

# 2020 Medical Malpractice Statistical Summary

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Settlement data submitted by attorneys

Lawsuits with final disposition from Jan. 1, 2016 through Dec. 31, 2020

June 2021

**Mike Kreidler**, *Insurance Commissioner*

[www.insurance.wa.gov](http://www.insurance.wa.gov)

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# Introduction

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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 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 March 4, 2021, 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 2020 medical malpractice lawsuit statistics

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- Attorneys reported that seven lawsuits were resolved with paid indemnity in 2020.
- In cases where indemnity payments were made to the claimant, average compensation to the claimant was \$1.5 million.
- Average attorney fees were \$647,718.

# Calendar year comparison

This table shows data reported by attorneys for the five-year period ending Dec. 31, 2020.<sup>5</sup>

	Calendar year				
	2016	2017	2018	2019	2020
Settlements reported by attorneys	42	34	31	9	10
Total legal expenses	\$25,273,923	\$11,347,914	\$18,714,718	\$2,110,799	\$6,774,955
Average legal expense per lawsuit	\$601,760	\$333,762	\$603,701	\$234,533	\$677,496
Number of lawsuits with paid indemnity	40	31	31	6	7
Total paid indemnity	\$61,564,825	\$27,239,000	\$42,872,870	\$4,340,000	\$10,570,000
Average indemnity payment	\$1,539,121	\$878,677	\$1,382,996	\$723,333	\$1,510,000
Number of lawsuits with attorney fees	37	29	30	7	9
Total attorney fees	\$22,847,061	\$9,520,746	\$16,574,797	\$1,651,025	\$5,829,463
Average fee paid to attorney	\$617,488	\$328,302	\$552,493	\$235,861	\$647,718
Average fee ÷ average indemnity	40.1%	37.4%	39.9%	32.6%	42.9%

## Total legal expenses

- Claimants must pay fees and costs to file a lawsuit regardless of whether they receive a settlement.
- The average legal expense in 2020 was \$677,496 per reported lawsuit, a 188.9% increase from 2019.

## Indemnity payments to claimants

- In 2020, attorneys reported seven lawsuits in which a claimant received compensation.
- The average indemnity payment was \$1.5 million, a 108.8% increase from 2019.

## 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.
- The average attorney fee in 2020 was \$647,718 per reported lawsuit with attorney fees, a 174.6% increase from 2019.

<sup>5</sup> Data submitted by attorneys as of May 12, 2021.