	17	\$299,376	0.2%	\$17,610
Ambulatory Surgical Center	14	8	\$598,137	0.1%	\$74,767	\$38,289	11	\$802,123	0.6%	\$72,920
Radiology or Imaging Center	10	7	\$1,538,808	0.4%	\$219,830	\$15,935	9	\$155,957	0.1%	\$17,329
All Other Organizations	313	107	\$31,474,698	7.6%	\$294,156		172	\$8,305,588	5.9%	\$48,288
Totals and Averages	3,802	1,818	\$414,734,315	100.0%	\$228,127	\$50,000	3,306	\$140,484,593	100.0%	\$42,494

<sup>62</sup> Under [RCW 48.140.060](#) and [RCW 42.56.400](#)(10), the commissioner must protect the identify of each insuring entity, self-insurer, claimant, health care provider, or health care facility involved in a particular claim or collection of claims.

Medical groups or practices had the largest number of total claims. Excluding data for all other locations, medical groups or practices had the highest average paid indemnity at \$272,536. Medical groups or practices had the second highest median paid indemnity at \$100,000 and average defense cost at \$51,352. Nursing or skilled nursing facilities had the highest median paid indemnity at \$147,433 and average defense costs at \$61,609.

This chart shows the distribution of claims, indemnity payments and defense costs by type of health care organization.



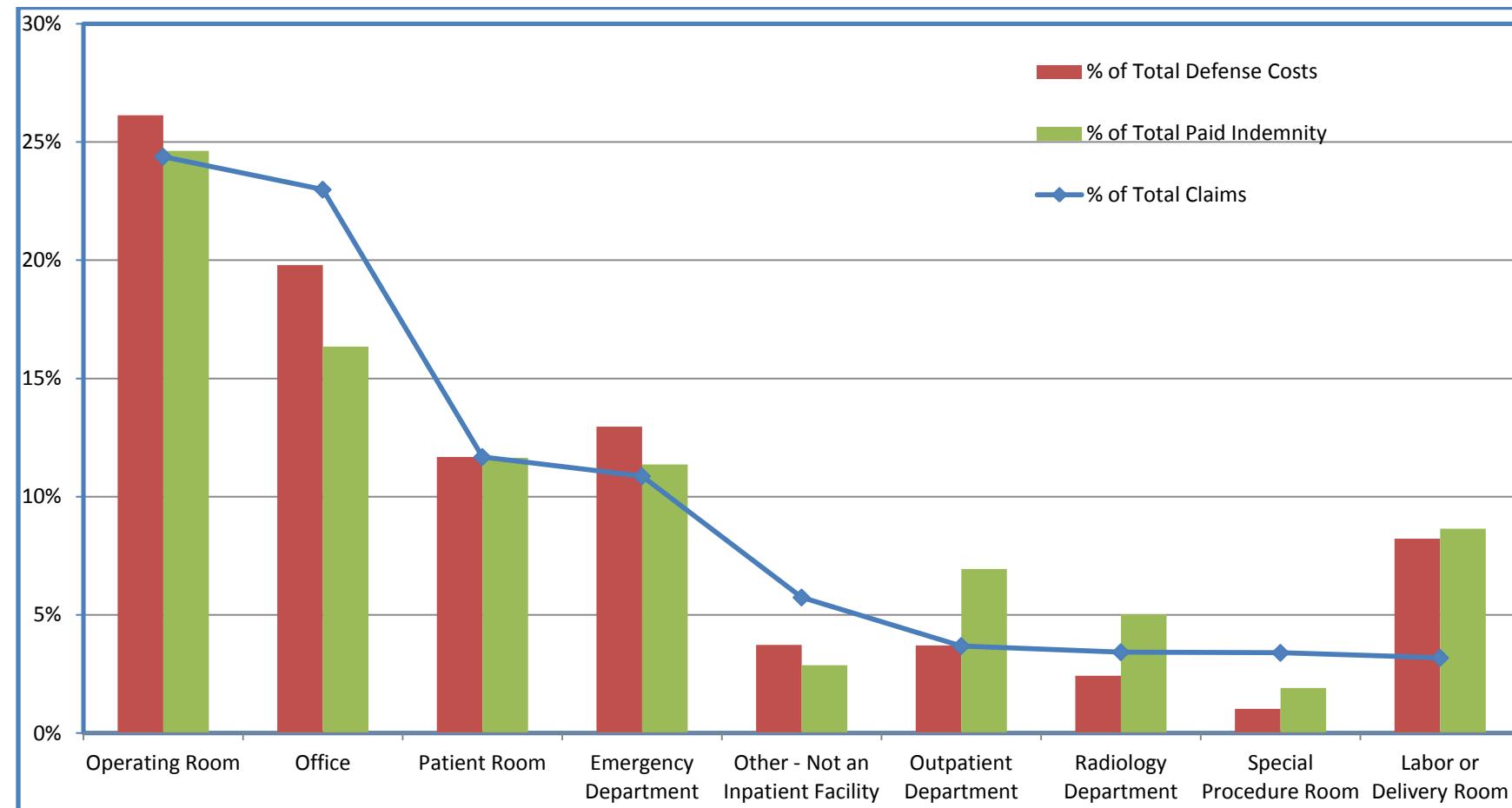
## Location in the facility

This exhibit shows data by location within the medical facility, limited to locations with 20 or more claims.

<u>Location within Facility</u>	Four-year period ending December 31, 2011										
	Total Number of Claims	% of Total Claims	Claims with Paid Indemnity	Total Paid Indemnity	% of Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity	Claims with Defense Costs	Total Defense Costs	% of Total Defense Costs	Average Defense Cost
Operating Room	927	24.4%	405	\$102,126,936	24.6%	\$252,165	\$57,500	818	\$36,706,375	26.1%	\$44,873
Office	874	23.0%	427	\$67,810,530	16.4%	\$158,807	\$37,500	778	\$27,808,160	19.8%	\$35,743
Patient Room	444	11.7%	236	\$48,275,173	11.6%	\$204,556	\$62,983	393	\$16,413,082	11.7%	\$41,764
Emergency Department	413	10.9%	155	\$47,126,522	11.4%	\$304,042	\$45,000	371	\$18,204,940	13.0%	\$49,070
Other - Not an Inpatient Facility	218	5.7%	76	\$11,896,378	2.9%	\$156,531	\$57,500	203	\$5,243,128	3.7%	\$25,828
Outpatient Department	140	3.7%	66	\$28,773,287	6.9%	\$435,959	\$32,500	117	\$5,205,674	3.7%	\$44,493
Radiology Department	130	3.4%	60	\$20,838,553	5.0%	\$347,309	\$50,000	116	\$3,404,823	2.4%	\$29,352
Special Procedure Room	129	3.4%	91	\$7,895,064	1.9%	\$86,759	\$35,000	88	\$1,436,479	1.0%	\$16,324
Labor or Delivery Room	121	3.2%	43	\$35,849,756	8.6%	\$833,715	\$400,000	119	\$11,554,273	8.2%	\$97,095
Physical Therapy Department	64	1.7%	55	\$2,240,902	0.5%	\$40,744	\$12,000	21	\$1,096,048	0.8%	\$52,193
Walk-in Clinic	50	1.3%	31	\$3,890,778	0.9%	\$125,509	\$75,000	42	\$1,490,802	1.1%	\$35,495
Laboratory	33	0.9%	17	\$6,885,646	1.7%	\$405,038	\$60,000	25	\$1,607,405	1.1%	\$64,296
Critical Care Unit	28	0.7%	14	\$5,000,281	1.2%	\$357,163	\$162,500	27	\$1,195,143	0.9%	\$44,265
Pharmacy	28	0.7%	27	\$1,880,448	0.5%	\$69,646	\$7,500	12	\$64,284	0.0%	\$5,357
Rehabilitation Center	27	0.7%	16	\$2,118,057	0.5%	\$132,379	\$81,250	26	\$1,215,464	0.9%	\$46,749
Catheterization Lab	22	0.6%	11	\$4,303,228	1.0%	\$391,203	\$150,000	20	\$489,562	0.3%	\$24,478
Unknown	21	0.6%	8	\$427,030	0.1%	\$53,379	\$38,250	18	\$372,565	0.3%	\$20,698
Facility Support Areas	20	0.5%	12	\$1,853,708	0.4%	\$154,476	\$75,500	18	\$2,465,002	1.8%	\$136,945
All Other Locations	113	3.0%	68	\$15,542,038	3.7%	\$228,559		94	\$4,511,384	3.2%	\$47,993
Totals & Averages	3,802	100.0%	1,818	\$414,734,315	100.0%	\$228,127	\$50,000	3,306	\$140,484,593	100.0%	\$42,494

The largest numbers of claims resulted from incidents occurring in operating rooms, followed by incidents that occurred in medical professionals' offices. These two locations represented 47.4 percent of the claims. The highest average and median indemnity payments and highest average defense costs were due to injuries that occurred in the labor or delivery room

This chart shows the distribution of claims, indemnity payments and defense costs by location within the facility for nine locations with the largest number of claims.



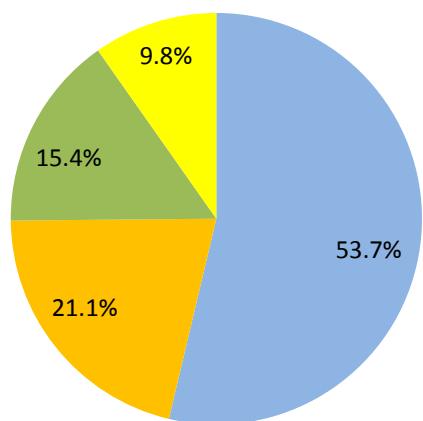
## Type of medical provider

Provider Group	Four-year period ending December 31, 2011										
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	% of Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity	Claims with Defense Costs	Total Defense Costs	% of Total Defense Costs	Average Defense Cost	Median Defense Cost
Physician Specialty	2,042	791	\$225,500,486	54.4%	\$285,083	\$100,000	1,890	\$89,696,793	63.8%	\$47,459	\$9,405
Other type of Medical Provider	804	487	\$70,197,697	16.9%	\$144,143	\$27,000	625	\$21,340,599	15.2%	\$34,145	\$8,375
Claim Against an Organization	585	279	\$83,109,679	20.0%	\$297,884	\$50,000	506	\$22,249,639	15.8%	\$43,972	\$13,426
Dental Specialty	371	261	\$35,926,453	8.7%	\$137,649	\$22,500	285	\$7,197,562	5.1%	\$25,255	\$2,730
Totals	3,802	1,818	\$414,734,315	100.0%	\$228,127	\$50,000	3,306	\$140,484,593	100.0%	\$42,494	\$8,711

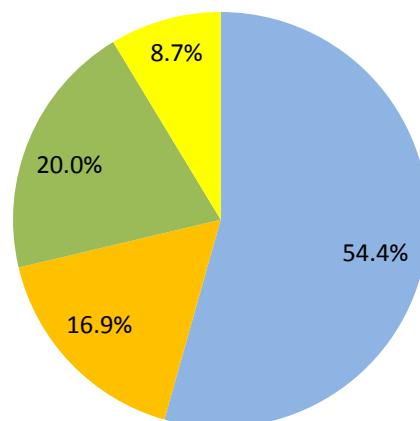
The highest percentage of claims, 53.7 percent, were made against physician specialties. These claims had the highest average defense cost at \$47,459, highest median indemnity payment at \$100,000, and the second highest average paid indemnity at \$285,083. Paid indemnity results were high for dental specialties due to one large payment of \$14.35 million. If we remove that payment, average paid indemnity for dental specialties drops to \$82,986. Claims against organizations were the most expensive to settle, with average paid indemnity of \$297,884, yet this group had a lower median paid indemnity than physician specialties. This suggests that organizations paid more for very large claims.

These charts show the distribution of claims counts, indemnity payments and defense costs by class of medical provider.

