

# **2013 Medical Malpractice Statistical Summary**

Settlement Data Submitted by Attorneys

**Lawsuits with final disposition from Jan. 1, 2009 through Dec. 31, 2013**

## **Rates and Forms Division**

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May 2014



**Insurance Commissioner Mike Kreidler**

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## Introduction

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

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

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

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<sup>1</sup> [HB 2292 - 2005-06](#)

<sup>2</sup> [RCW 48.140.040\(2\)](#). On February 20, 2014, Insurance Commissioner Mike Kreidler notified the legislature that the OIC would post statistical summaries by June 1.

<sup>3</sup> [WAC 284-24E-150](#)

<sup>4</sup> [RCW 7.70.140\(2\)\(b\)\(v\)](#).

**Key statistics about medical malpractice lawsuits resolved in 2013:**

Attorneys reported that 47 lawsuits were resolved with paid indemnity in 2013, about half of the average for the previous four years.

In cases where indemnity payments were made to the claimant, average compensation to the claimant was \$1,432,793.

Average attorney fees were \$525,512.

**Calendar year comparison:** Attorneys reported these data for the five-year period ending December 31, 2013.<sup>5</sup>

	-----Calendar Year-----				
	2009	2010	2011	2012	2013
Settlements Reported by Attorneys	131	90	86	59	48
Total Legal Expenses	\$33,588,058	\$34,598,555	\$18,367,556	\$18,095,378	\$30,305,604
Average Legal Expense per Lawsuit	\$256,397	\$384,428	\$213,576	\$306,701	\$631,367
Number of Lawsuits with Paid Indemnity	120	85	83	58	47
Total Paid Indemnity	\$77,952,416	\$85,073,584	\$44,792,345	\$44,207,074	\$67,341,276
Average Indemnity Payment	\$649,603	\$1,000,866	\$539,667	\$762,191	\$1,432,793
Number of Lawsuits with Attorney Fees	131	90	86	59	48
Total Attorney Fees	\$29,085,025	\$31,188,630	\$15,446,463	\$15,839,803	\$25,224,574
Average Fee paid to Attorney	\$222,023	\$346,540	\$179,610	\$268,471	\$525,512
Average Attorney Fee ÷ Average Indemnity Payment	34.2%	34.6%	33.3%	35.2%	36.7%

**Number of resolved lawsuits:** Attorneys submitted 48 reports about medical malpractice lawsuits that were resolved in calendar year 2013, a significant drop-off from prior years.

**Indemnity payments to claimants:** In 2013, attorneys reported 47 lawsuits in which a claimant received compensation. Payments totaled \$67.3 million, or an average of \$1,432,793 per reported settlement.

**Total legal expenses:** Claimants must pay fees and costs to file a lawsuit regardless of whether they receive a settlement. In 2013, claimants paid \$30.3 million in legal fees to resolve 48 lawsuits, or an average of \$631,367 per reported lawsuit.

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<sup>5</sup> Data submitted by attorneys as of April 8, 2014.

**Attorney fees:** Claimants pay attorney fees based on contracts with their attorneys, and these fees are related to the total indemnity paid to the claimant to resolve the lawsuit. For 2013, attorneys reported 48 settlements in which attorney fees were paid, averaging \$525,512.

**Reporting Compliance:** Attorneys reported only a small fraction of the approximately 200 to 350 medical malpractice lawsuits resolved each year. Nearly half of the settlement reports submitted by attorneys were late (reports are due on March 1 of the year following the resolution of the lawsuit). There is no enforcement mechanism in the law, so the OIC expects that attorneys will continue to ignore the law and fail to report settlement data.