

2016 Medical Malpractice Statistical Summary

Settlement data submitted by attorneys

Lawsuits with final disposition from Jan. 1, 2012 through Dec. 31, 2016

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Introduction

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

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

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

¹ [HB 2292 - 2005-06](#)

² [RCW 48.140.040\(2\)](#). On Feb. 1, 2017, Insurance Commissioner Mike Kreidler notified the Legislature that the OIC would post statistical summaries by June 1.

³ [WAC 284-24E-150](#)

⁴ [RCW 7.70.140\(2\)\(b\)\(v\)](#).

Key statistics about medical malpractice lawsuits resolved in 2016:

- Attorneys reported that 31 lawsuits were resolved with paid indemnity in 2016.
- In cases where indemnity payments were made to the claimant, average compensation to the claimant was \$1,684,150
- Average attorney fees were \$597,217.

Calendar year comparison: Attorneys reported these data for the five-year period ending Dec. 31, 2016.⁵

	-----Calendar year-----				
	2012	2013	2014	2015	2016
Settlements reported by attorneys	60	58	53	46	33
Total legal expenses	\$18,109,028	\$31,971,142	\$27,209,251	\$28,932,607	\$21,740,455
Average legal expense per lawsuit	\$301,817	\$551,227	\$513,382	\$628,970	\$658,802
Number of lawsuits with paid indemnity	59	57	52	43	31
Total paid indemnity	\$44,247,074	\$72,113,776	\$70,617,961	\$73,752,000	\$52,208,662
Average indemnity payment	\$749,950	\$1,265,154	\$1,358,038	\$1,715,163	\$1,684,150
Number of lawsuits with attorney fees	60	58	53	46	33
Total attorney fees	\$15,853,136	\$26,706,371	\$23,910,626	\$25,713,603	\$19,708,154
Average fee paid to attorney	\$264,219	\$460,455	\$451,144	\$558,991	\$597,217
Average attorney fee ÷ average indemnity payment	35.2%	36.4%	33.2%	32.6%	35.5%

Number of resolved lawsuits: Attorneys submitted 33 reports about medical malpractice lawsuits that were resolved in calendar year 2016, a decrease of 28.3 percent from the prior year.

Indemnity payments to claimants: In 2016, attorneys reported 31 lawsuits in which a claimant received compensation. Payments totaled \$52.2 million, or an average of \$1,684,150 per reported settlement. After increasing sharply over the prior three years, average payments declined slightly in 2016 compared to 2015.

Total legal expenses: Claimants must pay fees and costs to file a lawsuit regardless of whether they receive a settlement. In 2016, claimants paid \$21.7 million in legal fees to resolve 33 lawsuits, or an average of \$658,802 per reported lawsuit.

⁵ Data submitted by attorneys as of March 21, 2017.

Attorney fees: Claimants pay attorney fees based on their contracts, and these fees are related to the total indemnity paid to the claimant to resolve the lawsuit. For 2016, attorneys reported 33 settlements with average attorney fees of \$597,217.

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