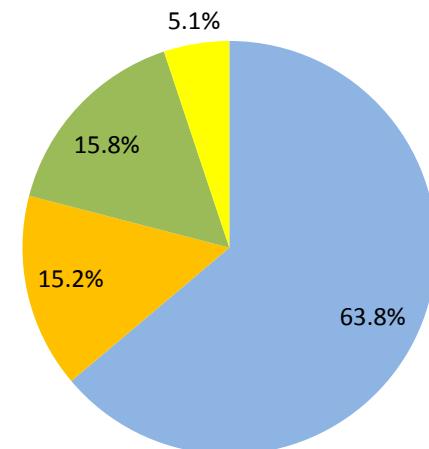
**Claim Counts**



**Indemnity Payments**



**Defense Costs**



- Physician Specialty
- Other type of Medical Provider
- Claim Against an Organization
- Dental Specialty

This table shows claim data for physician specialties that had the largest number of claims.<sup>63</sup>

<u><b>Provider Specialty</b></u>	Number of Claims	Four-year period ending December 31, 2011								
		Claims with Paid Indemnity	Paid Indemnity	% of Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity	Claims with Defense Costs	Total Defense Costs	% of Total Defense Costs	Average Defense Cost
General Practice-Family Practice	263	107	\$21,347,645	9.5%	\$199,511	\$87,500	246	\$9,973,388	11.1%	\$40,542
General Surgery	218	108	\$22,855,644	10.1%	\$211,626	\$44,430	193	\$8,055,307	9.0%	\$41,737
Emergency Medicine	217	67	\$20,286,104	9.0%	\$302,778	\$62,500	203	\$9,989,302	11.1%	\$49,208
Obstetrics and Gynecology	193	57	\$29,674,619	13.2%	\$520,607	\$350,000	186	\$12,008,318	13.4%	\$64,561
Orthopedic Surgery	187	65	\$16,855,668	7.5%	\$259,318	\$100,000	178	\$6,118,028	6.8%	\$34,371
Internal Medicine	155	48	\$11,747,346	5.2%	\$244,736	\$93,945	146	\$6,081,489	6.8%	\$41,654
Radiology	118	46	\$16,462,342	7.3%	\$357,877	\$155,469	111	\$4,247,613	4.7%	\$38,267
Anesthesiology	105	65	\$12,599,890	5.6%	\$193,844	\$11,527	76	\$4,688,886	5.2%	\$61,696
Urological Surgery	58	21	\$11,750,262	5.2%	\$559,536	\$170,000	55	\$2,489,130	2.8%	\$45,257
Cardiovascular Diseases	57	16	\$7,335,734	3.3%	\$458,483	\$143,750	55	\$2,677,333	3.0%	\$48,679
Gastroenterology	51	16	\$4,839,248	2.1%	\$302,453	\$52,674	46	\$1,888,951	2.1%	\$41,064
Neurological Surgery	47	25	\$7,001,575	3.1%	\$280,063	\$200,000	46	\$3,514,125	3.9%	\$76,394
Pediatrics	45	22	\$5,608,782	2.5%	\$254,945	\$166,667	43	\$4,163,342	4.6%	\$96,822
Otolaryngology	43	16	\$5,507,098	2.4%	\$344,194	\$250,000	39	\$2,905,716	3.2%	\$74,506
Ophthalmology	40	16	\$5,786,079	2.6%	\$361,630	\$150,000	37	\$1,142,129	1.3%	\$30,868
Plastic Surgery	37	14	\$2,579,567	1.1%	\$184,255	\$71,250	35	\$1,290,354	1.4%	\$36,867
Hospitalist	28	7	\$2,865,000	1.3%	\$409,286	\$415,000	28	\$1,113,478	1.2%	\$39,767
Neurology	20	7	\$1,520,500	0.7%	\$217,214	\$125,000	20	\$977,474	1.1%	\$48,874
Psychiatry	20	6	\$3,185,000	1.4%	\$530,833	\$83,000	20	\$1,115,685	1.2%	\$55,784
Radiation Oncology	19	7	\$844,314	0.4%	\$120,616	\$50,000	17	\$879,696	1.0%	\$51,747
General Preventive Medicine	18	11	\$1,045,333	0.5%	\$95,030	\$55,000	14	\$665,926	0.7%	\$47,566
Thoracic Surgery	17	4	\$615,000	0.3%	\$153,750	\$100,000	17	\$161,419	0.2%	\$9,495
Diagnostic Radiology	17	5	\$1,415,000	0.6%	\$283,000	\$145,000	16	\$873,430	1.0%	\$54,589
All Other Physician Types	69	35	\$11,772,736	5.2%	\$336,364		63	\$2,676,274	3.0%	\$42,481
Totals and Averages	2,042	791	\$225,500,486	100.0%	\$285,083	\$100,000	1,890	\$89,696,793	100.0%	\$47,459

<sup>63</sup> Under [RCW 48.140.060](#) and [RCW 42.56.400\(10\)](#), some specialties are grouped together to maintain confidentiality.

The highest percentage of claims reported on behalf of physician specialties were for general and family practice physicians, but these claims were among the least costly to defend and settle. The most common allegations against general and family practice physicians were failure to diagnose with 47 claims, followed by delay in diagnosis with 33 claims, and improper performance and improper management with 18 claims each.

Obstetrics and gynecology was a specialty ranked high in total number of claims, average and median paid indemnity and average defense costs. The most common allegations against this physician specialty were improper performance with 48 claims, failure to diagnose with 19 claims, and improper management and improper performance with 16 claims each.

This table shows claim data for other types of medical providers.<sup>64</sup> Nursing staff accounted for 429 claims. There were 271 indemnity payments made on behalf of nursing staff, with median paid indemnity of \$30,000, average paid indemnity of \$132,984 and average defense costs of \$36,773. The most common allegations against nursing staff were failure to monitor with 50 claims, followed by improper technique with 37 claims and improper performance with 31 claims. Physical therapy had the second highest total number of claims at 69, and the most common allegation against this type of medical provider was sexual misconduct with 34 claims.

Provider Type	Four-year period ending December 31, 2011									
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	% of Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity	Claims with Defense Costs	Total Defense Costs	% of Total Defense Costs	Average Defense Cost
Nursing	429	271	\$36,038,771	51.3%	\$132,984	\$30,000	341	\$12,539,676	58.8%	\$36,773
Physical Therapy	69	55	\$1,214,627	1.7%	\$22,084	\$10,000	26	\$1,055,326	4.9%	\$40,589
Podiatry	61	20	\$3,241,500	4.6%	\$162,075	\$77,500	60	\$1,728,422	8.1%	\$28,807
Physician Assistant	45	19	\$2,641,817	3.8%	\$139,043	\$50,000	41	\$812,755	3.8%	\$19,823
Chiropractic	41	19	\$2,978,854	4.2%	\$156,782	\$35,000	40	\$1,073,303	5.0%	\$26,833
Pharmacy	39	38	\$2,631,650	3.7%	\$69,254	\$9,900	19	\$126,351	0.6%	\$6,650
Psychology	32	12	\$949,250	1.4%	\$79,104	\$26,000	29	\$804,126	3.8%	\$27,728
Radiology Technician	25	19	\$10,541,766	15.0%	\$554,830	\$45,569	19	\$561,202	2.6%	\$29,537
All Other Types	63	34	\$9,959,462	14.2%	\$292,925		50	\$2,639,438	12.4%	\$52,789
Totals	804	487	\$70,197,697	100.0%	\$144,143	\$27,000	625	\$21,340,599	100.0%	\$34,145

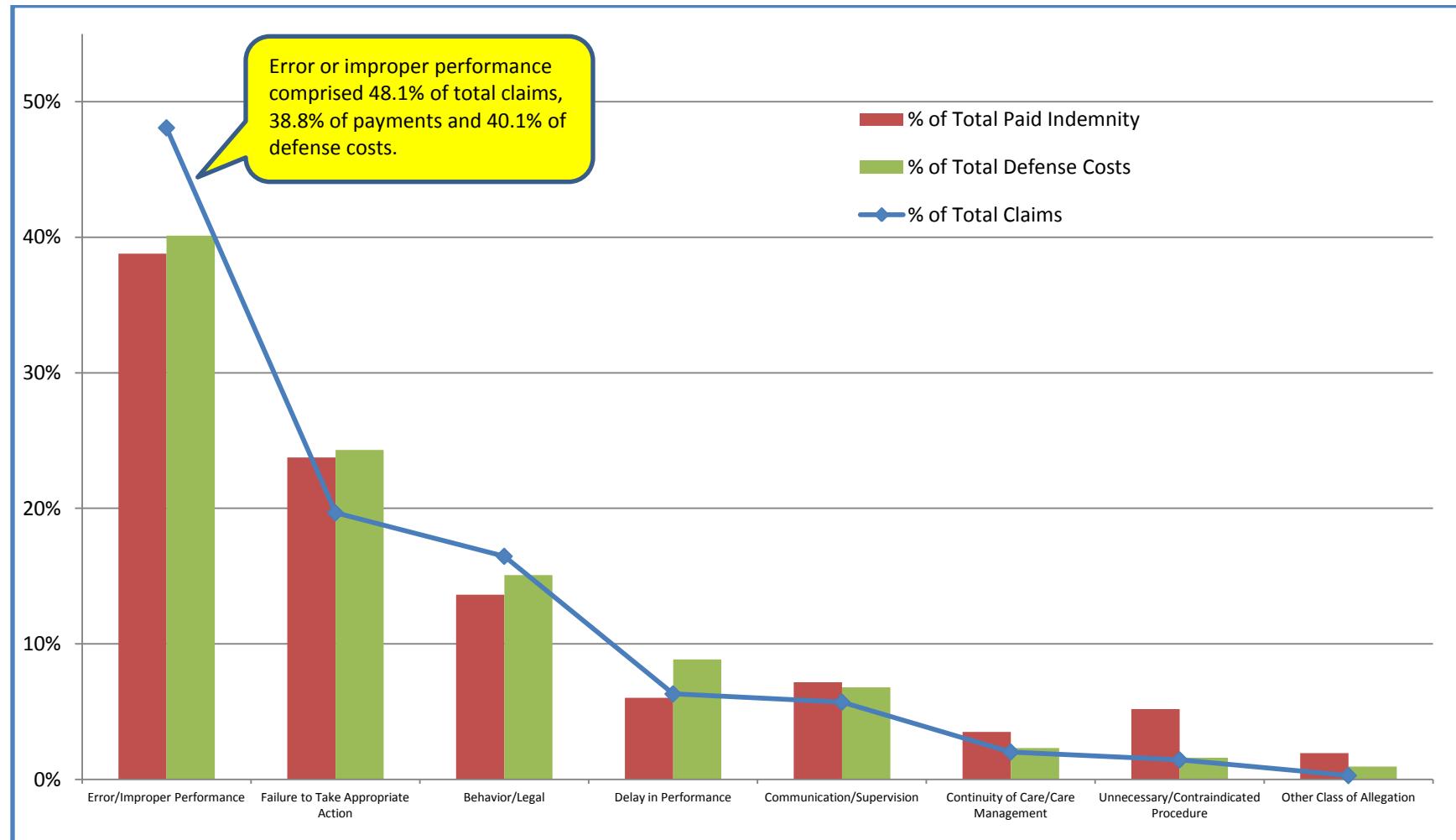
<sup>64</sup> Under [RCW 48.140.060](#) and [RCW 42.56.400](#)(10), some types of providers are grouped together to maintain confidentiality.

## Claim allegations

Insurers and self-insurers identified the primary complaint that led to the medical malpractice claim. This table shows the major classes of allegations.

