

2010 Medical Malpractice Statistical Summary

Settlement Data Submitted by Attorneys

Lawsuits with final disposition from Jan. 1, 2008 through Dec. 31, 2010

Rates and Forms Division

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Mike Kreidler - *State Insurance Commissioner*

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Introduction

In 2006, the Washington State Legislature enacted comprehensive health care liability reform,¹ requiring attorneys to report medical malpractice settlement data to the Office of the Insurance Commissioner (OIC). Each year, the OIC must post summary statistics about medical malpractice lawsuits that are resolved.² Since 2008, the OIC has worked with the Washington State Association for Justice³ and Washington State Bar Association to improve compliance by their members. Despite these efforts, a number of attorneys have not complied with [RCW 7.70.140](#), and data in this summary is 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.⁴

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.⁵

1 [HB 2292 - 2005-06](#)

2 [RCW 48.140.040\(2\)](#). On February 2, 2011, Insurance Commissioner Mike Kreidler notified the legislature that the OIC would post statistical summaries by June 15.

3 Formerly known as the Washington State Trial Lawyers Association.

4 [WAC 284-24E-150](#)

5 [RCW 7.70.140\(2\)\(b\)\(v\)](#).

Key statistics about medical malpractice lawsuits resolved in 2010:

- Estimated compliance by attorneys in reporting lawsuits resolved in 2010 dropped significantly to 24.6 percent.
- Attorneys reported that 54 lawsuits were resolved with paid indemnity in 2010, compared to 118 in 2009 and 134 in 2008.
- In cases where indemnity payments were made to the claimant, the:
 - Average compensation to the claimant was \$1,222,629.
 - Average attorney fee was \$449,489.

Estimated 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 deteriorated the last two years.

	-----Calendar Year-----		
	2008	2009	2010
Lawsuits Resolved	207	256	244
Settlements Reported by Attorneys	158	129	60
Estimated Compliance	76.3%	50.4%	24.6%

The law has no enforcement mechanism the OIC can use to make attorneys report settlement data, so the OIC expects that the number of settlements reported will continue to decline in future years. In 2010, the OIC proposed legislation⁶ that would have added enforcement mechanisms to the existing law. This legislation was not enacted.

⁶ These bills were introduced as [SB 6412](#) and [HB 2963](#).

Calendar year comparison: Attorneys reported these statistics for the three-year period ending December 31, 2010.⁷

	-----Calendar Year-----		
	2008	2009	2010
Settlements Reported by Attorneys	158	129	60
Total Legal Expenses	\$33,013,414	\$33,117,457	\$27,121,579
Average Legal Expense per Lawsuit	\$208,946	\$256,724	\$452,026
Number of Lawsuits with Paid Indemnity	134	118	54
Total Paid Indemnity	\$81,985,707	\$76,602,416	\$66,021,983
Average Indemnity Payment	\$611,834	\$649,173	\$1,222,629
Number of Lawsuits with Attorney Fees	132	115	55
Total Attorney Fees	\$28,190,420	\$28,635,025	\$24,721,916
Average Fee paid to Attorney	\$213,564	\$249,000	\$449,489

Number of resolved lawsuits: Attorneys submitted 60 reports with data about medical malpractice lawsuits that were resolved in calendar year 2010, which is 69 fewer than the prior year.

Indemnity payments to claimants: In 2010, attorneys reported 54 lawsuits in which a claimant received compensation. Payments totaled \$66.0 million, or an average of \$1,222,629 per reported settlement.

Total legal expenses: Claimants must pay fees and costs to file a lawsuit regardless of whether they receive a settlement. Average legal expenses are the number of reported settlements divided by total legal expenses. In 2010, claimants paid \$27.1 million in legal fees to resolve 60 lawsuits, or an average of \$452,026 per reported settlement.

Attorney fees: Claimants pay attorney fees based on the contract with their attorney, and these fees are related to the total indemnity paid to the claimant to resolve the lawsuit. In 2010, attorneys reported 55 settlements in which attorney fees were paid, averaging \$449,489.

⁷ Data submitted by attorneys as of April 12, 2011.