<u><b>Allegation</b></u>	<u><b>Four-year period ending December 31, 2011</b></u>									
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	% of Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity	Claims with Defense Costs	Total Defense Costs	% of Total Defense Costs	Average Defense Cost
Error/Improper Performance	1,828	969	\$160,887,189	38.8%	\$166,034	\$35,000	1,537	\$56,374,080	40.1%	\$36,678
Failure to Take Appropriate Action	748	287	\$98,548,859	23.8%	\$343,376	\$100,000	713	\$34,136,716	24.3%	\$47,878
Behavior/Legal	626	276	\$56,492,081	13.6%	\$204,681	\$27,250	513	\$21,170,283	15.1%	\$41,268
Delay in Performance	240	77	\$24,989,999	6.0%	\$324,545	\$150,000	233	\$12,451,537	8.9%	\$53,440
Communication/Supervision	217	137	\$29,764,429	7.2%	\$217,259	\$62,500	181	\$9,538,800	6.8%	\$52,701
Continuity of Care/Care Management	77	42	\$14,502,668	3.5%	\$345,302	\$150,000	71	\$3,250,414	2.3%	\$45,780
Unnecessary/Contraindicated Procedure	55	29	\$21,549,090	5.2%	\$743,072	\$100,000	47	\$2,237,413	1.6%	\$47,605
Other Class of Allegation	11	1	\$8,000,000	1.9%	\$8,000,000	n/a	11	\$1,325,350	0.9%	\$120,486
Total & Averages	3,802	1,818	\$414,734,315	100.0%	\$228,127	\$50,000	3,306	\$140,484,593	100.0%	\$42,494

This chart shows the distribution of claims, indemnity payments and defense costs by major class of allegations.



This table shows the most common allegations for each major class of allegation.

	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	Four-year period ending December 31, 2011				Total Defense Costs	Average Defense Cost
				Average Paid Indemnity	Median Paid Indemnity	Claims with Defense Costs			
<b>Error-Improper Performance</b>									
Improper Performance	714	344	\$59,723,881	\$173,616	\$35,000	623	\$20,871,668	\$33,502	
Improper Technique	244	126	\$9,693,756	\$76,935	\$25,000	201	\$4,920,709	\$24,481	
Improper Management	151	58	\$13,011,863	\$224,342	\$90,000	143	\$9,530,520	\$66,647	
Surgical or other Foreign Body Retained	79	44	\$3,755,954	\$85,363	\$55,338	64	\$1,991,326	\$31,114	
Wrong Diagnosis or Misdiagnosis (Original Diagnosis is Incorrect)	62	27	\$7,583,576	\$280,873	\$100,000	55	\$2,400,367	\$43,643	
Intubation Problem	50	39	\$2,415,811	\$61,944	\$1,736	19	\$1,216,832	\$64,044	
Equipment Utilization Problem	45	35	\$7,569,458	\$216,270	\$11,000	35	\$1,409,706	\$40,277	
Wrong Dosage Administered	44	31	\$6,784,157	\$218,844	\$50,000	33	\$1,455,370	\$44,102	
Patient Monitoring Problem	44	29	\$6,405,584	\$220,882	\$59,994	39	\$1,764,428	\$45,242	
Wrong Medication Administered	40	23	\$5,110,618	\$222,201	\$56,036	34	\$738,660	\$21,725	
Wrong Body Part	36	30	\$1,967,140	\$65,571	\$41,500	26	\$521,478	\$20,057	
Patient Positioning Problem	34	17	\$1,397,814	\$82,224	\$15,000	27	\$783,722	\$29,027	
Wrong Procedure or Treatment	34	18	\$4,501,712	\$250,095	\$22,500	31	\$920,354	\$29,689	
Problem with Appliance, Prostheses, Orthotic, Restorative, Splint or Device	31	14	\$776,712	\$55,479	\$22,600	30	\$708,183	\$23,606	
Wrong Dosage Dispensed	26	23	\$2,290,446	\$99,585	\$10,000	16	\$275,990	\$17,249	
Wrong Dosage Ordered of Correct Medication	25	16	\$6,511,572	\$406,973	\$110,000	22	\$807,565	\$36,708	
Wrong Medication Dispensed	23	19	\$2,733,922	\$143,891	\$4,625	16	\$526,838	\$32,927	
Wrong Medication Ordered	20	7	\$2,552,540	\$364,649	\$38,000	19	\$749,360	\$39,440	
<b>Communication-Supervision</b>									
Failure to Instruct or Communicate with Patient or Family	71	40	\$11,341,114	\$283,528	\$29,952	56	\$2,919,905	\$52,141	
Failure to Supervise	54	34	\$6,500,634	\$191,195	\$71,250	47	\$2,798,278	\$59,538	
Improper Supervision	36	25	\$2,920,743	\$116,830	\$30,024	32	\$1,487,768	\$46,493	
Communication Problem between Practitioners	30	21	\$3,086,772	\$146,989	\$90,000	26	\$1,156,134	\$44,467	
Failure to Report on Patient Condition	20	13	\$5,825,449	\$448,111	\$95,000	16	\$1,128,012	\$70,501	

	<u>Four-year period ending December 31, 2011</u>							
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity	Claims with Defense Costs	Total Defense Costs	Average Defense Cost
<b><u>Failure to Take Appropriate Action</u></b>								
Failure to Diagnose	348	123	\$52,380,067	\$425,854	\$145,000	338	\$17,278,139	\$51,119
Failure to Monitor	114	69	\$12,627,514	\$183,007	\$75,000	101	\$4,425,451	\$43,816
Failure to Treat	91	26	\$9,860,250	\$379,240	\$162,500	88	\$3,488,676	\$39,644
Failure to Recognize a Complication	46	18	\$6,339,365	\$352,187	\$250,000	46	\$2,383,309	\$51,811
Failure to Perform Procedure	38	11	\$661,889	\$60,172	\$35,000	38	\$1,064,802	\$28,021
Failure to Medicate	28	12	\$5,788,571	\$482,381	\$15,000	25	\$1,555,174	\$62,207
Failure to Order Appropriate Test	28	10	\$4,783,085	\$478,309	\$493,716	27	\$1,552,864	\$57,513
<b><u>Delay in Performance</u></b>								
Delay in Diagnosis	146	43	\$10,500,358	\$244,194	\$75,428	141	\$6,431,874	\$45,616
Delay in Treatment	68	26	\$9,449,641	\$363,448	\$166,667	66	\$3,031,366	\$45,930
<b><u>Behavior-Legal</u></b>								
Vicarious Liability	324	110	\$19,557,966	\$177,800	\$32,500	275	\$8,668,676	\$31,522
Sexual Misconduct	62	45	\$2,285,500	\$50,789	\$12,000	31	\$2,353,593	\$75,922
Failure to Ensure Patient Safety	61	46	\$20,654,062	\$449,001	\$122,467	49	\$3,078,699	\$62,831
Improper Conduct	53	18	\$3,067,109	\$170,395	\$98,012	52	\$2,253,055	\$43,328
Failure to Obtain Consent or Lack of Informed Consent	29	9	\$319,513	\$35,501	\$98,012	26	\$1,002,322	\$38,551
Breach of Patient Confidentiality	20	10	\$197,100	\$19,710	\$24,800	16	\$426,244	\$26,640
<b><u>Continuity of Care - Care Management</u></b>								
Failure or Delay in Referral or Consultation	42	27	\$11,807,118	\$437,301	\$175,000	40	\$2,492,659	\$62,316
Premature Discharge from Institution	21	6	\$1,078,266	\$179,711	\$16,250	20	\$352,088	\$17,604
<b><u>Unnecessary Procedure</u></b>								
Unnecessary Procedure	27	12	\$17,868,792	\$1,489,066	\$130,000	26	\$1,699,680	\$65,372

This table shows the most common allegations made against physician specialties.

Allegation made against physician specialty	Four-year period ending December 31, 2011						
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Claims with Defense Costs	Total Defense Costs	Average Defense Cost
Improper Performance	388	143	\$39,285,419	\$274,723	362	\$15,147,289	\$41,843
Failure to Diagnose	306	109	\$49,848,392	\$457,325	296	\$15,293,040	\$51,666
Improper Technique	130	48	\$4,908,013	\$102,250	112	\$3,255,325	\$29,065
Delay in Diagnosis	127	32	\$9,595,863	\$299,871	122	\$5,853,436	\$47,979
Improper Management	114	33	\$10,512,790	\$318,569	113	\$8,771,932	\$77,628
Failure to Treat	59	15	\$7,295,000	\$486,333	58	\$2,919,103	\$50,329
Surgical or other Foreign Body Retained	51	24	\$2,264,114	\$94,338	43	\$1,517,731	\$35,296
Wrong Diagnosis or Misdiagnosis (Original Diagnosis is Incorrect)	49	21	\$5,674,576	\$270,218	43	\$2,031,594	\$47,246
Delay in Treatment	46	18	\$7,474,141	\$415,230	45	\$1,031,310	\$22,918
Failure to Monitor	40	20	\$5,739,379	\$286,969	37	\$1,511,711	\$40,857
Intubation Problem	38	29	\$2,050,129	\$70,694	16	\$1,168,172	\$73,011
Failure to Instruct or Communicate with Patient or Family	35	16	\$6,737,429	\$421,089	30	\$1,890,992	\$63,033
Failure to Recognize a Complication	34	14	\$3,564,375	\$254,598	34	\$2,031,506	\$59,750
Failure to Perform Procedure	32	8	\$612,389	\$76,549	32	\$947,366	\$29,605
Equipment Utilization Problem	32	24	\$2,973,803	\$123,908	29	\$950,002	\$32,759

Improper performance and failure to diagnose were the most common allegations made against physicians. Overall, diagnosis-related allegations resulted in 482 claims and 162 indemnity payments averaging \$401,968.

This table shows the most common allegations made against dental specialties.

<b>Allegation made against dental provider</b>	Four-year period ending December 31, 2011						
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Claims with Defense Costs	Total Defense Costs	Average Defense Cost
Improper Performance	206	151	\$9,239,854	\$61,191	154	\$3,119,876	\$20,259
Improper Technique	49	38	\$2,521,204	\$66,347	34	\$568,423	\$16,718
Improper Management	16	10	\$514,658	51465.8	13	\$535,225	\$41,171
Wrong Procedure or Treatment	12	9	\$1,970,535	\$218,948	10	\$183,062	\$18,306

Patients alleged improper performance in 55.5 percent of all claims made against dental specialties. Of these claims, 151 resulted in indemnity payments averaging \$61,191 and defense costs averaging \$20,259. The highest average payment occurred when it was alleged that the wrong procedure or treatment was performed. Overall, claims against dental specialties are less costly to settle than claims against physician specialties.

This table shows the most common allegations made against other types of medical providers.<sup>65</sup>

<b><u>Allegation made against other type of medical provider</u></b>	<u>Four-year period ending December 31, 2011</u>						
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Claims with Defense Costs	Total Defense Costs	Average Defense Cost
							\$24,723
Improper Performance	114	48	\$11,152,443	\$232,343	101	\$2,497,008	\$24,723
Improper Technique	65	40	\$2,264,539	\$56,613	55	\$1,096,961	\$19,945
Failure to Monitor	61	43	\$6,727,171	\$156,446	54	\$2,588,220	\$47,930
Sexual Misconduct	51	40	\$730,500	\$18,263	21	\$1,042,480	\$49,642
Failure to Diagnose	28	8	\$2,330,000	\$291,250	28	\$1,804,535	\$64,448
Wrong Dosage Administered	25	18	\$5,163,951	\$286,886	16	\$398,292	\$24,893
Patient Monitoring Problem	24	15	\$1,435,694	\$95,713	20	\$558,664	\$27,933
Wrong Dosage Dispensed	21	20	\$2,253,545	\$112,677	12	\$103,696	\$8,641
Improper Management	19	14	\$1,964,856	\$140,347	16	\$222,871	\$13,929
Failure to Treat	19	6	\$1,533,000	\$255,500	18	\$403,699	\$22,428
Wrong Medication Administered	19	13	\$2,468,648	\$189,896	16	\$136,507	\$8,532
Surgical or other Foreign Body Retained	18	14	\$1,271,771	\$90,841	13	\$398,637	\$30,664
Failure to Instruct or Communicate with Patient or Family	18	12	\$2,677,864	\$223,155	12	\$546,387	\$45,532
Wrong Medication Dispensed	18	17	\$1,732,922	\$101,937	12	\$366,110	\$30,509
Improper Supervision	17	11	\$687,180	\$62,471	15	\$601,908	\$40,127

Of the total claims involving failure to monitor or a patient monitoring problem, 84.7 percent were made against nursing providers, resulting in 51 indemnity payments averaging \$148,247.

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<sup>65</sup> See page 51 for claim data for other types of medical providers.

This table shows the most common allegations made against an organization.

<b><u>Allegation made against an organization</u></b>	Four-year period ending December 31, 2011						
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Claims with Defense Costs	Total Defense Costs	Average Defense Cost
Vicarious Liability	290	96	\$18,692,599	\$194,715	252	\$8,242,938	\$32,710
Failure to Ensure Patient Safety	44	36	\$19,192,612	\$533,128	36	\$2,631,073	\$73,085
Failure to Supervise	40	24	\$5,714,755	\$238,115	36	\$2,539,237	\$70,534
Improper Conduct	27	10	\$1,492,500	\$149,250	26	\$580,119	\$22,312
Improper Supervision	16	12	\$2,078,539	\$173,212	14	\$831,229	\$59,374
Failure to Instruct or Communicate with Patient or Family	13	10	\$1,903,117	\$190,312	10	\$284,416	\$28,442
Communication Problem between Practitioners	13	11	\$1,483,621	\$134,875	11	\$496,993	\$45,181

The most common claim against an organization is vicarious liability. Vicarious liability is secondary liability in which the organization becomes responsible for the acts of an employee or other third party when it had had the right, ability or duty to control those activities.

## County statistics

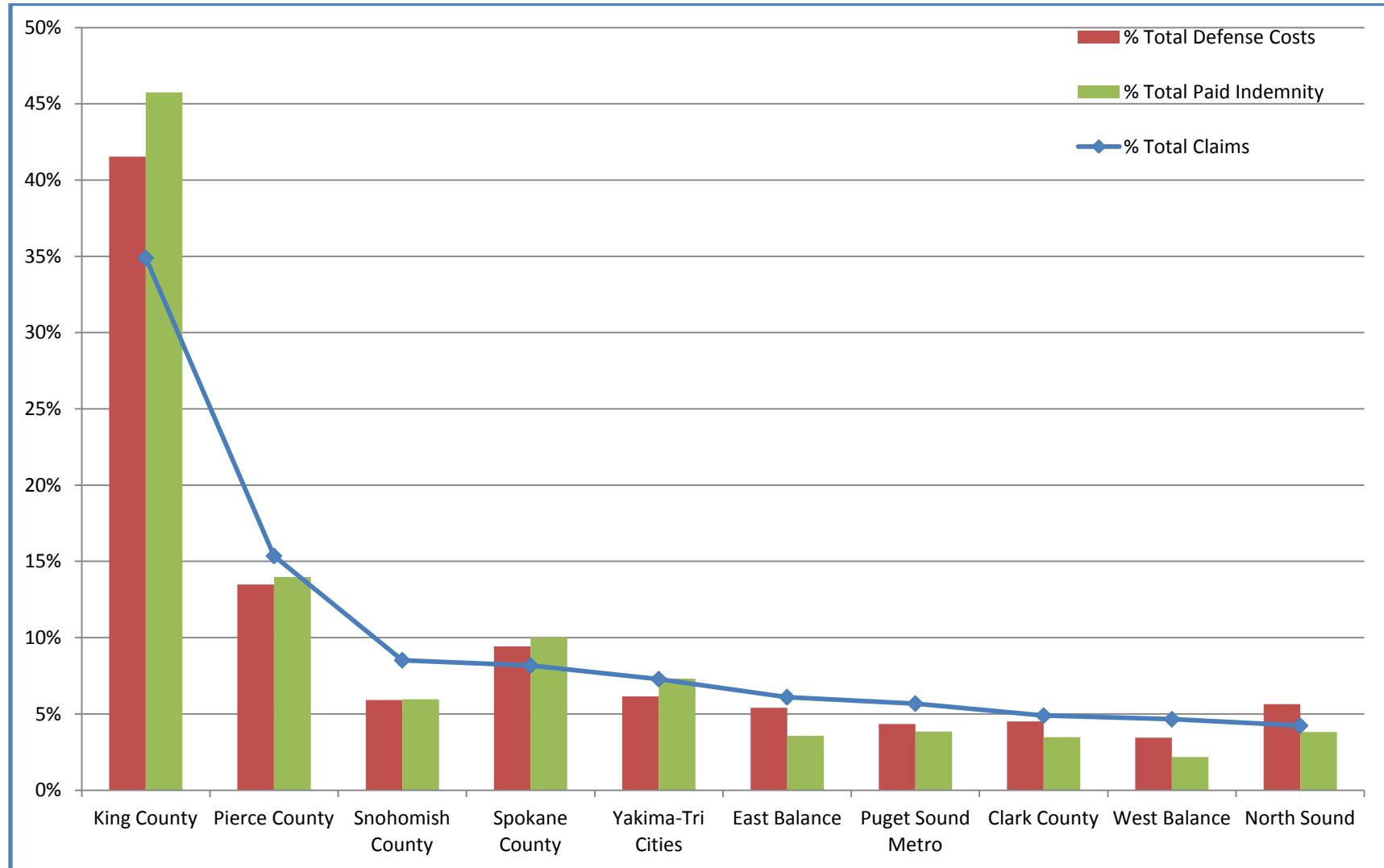
Insurers and self-insurers reported the county where the medical incident occurred.<sup>66</sup> To provide information about differences by location, we divided the state into the same nine regions that the OIC uses in Table 1 of the [State of the uninsured - Health coverage in Washington state](#) – December 2011.<sup>67</sup> King County had the highest total paid indemnity and average economic loss, and the second highest average paid indemnity. The North Sound region had the highest average defense cost.

Region	Four-year period ending December 31, 2011									
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	Median Paid Indemnity	Average Paid Indemnity	Average Economic Loss	Claims with Defense Costs	Total Defense Costs	Median Defense Cost	Average Defense Cost
King County	1,327	673	\$189,737,724	\$46,578	\$281,928	\$153,111	1,130	\$58,348,737	\$6,645	\$51,636
Pierce County	584	241	\$57,956,121	\$61,000	\$240,482	\$92,726	532	\$18,936,455	\$7,274	\$35,595
Snohomish County	324	160	\$24,753,829	\$25,000	\$154,711	\$56,924	279	\$8,301,894	\$8,721	\$29,756
Spokane County	311	133	\$41,552,533	\$50,000	\$312,425	\$127,991	286	\$13,233,535	\$8,318	\$46,271
Yakima-Tri Cities	277	156	\$30,308,889	\$41,250	\$194,288	\$121,817	215	\$8,646,547	\$17,100	\$40,216
East Balance	232	108	\$14,763,809	\$50,000	\$136,702	\$72,273	206	\$7,586,513	\$9,245	\$36,828
Puget Sound Metro	216	101	\$15,931,847	\$65,000	\$157,741	\$37,573	189	\$6,095,839	\$9,110	\$32,253
Clark County	186	94	\$14,392,413	\$50,000	\$153,111	\$53,512	160	\$6,342,253	\$11,097	\$39,639
West Balance	177	74	\$9,020,267	\$28,855	\$121,896	\$51,920	161	\$4,834,594	\$9,815	\$30,029
North Sound	161	75	\$15,806,883	\$50,000	\$210,758	\$99,395	141	\$7,923,031	\$11,510	\$56,192
Out of State	7	3	\$510,000		\$170,000	\$4,000	7	\$235,195		\$33,599
Total	3,802	1,818	\$414,734,315	\$50,000	\$228,127	\$109,166	3,306	\$140,484,593	\$8,711	\$42,494

<sup>66</sup> Under [RCW 48.140.060](#) and [RCW 42.56.400](#)(10), some counties are grouped together to maintain confidentiality.

<sup>67</sup> **Yakima-Tri Cities** includes Benton, Franklin and Yakima counties. **East balance** includes Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Stevens, Walla Walla and Whitman counties. **Puget Sound Metro** includes Kitsap and Thurston counties. **West Balance** includes Clallam, Cowlitz, Grays Harbor, Jefferson, Klickitat, Lewis, Mason, Pacific, Skamania and Wahkiakum counties. **North Sound** includes Island, San Juan, Skagit and Whatcom counties.

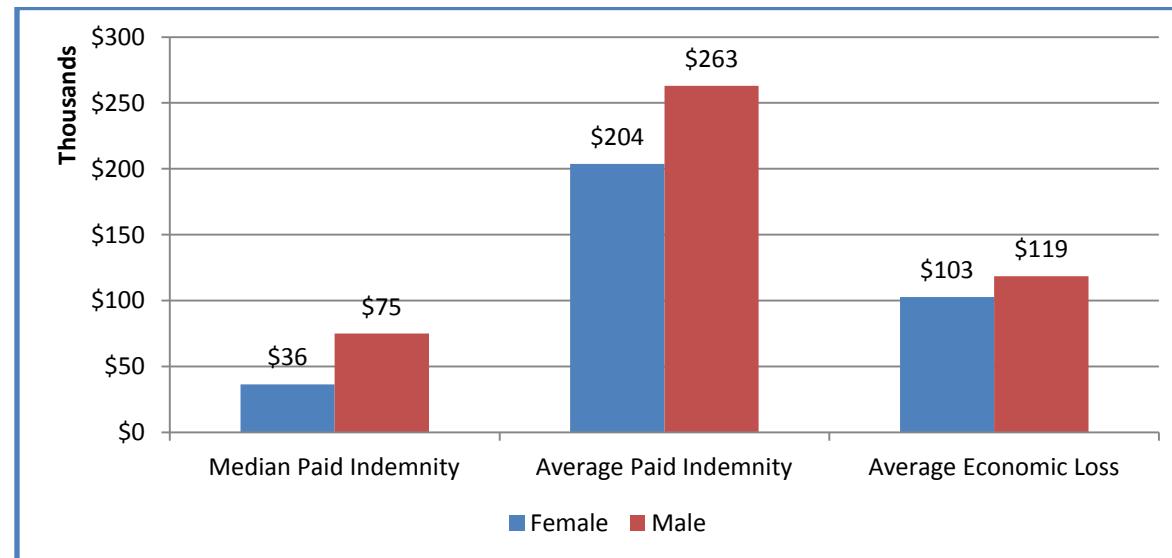
This chart shows the distribution of claims, indemnity payments and defense costs by region for incidents that occurred in Washington state.



## Gender statistics

Gender	Four-year period ending December 31, 2011								
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	Median Paid Indemnity	Average Paid Indemnity	Average Economic Loss	Claims with Defense Costs	Total Defense Costs	Average Defense Cost
Female	2,114	1,061	\$216,202,569	\$36,488	\$203,772	\$102,658	1,807	\$77,318,692	\$42,788
Male	1,671	745	\$195,907,512	\$75,000	\$262,963	\$118,514	1,484	\$62,400,122	\$42,049
Unknown	17	12	\$2,624,234		\$218,686	\$104,248	15	\$765,779	\$51,052
Totals	3,802	1,818	\$414,734,315	\$50,000	\$228,127	\$109,166	3,306	\$140,484,593	\$42,494

Of the 3,802 claims closed, 55.6 percent of the claims reported the injured party as female and 44.0 percent of the claims reported the injured party as male. When the injured party was female, the median indemnity payment was \$36,488 and the average indemnity payment was \$203,772. When the injured party was male, the median indemnity payment was \$75,000 and the average indemnity payment was \$262,963. The chart below illustrates this comparison.

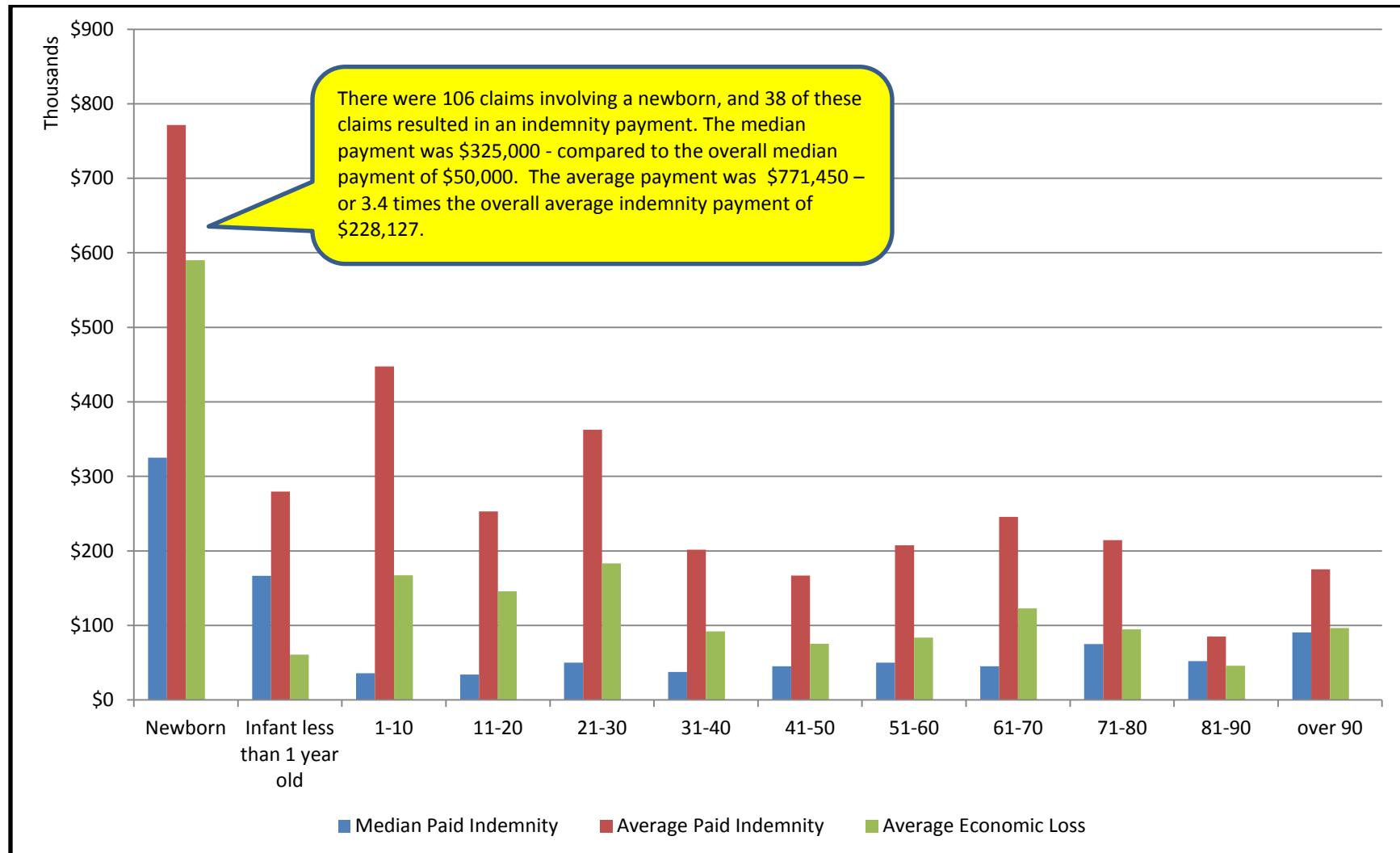


## Age statistics

Insurers and self-insurers reported the age group of the claimant.

Age Group	Four-year period ending December 31, 2011									
	Total Number of Claims	Claims with Paid Indemnity	Total Paid Indemnity	Median Paid Indemnity	Average Paid Indemnity	Total Economic Loss	Average Economic Loss	Claims with Defense Costs	Total Defense Costs	Average Defense Cost
Newborn	106	38	\$29,315,096	\$325,000	\$771,450	\$22,422,290	\$590,060	100	\$12,076,709	\$120,767
Infant less than 1 year old	53	18	\$5,031,828	\$166,667	\$279,546	\$1,096,043	\$60,891	48	\$1,656,545	\$34,511
1-10	78	39	\$17,450,080	\$35,750	\$447,438	\$6,517,474	\$167,115	68	\$4,302,105	\$63,266
11-20	122	66	\$16,688,430	\$34,000	\$252,855	\$9,615,773	\$145,694	109	\$6,266,832	\$57,494
21-30	323	146	\$52,945,182	\$50,000	\$362,638	\$26,745,868	\$183,191	292	\$11,662,402	\$39,940
31-40	609	273	\$55,008,487	\$37,500	\$201,496	\$25,067,430	\$91,822	521	\$23,559,404	\$45,220
41-50	851	386	\$64,401,181	\$45,285	\$166,842	\$29,121,640	\$75,445	748	\$27,559,646	\$36,844
51-60	784	378	\$78,480,128	\$50,000	\$207,619	\$31,551,052	\$83,468	683	\$26,482,749	\$38,774
61-70	429	217	\$53,290,989	\$45,000	\$245,581	\$26,675,406	\$122,928	356	\$13,447,933	\$37,775
71-80	277	147	\$31,500,138	\$75,000	\$214,287	\$13,908,038	\$94,613	242	\$9,719,300	\$40,162
81-90	149	96	\$8,170,758	\$52,000	\$85,112	\$4,391,756	\$45,747	120	\$3,189,023	\$26,575
over 90	21	14	\$2,452,018	\$90,500	\$175,144	\$1,351,000	\$96,500	19	\$561,945	\$29,576
Totals & Averages	3,802	1,818	\$414,734,315	\$50,000	\$228,127	\$198,463,770	\$109,166	3,306	\$140,484,593	\$42,494

This chart shows average payments for each age group.



## Statistics from medical malpractice lawsuits

	-----Calendar Year-----				
	2008	2009	2010	2011	Four-Year Total
Settlements reported by Attorneys	158	131	90	74	453
Number of Lawsuits with Paid Indemnity	134	120	85	71	410
Total Paid Indemnity	\$81,985,707	\$77,952,416	\$85,073,584	\$39,069,695	\$284,081,402
Average Payment to Claimant	\$611,834	\$649,603	\$1,000,866	\$550,277	\$692,881
Median Payment to Claimant	\$250,000	\$287,500	\$270,000	\$250,000	\$256,250
Total Legal Expenses	\$33,013,414	\$33,588,058	\$34,598,555	\$15,977,565	\$117,177,592
Total Attorney Fees	\$28,190,420	\$29,085,025	\$31,188,630	\$13,510,735	\$101,974,810
Average Legal Expense	\$208,946	\$256,397	\$384,428	\$215,913	\$258,670
Average Fee paid to Attorney	\$210,376	\$242,375	\$366,925	\$190,292	\$248,719

**Indemnity payments to claimants:** Over the four-year period ending December 31, 2011, claimants received total compensation of \$284.1 million on 453 settlements, or \$692,881 per settlement. Median paid indemnity was \$256,250 over the same period.<sup>68</sup>

Claimants paid \$117.2 million for legal expenses on 453 claims, or \$258,670 per lawsuit. Claimants paid \$102 million in attorney fees, or an average of \$248,719 per settlement.<sup>69</sup> On average, the attorney fee was 35.9 percent of the total compensation paid to the claimant.

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<sup>68</sup> Attorneys have recently reported a number of old settlements, so these figures will not match data published by the OIC in earlier statistical summaries or annual reports.

<sup>69</sup> Attorneys in this area of litigation typically work on a contingency basis, and receive fees if one or more defendants compensate the claimant.

## Compliance by attorneys

This table, created with data from the [Administrative Office of the Courts](#), provides an estimate of the level of compliance with the law. It shows that compliance has steadily deteriorated over the last four years.

	-----Calendar Year-----				Change from Prior Year
	2008	2009	2010	2011	
Lawsuits Resolved	207	256	244	351	43.9%
Settlements reported by Attorneys	158	131	90	74	-17.8%
Estimated Compliance	76.3%	51.2%	36.9%	21.1%	

In 2010, the OIC proposed legislation that would have added enforcement mechanisms to the existing law. This legislation was not enacted.<sup>70</sup> Since the OIC does not have an enforcement mechanism to improve compliance, the OIC expects that the number of settlements reported will continue to decline in future years. The OIC cannot draw conclusions from incomplete data, so this section of the report is limited to general statistics.

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<sup>70</sup> These bills were introduced as [SB 6412](#) and [HB 2963](#).

## How lawsuits were settled

Most settlements were the result of an alternative dispute resolution process, and these settlements resulted in the second highest average indemnity payment. The most expensive settlements were the result of a judgment or verdict, averaging \$1.1 million each. The average attorney fee for settlements resolved in court was \$424,966, or 39.3% of the total judgment or verdict. When other legal expenses are added, such as expert witnesses, claimants paid an average of \$503,697 for total legal expenses – or 46.6 of the total judgment or verdict. For claims without an indemnity payment to the claimant, there were no attorney fees and nominal fees for other legal expenses.

Lawsuit Settlement Method	Four-year period ending December 31, 2011								
	Number of Lawsuits with Legal Expenses	Average Legal Expense paid by Claimant		Number of Lawsuits with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity to Claimant	Median Paid Indemnity	Total Attorney Fees	Average Attorney Fee
		Total Legal Expenses	Average Legal Expense paid by Claimant						
Verdicts	33	\$7,302,298	\$221,282	14	\$15,143,387	\$1,081,671	\$496,200	\$5,949,521	\$424,966
Alternative Dispute Resolution	237	\$70,126,089	\$295,891	226	\$167,896,559	\$742,905	\$325,000	\$61,105,682	\$270,379
Settled by Parties	170	\$39,686,667	\$233,451	138	\$101,041,456	\$732,184	\$145,000	\$34,919,607	\$253,041
All Other	13	\$62,538	\$4,811	0	\$0	\$0	\$0	\$0	\$0
Total	453	\$117,177,592	\$258,670	378	\$284,081,402	\$751,538	\$256,250	\$101,974,810	\$269,775

Of the 237 settlements resolved by alternative dispute resolution, 207 were resolved in mediation, resulting in \$158.9 million in indemnity payments. The average mediated settlement resulted in an indemnity payment of \$767,848. The average attorney fee for settlements resolved in mediation was \$276,492, or 36 percent of the total settlement. When other legal expenses are added, such as expert witnesses, claimants paid an average of \$313,835 for total legal expenses – or 40.9 percent of the total mediated settlement.

## Settlements by county

Region	Four-year period ending December 31, 2011						
	Claims with Legal Expenses	Total Legal Expenses	Average Legal Expense	Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity
King County	156	\$54,708,182	\$350,693	149	\$133,119,257	\$893,418	\$325,000
Pierce County	58	\$6,263,904	\$107,998	45	\$15,019,799	\$333,773	\$225,000
Snohomish County	43	\$11,430,967	\$265,836	39	\$26,717,758	\$685,071	\$250,000
Clark County	40	\$6,171,759	\$154,294	36	\$14,728,500	\$409,125	\$237,500
Spokane County	33	\$13,081,778	\$396,418	30	\$27,232,350	\$907,745	\$300,000
Yakima-Tri Cities	32	\$9,089,929	\$284,060	28	\$26,954,913	\$962,675	\$250,000
East Balance	27	\$3,264,010	\$120,889	23	\$8,464,617	\$368,027	\$135,000
Puget Sound Metro	24	\$5,258,509	\$219,105	23	\$12,426,500	\$540,283	\$215,000
West Balance	20	\$2,417,506	\$120,875	20	\$5,734,122	\$286,706	\$325,000
North Sound	18	\$4,013,506	\$222,973	15	\$9,733,586	\$648,906	\$275,000
Totals & Averages	451	\$115,700,050	\$256,541	408	\$280,131,402	\$686,597	\$250,000

Attorneys report settlement data by county where the medical incident occurred.<sup>71</sup> To provide meaningful information regarding differences by location, we divided the state into nine regions, and used the same regional groupings that were used by the OIC in Appendix A the [State of the uninsured - Health coverage in Washington state](#) – December 2011.<sup>72</sup>

King County had the highest total paid indemnity, and the third highest average paid indemnity, and tied the West Balance for highest median paid indemnity. Yakima-Tri Cities had the highest average paid indemnity at \$962,675, yet median paid indemnity was much lower at \$250,000. If we compare these statistics to those submitted by insurers and self-insurers, it is clear that some settlements reported by attorneys involved multiple defendants.

<sup>71</sup> Claims reported as occurring out of state are not included in this table.

<sup>72</sup> Under [RCW 48.140.060](#) and [RCW 42.56.400\(10\)](#), some counties are grouped together to maintain confidentiality. **Yakima-Tri Cities** includes Benton, Franklin and Yakima counties. **East balance** includes Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Stevens, Walla Walla and Whitman counties. **Puget Sound Metro** includes Kitsap and Thurston counties. **West Balance** includes Clallam, Cowlitz, Grays Harbor, Jefferson, Klickitat, Lewis, Mason, Pacific, Skamania and Wahkiakum counties. **North Sound** includes Island, San Juan, Skagit and Whatcom counties.

## Gender of plaintiff

Gender	Four-year period ending December 31, 2011								
	Total Number of Claims	Claims with Legal Fees	Total Legal Fees	Average Legal Expense paid by Claimant	Number of Lawsuits with Paid Indemnity	Total Paid Indemnity	Average Indemnity paid to Claimant	Median Paid Indemnity	
	255	255	\$71,610,838	\$280,827	231	\$169,404,815	\$733,354	\$250,000	
Female	198	198	\$45,566,754	\$230,135	179	\$114,676,587	\$640,651	\$300,000	
Totals & Averages	453	453	\$117,177,592	\$258,670	410	\$284,081,402	\$692,881	\$256,250	

These data show females received a higher average settlement than males, but the median settlement was lower. If we compare these statistics to data submitted by insurers and self-insurers, it is clear some settlements reported by attorneys involved multiple defendants.

## Age of plaintiff

Attorneys report the age group of the claimant. This table shows that the most expensive settlements involved newborns and infants. The average paid indemnity for the 18 settlements in this age group was \$2.2 million, yet the median payment was much lower at \$875,000. Children aged one to ten had the second highest average paid indemnity at \$1.7 million, and the highest median paid indemnity at \$1 million.

Age Group	Four-year period ending December 31, 2011						
	Claims with Legal Expenses	Total Legal Expenses	Average Legal Expenses	Claims with Paid Indemnity	Total Paid Indemnity	Average Paid Indemnity	Median Paid Indemnity
Newborn/Infant	18	\$16,116,653	\$895,370	18	\$39,740,000	\$2,207,778	\$875,000
Ages 1-10	17	\$11,899,601	\$699,977	15	\$25,614,275	\$1,707,618	\$1,000,000
Ages 11-20	38	\$8,721,096	\$229,503	28	\$20,973,444	\$749,052	\$250,000
Ages 21-30	66	\$14,120,357	\$213,945	61	\$34,102,585	\$559,059	\$312,500
Ages 31-40	94	\$20,901,690	\$222,358	85	\$53,321,517	\$627,312	\$250,000
Ages 41-50	105	\$20,888,336	\$198,937	97	\$52,565,921	\$541,917	\$228,000
Ages 51-60	44	\$9,631,682	\$218,902	39	\$21,938,424	\$562,524	\$250,000
Ages 61-70	41	\$6,492,506	\$158,354	38	\$15,213,165	\$400,346	\$300,000
Ages 71-80	19	\$3,779,072	\$198,899	18	\$8,215,000	\$456,389	\$170,000
Age 81 and over	11	\$4,626,599	\$420,600	11	\$12,397,071	\$1,127,006	\$285,000
Totals	453	\$117,177,592	\$258,670	410	\$284,081,402	\$692,881	\$256,250

## **Report limitations**

Analysis based on historical closed claim data has limitations:

1. There is a natural mismatch between premiums and losses used to calculate loss ratios and profitability ratios for commercial insurers. Premiums used for loss ratios are earned during the calendar year, but the amounts booked as incurred loss during the same calendar year are from claims from various accident years. As a result, most losses do not correspond to the same policies that the premium comes from.
2. Claims are reported based on the year in which they reach final resolution. Some arose from recent medical incidents, but many arose from incidents that occurred several years ago.
3. This report contains claims that closed during a limited period.
4. The OIC cannot use data in this report to evaluate past or current medical professional liability insurance rates. Insurers develop medical malpractice rates using an analysis of open and closed claims, and develop rates based on an estimate of expected future claim costs and expenses.
5. In producing this report, the OIC has relied upon data submitted to it by insurers, self-insurers, and attorneys. Data may contain anomalies. The OIC audits data to improve the accuracy, consistency, and completeness of these data. OIC adopted administrative rules that contain data definitions and reporting instructions, but the accuracy of the report still depends largely on the accuracy of the data reported by insurers and self-insurers and attorneys. People who report data may interpret data fields differently or make errors.
6. The OIC has not adjusted these data for economic differences occurring during the report period, such as inflation and the cost of medical care.
7. These data do not distinguish between policies and coverage amounts. Insurers and self-insurers do not report policy limits, so the report does not analyze the data by type of policy, whether coverage is primary or excess, limits of coverage, or size of deductibles or retentions to determine if coverage limits affect the frequency or severity of claims.
8. Insurers and self-insurers reported data separately for each defendant. This reporting method may overstate the frequency of "incidents" and underestimate the severity of an "incident," but it keeps inconsistencies and inaccuracies to a minimum by limiting the amount of incomplete reporting by insurers and self-insurers.
9. This report analyzes only closed claims data. Any claims that are still open, such as claims that are in settlement negotiations or on trial, are not included in this study. The analysis of closed claim information is valuable; however, open claims information may be more indicative of the current claims environment. For example, the impact of recent legislation or judicial decisions will not be reflected in a closed claim database.
10. Although insurers and self-insurers report data only after the claim has been closed, they occasionally re-open claims that were previously closed. Amounts reported may not be the true, ultimate amounts.

## **Appendices**

## Appendix A: Profitability

Physicians Insurance, A Mutual Company												
Year	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)
	Net Premium Written	Underwriting Expenses Incurred	Expense Ratio [b/a]	Net Premiums Earned	Losses and Loss Adjustment Expenses	Loss Ratio [e/d]	Policyholder Dividends	Dividend Ratio [g/d]	Combined Ratio	Net Investment Income	Net Investment Income Ratio [j/d]	Operating Ratio [i-k]
2002	\$66,932,743	\$8,021,221	12.0%	\$64,760,533	\$88,757,781	137.1%	-\$2,510	0.0%	149.0%	\$12,436,919	19.2%	129.8%
2003	80,541,152	8,449,450	10.5%	82,411,991	83,646,815	101.5%	-2,650	0.0%	112.0%	10,446,767	12.7%	99.3%
2004	82,585,652	8,599,377	10.4%	81,804,586	75,648,999	92.5%	-1,072	0.0%	102.9%	10,399,667	12.7%	90.2%
2005	79,680,093	9,727,075	12.2%	80,356,928	67,266,247	83.7%	0	0.0%	95.9%	11,093,179	13.8%	82.1%
2006	81,465,385	9,634,830	11.8%	82,215,219	64,090,997	78.0%	0	0.0%	89.8%	12,242,635	14.9%	74.9%
2007	76,987,526	6,909,185	9.0%	78,287,526	44,521,719	56.9%	0	0.0%	65.8%	13,606,817	17.4%	48.5%
2008	71,282,640	10,716,243	15.0%	70,282,640	35,816,649	51.0%	5,048,015	7.2%	73.2%	13,982,185	19.9%	53.3%
2009	71,177,910	10,940,954	15.4%	70,577,910	46,775,240	66.3%	5,055,023	7.2%	88.8%	13,781,265	19.5%	69.3%
2010	69,704,876	11,304,529	16.2%	65,704,876	46,581,041	70.9%	5,064,296	7.7%	94.8%	13,636,915	20.8%	74.1%
2011	73,321,941	11,206,238	15.3%	70,370,781	58,164,474	82.7%	5,050,240	7.2%	105.1%	13,338,762	19.0%	86.2%
Totals	753,679,918	95,509,102	12.7%	746,772,990	611,269,962	81.9%	20,211,342	2.7%	97.2%	124,965,111	16.7%	80.5%
Five-Year Period-to-Period Results												
2002-2006	391,205,025	44,431,953	11.4%	391,549,257	379,410,839	96.9%	-6,232	0.0%	108.3%	56,619,167	14.5%	93.8%
2007-2011	362,474,893	51,077,149	14.1%	355,223,733	231,859,123	65.3%	20,217,574	5.7%	85.1%	68,345,944	19.2%	65.8%

<b><u>Doctors Company, An Interinsurance Exchange</u></b>												
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)
Year	Net Premium Written	Underwriting Expenses Incurred	Expense Ratio [b/a]	Net Premiums Earned	Losses and Loss Adjustment Expenses	Loss Ratio [e/d]	Policyholder Dividends	Dividend Ratio [g/d]	Combined Ratio [c+f+h]	Net Investment Income	Net Investment Income Ratio [j/d]	Operating Ratio [i-k]
2002	\$396,352,630	\$83,930,896	21.2%	\$352,421,216	\$369,998,486	105.0%	\$0	0.0%	126.2%	\$38,479,520	10.9%	115.2%
2003	336,426,292	56,087,868	16.7%	331,287,350	363,035,624	109.6%	0	0.0%	126.3%	32,913,169	9.9%	116.3%
2004	459,727,858	84,889,359	18.5%	444,353,663	366,701,151	82.5%	0	0.0%	101.0%	34,487,835	7.8%	93.2%
2005	455,173,136	80,764,821	17.7%	449,816,620	283,405,291	63.0%	0	0.0%	80.7%	37,364,855	8.3%	72.4%
2006	493,082,275	97,776,987	19.8%	478,224,850	247,969,818	51.9%	21,000,000	4.4%	76.1%	44,970,862	9.4%	66.7%
2007	516,655,334	104,988,328	20.3%	521,729,949	255,575,118	49.0%	23,128,514	4.4%	73.7%	61,504,372	11.8%	62.0%
2008	500,493,524	101,299,086	20.2%	499,926,491	238,949,228	47.8%	121,450	0.0%	68.1%	94,665,140	18.9%	49.1%
2009	555,108,478	110,584,657	19.9%	547,603,861	318,310,083	58.1%	12,976,400	2.4%	80.4%	71,312,564	13.0%	67.4%
2010	527,973,477	118,217,900	22.4%	525,540,006	293,984,096	55.9%	13,838,518	2.6%	81.0%	149,742,807	28.5%	52.5%
2011	564,467,114	120,861,889	21.4%	536,671,691	338,084,016	63.0%	17,898,564	3.3%	87.7%	140,035,865	26.1%	61.6%
Totals	4,805,460,118	959,401,791	20.0%	4,687,575,697	3,076,012,911	65.6%	88,963,446	1.9%	87.5%	705,476,989	15.0%	72.4%
<b><u>Five-Year Period-to-Period Results</u></b>												
2002-2006	2,140,762,191	403,449,931	18.8%	2,056,103,699	1,631,110,370	79.3%	21,000,000	1.0%	99.2%	188,216,241	9.2%	90.0%
2007-2011	2,664,697,927	555,951,860	20.9%	2,631,471,998	1,444,902,541	54.9%	67,963,446	2.6%	78.4%	517,260,748	19.7%	58.7%

<b>The Medical Protective Company</b>												
Year	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)
	Net Premium Written	Underwriting Expenses Incurred	Expense Ratio [b/a]	Net Premiums Earned	Losses and Loss Adjustment Expenses	Loss Ratio [e/d]	Policyholder Dividends	Dividend Ratio [g/d]	Combined Ratio [c+f+h]	Net Investment Income	Net Investment Income Ratio [j/d]	Operating Ratio [i-k]
2006	\$337,385,540	\$53,679,435	15.9%	\$299,621,579	\$223,126,825	74.5%	\$0	0.0%	90.4%	\$56,193,970	18.8%	71.6%
2007	343,121,058	53,155,078	15.5%	345,302,263	277,757,402	80.4%	0	0.0%	95.9%	57,887,667	16.8%	79.2%
2008	343,234,053	53,664,734	15.6%	343,846,447	254,434,736	74.0%	0	0.0%	89.6%	71,516,856	20.8%	68.8%
2009	333,975,622	62,412,706	18.7%	332,499,778	240,630,531	72.4%	0	0.0%	91.1%	83,892,685	25.2%	65.8%
2010	334,684,035	64,039,347	19.1%	322,277,708	190,873,450	59.2%	0	0.0%	78.4%	85,414,752	26.5%	51.9%
2011	327,172,569	80,572,831	24.6%	302,854,289	147,482,689	48.7%	0	0.0%	73.3%	95,314,696	31.5%	41.9%
Total	2,019,572,877	367,524,131	18.2%	1,946,402,064	1,334,305,633	68.6%	0	0.0%	86.8%	450,220,626	23.1%	63.6%

## Appendix B: Reserve development

Physicians Insurance, A Mutual Company													
Year in Which Loss Occurred	Incurred net losses and defense and cost containment expenses reported at year-end (\$000 omitted)											Cumulative Development	
	Incurred Net Losses 2002	Incurred Net Losses 2003	Incurred Net Losses 2004	Incurred Net Losses 2005	Incurred Net Losses 2006	Incurred Net Losses 2007	Incurred Net Losses 2008	Incurred Net Losses 2009	Incurred Net Losses 2010	Incurred Net Losses 2011	One Year Development	Two Year Development	
Prior	108,986	106,058	101,139	100,267	103,165	102,857	104,378	101,056	97,825	95,322	-2,503	-5,734	-13,664
2002	69,086	74,258	69,583	69,903	66,920	65,538	65,160	66,416	62,374	60,439	-1,935	-5,977	-8,647
2003		70,740	71,726	69,451	62,374	59,805	56,395	56,944	54,667	52,253	-2,414	-4,691	-18,487
2004			74,801	76,075	77,427	72,529	61,848	57,262	54,124	51,422	-2,702	-5,840	-23,379
2005				58,927	57,553	56,813	50,539	50,419	48,778	48,570	-208	-1,849	-10,357
2006					58,655	51,073	47,126	50,657	47,881	44,851	-3,030	-5,806	-13,804
2007						51,458	43,568	37,383	35,768	36,921	1,153	-462	-14,537
2008							57,137	44,684	38,672	36,794	-1,878	-7,890	-20,343
2009								55,629	54,621	51,841	-2,780	-3,788	-3,788
2010									61,648	52,493	-9,155		-9,155
2011										68,571			
											Totals	-25,452	-42,037
													-136,161

<b><u>Doctors Company</u></b>													
Year in which Loss Occurred	Incurred net losses and defense and cost containment expenses reported at year-end (\$000 omitted)												
	Incurred Net Losses 2002	Incurred Net Losses 2003	Incurred Net Losses 2004	Incurred Net Losses 2005	Incurred Net Losses 2006	Incurred Net Losses 2007	Incurred Net Losses 2008	Incurred Net Losses 2009	Incurred Net Losses 2010	Incurred Net Losses 2011	One Year Development	Two Year Development	Cumulative Development
Prior	340,338	387,310	435,273	426,554	412,786	420,546	412,827	421,407	421,232	402,804	-18,428	-18,603	62,466
2002	236,482	265,120	268,739	271,900	264,569	249,089	245,650	249,422	248,996	237,351	-11,645	-12,071	869
2003		260,945	252,545	247,941	241,635	232,666	227,744	218,152	219,755	213,606	-6,149	-4,546	-47,339
2004			287,024	269,578	256,514	236,389	199,653	194,331	182,386	187,416	5,030	-6,915	-99,608
2005				273,690	250,985	235,740	230,535	153,981	151,133	160,942	9,809	6,961	-112,748
2006					285,546	266,290	262,538	226,313	188,137	182,573	-5,564	-43,740	-102,973
2007						309,812	293,210	286,848	221,388	194,708	-26,680	-92,140	-115,104
2008							282,251	286,591	286,186	294,745	8,559	8,154	12,494
2009								382,196	359,494	327,778	-31,716	-54,418	-54,418
2010									384,936	360,284	-24,652		-24,652
2011										402,382			
										Totals	-101,436	-217,318	-481,013

The Medical Protective Company														
<u>Year in which Loss Occurred</u>	Incurred net losses and defense and cost containment expenses reported at year-end (\$000 omitted)													
	Incurred Net Losses 2002	Incurred Net Losses 2003	Incurred Net Losses 2004	Incurred Net Losses 2005	Incurred Net Losses 2006	Incurred Net Losses 2007	Incurred Net Losses 2008	Incurred Net Losses 2009	Incurred Net Losses 2010	Incurred Net Losses 2011	One Year Development	Two Year Development	Cumulative Development	
Prior	536,024	592,726	618,732	597,712	601,981	628,903	638,775	635,818	632,797	632,511	-286	-3,307	96,487	
2002	387,907	373,316	370,981	346,107	356,398	361,628	361,354	362,662	365,017	362,934	-2,083	272	-24,973	
2003		564,745	565,245	393,980	379,249	369,713	369,401	374,091	373,095	370,573	-2,522	-3,518	-194,172	
2004			424,338	239,018	220,036	208,945	198,371	187,553	176,324	171,147	-5,177	-16,406	-253,191	
2005				186,317	182,699	172,663	163,122	153,353	135,757	121,087	-14,670	-32,266	-65,230	
2006					0	230,307	219,045	207,190	195,312	157,294	131,346	-25,948	-63,966	-98,961
2007						278,967	265,104	251,428	237,911	187,241	-50,670	-64,187	-91,726	
2008							285,000	271,527	257,782	244,108	-13,674	-27,419	-40,892	
2009								291,750	278,022	264,576	-13,446	-27,174	-27,174	
2010									293,913	279,180	-14,733		-14,733	
2011										282,074				
										Totals	-143,209	-237,971	-714,565	

## Appendix C: Rate filing information

<b>NAIC Code</b>	<b>Company</b>	<b>Description</b>	<b>Approved Change</b>	<b>Effective Date</b>
10801	Fortress Insurance Co.	Dentists	11.2%	8/1/2012
34495	Doctors Company An Interinsurance Exchange	Physicians and Surgeons	-6.6%	7/1/2012
14460	Podiatry Ins. Co. of America	Podiatrists	7.0%	6/1/2012
11843	Medical Protective Company	Dentists	-0.3%	4/1/2012
20443	Continental Casualty Co.	Dentists	4.7%	3/5/2012
37540	Beazley Insurance Company Inc.	Miscellaneous Medical Facilities	New program	2/29/2012
19445	National Union Fire Ins. Co. of Pittsburgh, PA	Chiropractors	26.8%	2/10/2012
32417	Northwest Dentists Ins. Co.	Dentists	3.0%	1/1/2012
40738	Physicians Insurance A Mutual Co.	Hospitals	-1.0%	12/31/2011
22667	Ace American Insurance Co.	Allied Health	-0.2%	12/15/2011
13714	Pharmacists Mutual Ins. Co.	Pharmacy Services	-1.0%	12/1/2011
18058	Philadelphia Indemnity Ins. Co.	Chiropractors	New program	11/14/2011
12754	Medicus Insurance Company	Physicians and Surgeons	New program	10/12/2011
37540	Beazley Insurance Company Inc.	Dental Hygienists	New program	9/22/2011
19917	Liberty Insurance Underwriters, Inc.	Allied Health	-1.0%	9/6/2011
10222	PACO Assurance Company Inc.	Chiropractors	6.0%	9/1/2011
19917	Liberty Insurance Underwriters, Inc.	Dentists	New program	6/23/2011
19348	Capson Physicians Insurance Company	Physicians and Surgeons	New program	6/13/2011
40738	Physicians Insurance A Mutual Co.	Hospital and Employed Physicians	New program	6/2/2011
14460	Podiatry Ins. Co. of America	Podiatrists	9.0%	6/1/2011
22209	Freedom Specialty Insurance Company	Physicians and Surgeons	New program	5/17/2011
19445	National Union Fire Ins. Co. of Pittsburgh, PA	Physicians Assistants	New program	4/29/2011
11843	Medical Protective Company	Optometrists, Chiropractors, and Podiatrists	New Program	4/10/2011
10677	Cincinnati Insurance Co.	Home Health Care	New Program	3/1/2011
23280	Cincinnati Indemnity Co.	Home Health Care	New Program	3/1/2011
28665	Cincinnati Casualty Co.	Home Health Care	New Program	3/1/2011
20443	Continental Casualty Co.	Dentists	-0.1%	2/1/2011
25224	Great Divide Insurance Co.	Chiropractors	New Program	1/20/2011
11127	Professional Solutions Insurance Co.	Dentists	-1.9%	1/1/2011
11843	Medical Protective Company	Dentists	3.0%	1/1/2011
32417	Northwest Dentists Ins. Co.	Dentists	6.5%	1/1/2011
34495	Doctors Company An Interinsurance Exchange	Physicians and Surgeons	-5.1%	1/1/2011
10120	Everest National Insurance Co.	Allied Health	0.0%	12/15/2010

For the three largest writers of physicians and surgeons insurance in Washington, there was one new rate proposal since last year. The Doctors Company lowered base rates by 6.6 percent. The Doctors Company began issuing policyholder dividends on a countrywide basis in 2006, and these dividends total \$88.96 million. Physicians Insurance has issued policyholder dividends of over \$5 million per year from 2008 to 2011.

Physicians Insurance			
Rate Filing Selections	2008 Filing	2009 Filing	Difference
Selected Frequency:	5.6%	5.2%	-0.4%
Selected Severity:	\$82,500	\$80,000	-2,500
Selected Pure Premium:	\$4,300	\$3,980	-320
Selected Annual Trend:	4.0%	4.0%	0.0%
Doctors Company			
Rate Filing Selections	2009 Filing	2012 Filing	Difference
Selected Frequency:	6.5%	6.7%	0.2%
Selected Severity:	\$70,000	\$113,000	43,000
Selected Pure Premium:	\$5,017	\$7,571	2,554
Selected Annual Trend:	3.5%	3.5%	0.0%
Medical Protective Company			
Rate Filing Selections	2009 Filing	2010 Filing	Difference
Selected Frequency:	n/a	n/a	
Selected Severity:	n/a	n/a	
Selected Pure Premium:	\$4,746	\$4,597	-149
Selected Annual Trend:	5.0%	5.0%	0.0%

The Doctors Company made a significant change to its rate-making process in the 2012 filing. In 2009, its rates were based on a \$250,000 policy limit, relying on increased limit factors to develop premiums for higher coverage limits. In 2012, it based rates on a \$1 million policy limit – which is the most common limit of coverage for physicians. This change had a significant impact on the selected severity, above.

Physicians Insurance			
Year	2008 Filing	2009 Filing	Difference
1990	\$11,243	\$11,243	\$0
1991	\$21,466	\$21,466	\$0
1992	\$23,299	\$24,594	\$1,295
1993	\$22,281	\$22,281	\$0
1994	\$25,950	\$25,950	\$0
1995	\$34,470	\$34,436	-\$34
1996	\$27,234	\$27,207	-\$27
1997	\$33,050	\$32,984	-\$66
1998	\$33,971	\$33,760	-\$211
1999	\$29,259	\$29,322	\$63
2000	\$33,791	\$33,331	-\$460
2001	\$35,098	\$34,715	-\$383
2002	\$29,413	\$29,891	\$478
2003	\$27,765	\$26,938	-\$827
2004	\$28,954	\$28,782	-\$172
2005	\$29,498	\$28,706	-\$792
2006	\$28,842	\$26,899	-\$1,943
2007		\$23,987	
2008			
2009			
2010			
Total		-\$3,079	

These tables show insurer estimates of incurred loss and defense costs by year that claims were reported. For each company, the two estimates shown are from that company's two most recent rate filings. For Physicians Insurance and Medical Protective, the more recent estimates tend to be lower, indicating that the insurers' initial estimates were too high. The opposite is true for the Doctors Company, mainly due to a change in actuarial methods between the 2009 and 2012 filings. The 2009 amounts are the sum of incurred loss plus defense costs limited to \$250,000. The 2012 amounts are incurred loss limited to \$1,000,000 plus unlimited defense costs.

				Medical Protective		
The Doctors Company				2009 Filing	2010 Filing	Difference
	2009 Filing	2012 Filing	Difference			
2009	\$8,610	\$11,853	\$3,243	\$162	\$162	\$0
2010	\$8,253	\$14,328	\$6,075	\$6,633	\$6,555	-\$78
Total	\$4,160	\$7,955	\$3,795	\$2,550	\$2,530	-\$20
	\$6,539	\$8,262	\$1,723	\$4,295	\$4,320	\$25
	\$7,280	\$10,114	\$2,834	\$3,530	\$3,330	-\$200
	\$5,810	\$5,670	-\$140		\$2,136	
		\$11,700				
		\$10,500				
		\$6,850				
			\$17,530			-\$279

Data displayed in thousands.

**Appendix D: 2010 NAIC Profitability Report - Medical Professional Liability Insurance**

State	Direct Premiums Earned (000s)	Percent of Direct Premiums Earned									Percent of Net Worth			Tax on Return on Net Worth	
		Losses Incurred	Loss Adjust Expense	General Expense	Selling Expense	Taxes License Fees	Div to Plcyhldr	Und Profit	Gain on Ins Trans	Tax on Trans	Profit on Ins Trans	Earned Prem to Net Worth	Inv Gain on Net Worth	Inv Gain on Net Worth	
Alabama	141,031	10.9	28.2	8.0	7.2	1.9	0.5	43.3	16.2	19.2	40.4	43.3	4.6	1.1	20.9
Alaska	22,114	47.4	26.6	8.0	7.8	2.0	16.0	-7.8	10.7	-0.1	3.0	56.5	4.6	1.1	5.1
Arizona	259,878	15.3	13.7	8.0	10.0	1.4	11.7	39.9	13.5	17.3	36.1	47.3	4.6	1.1	20.6
Arkansas	74,677	13.8	16.6	8.0	11.7	2.4	2.7	44.9	17.4	20.0	42.3	41.1	4.6	1.1	20.9
California	816,768	27.3	22.8	8.0	11.6	1.9	3.9	24.5	10.1	11.1	23.5	58.5	4.6	1.1	17.2
Colorado	165,559	18.3	19.9	8.0	8.1	1.2	7.9	36.6	11.7	15.7	32.7	53.2	4.6	1.1	20.8
Connecticut	183,903	11.1	20.8	8.0	10.5	2.2	0.1	47.4	20.8	21.7	46.4	36.2	4.6	1.1	20.3
Delaware	40,105	30.9	26.1	8.0	11.7	1.6	0.3	21.5	14.5	11.1	24.9	45.6	4.6	1.1	14.8
Dist. of Columbia	38,588	21.1	16.1	8.0	11.5	1.4	0.5	41.5	16.3	18.5	39.2	42.5	4.6	1.1	20.1
Florida	575,808	26.8	22.3	8.0	13.1	2.0	1.1	26.7	14.7	13.0	28.4	46.1	4.7	1.1	16.6
Georgia	317,274	26.1	21.8	8.0	9.9	2.8	2.4	29.0	14.9	13.8	30.1	45.4	4.6	1.1	17.2
Hawaii	23,364	2.5	7.8	8.0	10.5	3.5	18.4	49.3	17.3	21.5	45.0	40.5	4.6	1.1	21.7
Idaho	37,515	37.1	32.3	8.0	11.0	1.4	6.5	3.6	11.9	4.2	11.3	53.0	4.6	1.1	9.5
Illinois	612,173	32.4	27.2	8.0	11.9	1.7	3.9	14.9	19.4	10.0	24.3	38.2	4.6	1.1	12.7
Indiana	122,386	21.7	24.2	8.0	10.1	1.9	0.5	33.8	20.9	17.0	37.7	36.2	4.6	1.1	17.1
Iowa	83,335	26.9	20.1	8.0	11.7	1.1	3.5	28.8	10.9	12.8	27.0	56.5	4.6	1.1	18.7
Kansas	77,150	14.8	21.6	8.0	11.3	1.6	0.5	42.2	13.0	18.0	37.3	51.0	4.6	1.1	22.5
Kentucky	147,830	20.6	18.6	8.0	10.7	1.7	0.8	39.6	17.8	18.3	39.2	40.6	4.6	1.1	19.4
Louisiana	102,403	-6.3	24.0	8.0	9.6	3.0	5.0	56.8	17.6	24.2	50.1	41.1	4.6	1.1	24.1
Maine	50,127	31.2	16.9	8.0	8.8	2.1	3.1	30.0	13.4	13.8	29.6	48.6	4.6	1.1	17.8

State	Direct Premiums Earned (000s)	Percent of Direct Premiums Earned									Percent of Net Worth			Return on Net Worth	
		Losses Incurred	Loss Adjust Expense	General Expense	Selling Expense	Taxes License Fees	Div to Plcyhldr	Und Profit	Gain on Ins Trans	Tax on Trans	Profit on Ins Trans	Earned Prem to Net Worth	Inv Gain on Net Worth	Tax on Inv Gain on Net Worth	
Maryland	278,613	37.7	19.1	8.0	10.0	1.7	13.6	10.0	11.6	6.4	15.3	54.0	4.6	1.1	11.7
Massachusetts	317,659	37.7	18.1	8.0	8.8	2.4	2.7	22.4	23.1	13.5	32.0	33.8	4.6	1.1	14.3
Michigan	206,335	9.8	16.8	8.0	13.0	0.9	0.3	51.4	15.3	21.8	44.9	44.7	4.6	1.1	23.5
Minnesota	90,091	73.4	22.5	8.0	10.4	1.8	2.8	-18.9	10.0	-4.2	-4.8	60.6	4.6	1.1	0.6
Mississippi	55,862	19.2	16.6	8.0	15.0	2.1	0.9	38.3	16.3	17.4	37.2	42.9	4.7	1.2	19.5
Missouri	191,831	27.3	14.6	8.0	10.6	1.0	9.8	28.7	13.5	13.4	28.8	49.1	4.6	1.1	17.6
Montana	41,483	33.3	15.2	8.0	9.5	2.1	0.2	31.9	11.8	14.1	29.6	54.6	4.6	1.1	19.6
Nebraska	36,200	24.6	16.9	8.0	10.6	1.9	2.1	35.9	13.0	15.8	33.1	50.1	4.6	1.1	20.1
Nevada	89,772	10.1	29.5	8.0	12.0	2.7	0.3	37.5	13.1	16.4	34.3	49.6	4.7	1.1	20.5
New Hampshire	42,226	11.3	7.4	8.0	12.0	1.6	0.5	59.3	14.2	24.3	49.3	46.8	4.6	1.1	26.5
New Jersey	509,294	52.6	25.2	8.0	12.2	1.4	0.3	0.4	17.5	4.5	13.4	40.9	4.6	1.1	9.0
New Mexico	49,709	40.3	32.7	8.0	9.4	1.4	0.2	8.2	15.2	6.6	16.8	45.6	4.6	1.1	11.1
New York	1,661,183	60.0	30.8	8.0	5.6	2.7	0.1	-7.1	23.8	3.4	13.3	33.0	4.6	1.1	7.8
North Carolina	248,155	21.7	17.3	8.0	10.7	1.6	2.2	38.6	12.0	16.5	34.1	52.5	4.6	1.1	21.4
North Dakota	13,567	-11.2	-8.2	8.0	15.0	1.7	1.0	93.8	10.6	35.5	69.0	57.3	4.7	1.2	43.0
Ohio	369,072	4.2	11.5	8.0	12.4	1.5	1.6	60.8	16.3	25.3	51.8	43.0	4.6	1.1	25.8
Oklahoma	125,868	49.2	31.0	8.0	11.5	1.9	0.2	-1.7	12.5	2.5	8.3	52.5	4.6	1.1	7.8
Oregon	100,848	17.7	9.5	8.0	9.9	2.3	2.8	49.8	11.5	20.3	41.1	53.7	4.6	1.1	25.5
Pennsylvania	706,470	42.2	25.4	8.0	8.5	1.8	1.3	12.9	16.2	8.5	20.6	43.7	4.6	1.1	12.4
Rhode Island	44,619	77.8	25.5	8.0	10.4	1.6	1.1	-24.3	27.2	-1.8	4.7	29.4	4.6	1.1	4.8
South Carolina	61,992	14.0	12.7	8.0	11.7	2.7	1.3	49.6	12.5	20.4	41.6	51.0	4.7	1.1	24.7
South Dakota	20,276	33.4	28.3	8.0	13.4	2.3	2.2	12.5	11.9	7.3	17.1	53.6	4.7	1.1	12.7
Tennessee	272,802	6.4	14.4	8.0	6.9	0.8	3.7	59.9	17.5	25.3	52.1	41.4	4.6	1.1	25.0

State	Direct Premiums Earned (000s)	Percent of Direct Premiums Earned									Percent of Net Worth			Return on Net Worth	
		Losses Incurred	Loss Adjust Expense	General Expense	Selling Expense	Taxes License Fees	Div to Plcyhldr	Und Profit	Gain on Ins Trans	Tax on Trans	Profit on Ins Trans	Earned Prem to Net Worth	Inv Gain on Net Worth	Tax on Inv Gain on Net Worth	
Texas	337,766	5.5	16.8	8.0	12.8	1.4	2.5	53.1	14.6	22.2	45.5	46.3	4.6	1.1	24.6
Utah	70,660	42.6	34.3	8.0	7.9	2.0	0.7	4.5	14.8	5.2	14.1	47.0	4.6	1.1	10.1
Vermont	22,319	43.1	14.1	8.0	12.1	2.8	0.7	19.2	14.4	10.3	23.3	46.2	4.7	1.2	14.3
Virginia	229,563	29.7	17.4	8.0	12.7	2.0	2.2	28.0	11.6	12.7	26.9	53.7	4.7	1.2	18.0
Washington <sup>73</sup>	199,165	35.5	13.6	8.0	9.7	1.7	3.4	28.3	12.8	13.1	28.0	51.4	4.6	1.1	17.9
West Virginia	85,499	27.9	14.8	8.0	11.2	2.8	0.2	35.0	11.5	15.1	31.4	54.0	4.6	1.1	20.5
Wisconsin	96,468	26.2	25.3	8.0	10.1	1.3	0.8	28.3	18.6	14.5	32.4	39.5	4.6	1.1	16.2
Wyoming	27,007	13.7	12.1	8.0	13.4	2.0	1.4	49.5	7.2	19.1	37.6	71.3	4.7	1.2	30.3
Guam	775	-10.0	15.2	8.0	14.9	2.3	0.0	69.6	5.5	25.7	49.4	76.0	4.8	1.2	41.1
Puerto Rico	66,759	42.1	22.9	8.0	12.2	-0.3	0.0	15.1	11.6	8.1	18.5	53.8	4.6	1.1	13.4
US Virgin Islands	131	6.4	20.4	8.0	19.3	5.2	2.3	38.4	7.3	15.2	30.4	66.7	4.9	1.2	24.0
Countrywide	10,562,027	32.2	22.3	8.0	10.0	1.9	2.6	23.0	16.4	12.1	27.4	42.9	4.6	1.1	15.2
Average	384,074	25.7	19.8	8.0	11.0	1.9	2.9	30.8	14.4	14.4	30.9	48.4	4.6	1.1	18.4
Median	96,468	26.2	19.5	8.0	10.9	1.9	1.4	32.9	13.9	14.8	31.7	47.2	4.6	1.1	19.1

<sup>73</sup> These are data from the 2010 NAIC Profitability Report by Line by State. Most companies do not restrict their operations to writing a single line of business in a single state. As a result, the NAIC builds the by-line and by-state profitability analysis, in part, on allocations of financial data reflecting multi-line and multi-state operations. A multi-line insurer is an insurance company that provides a one-stop shop for businesses seeking coverage for all of their insurance needs. For example, a multi-line insurer will sell a package of medical professional liability, general liability and property insurance to a physician or clinic. While these data are not perfect, the estimates of profitability based on return on net worth have comparative value. The NAIC estimated return on net worth in Washington state for medical professional liability insurance was 17.9 percent. The median estimated return on net worth nationally was 19.1 percent, and the average was 18.4 percent. Overall, profitability for medical professional liability insurance in Washington state was lower than the rest of the country in 2010.