

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on  
Insurance  
(AC-In)

(Form Updated: 11/20/2008)

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**(1987 documents)**

Chapter 3  
 Questions and Answers Regarding Medical  
 Malpractice Claims Closed With an  
 Indemnity Payment

**Table 3.8: Number of Paid Claims and Indemnity Payments by Severity of Injury Categories**

Severity of injury	Paid claims		Indemnity payments			
	Number	Percent of total <sup>a</sup>	Median	Average	Range	
					Lowest	Highest
All claims	18,279 <sup>c</sup>	45.7	\$15,000	\$71,530	\$1	\$1,616,185
Emotional	881	24.1	7,500	24,783	18	560,000
Insignificant	2,352	56.1	3,000	8,162	25	75,000
Temporary disability—minor	5,404	38.6	6,000	13,753	1	212,500
Temporary disability—major	1,758	50.4	20,000	33,253	250	638,097
Permanent partial disability—minor	3,744	61.7	25,000	43,306	500	900,000
Permanent partial disability—major	861	47.0	68,750	130,420	750	1,315,996
Permanent total disability—major	1,325	73.2	398,362	373,602	2,500	996,000
Permanent total disability—grave	495	68.6	350,000	417,513	25,000	1,616,185
Death	1,459	37.5	30,000	108,021	1,000	1,109,937

<sup>a</sup>Shows paid claims as a percentage of total claims within each of the severity of injury categories. For example, an estimated 1,810 claims involved major permanent total disabilities. Of these 1,325 (about 73.2 percent) were closed with payment.

<sup>b</sup>Only represents paid claims for which data were provided and, therefore, are representative of about half of all paid claims.

To analyze the extent to which economic losses were covered by the awards/settlements, we compared each patient's total economic loss to the indemnity payment. As shown in table 3.9, the patients' economic losses exceeded the indemnity payment in about 30 percent of these claims.

**Table 3.9: Comparison of Patients' Economic Losses to Indemnity Payments**

Comparison	Paid claims		
	Number <sup>a</sup>	Percent	Cumulative percent
Loss less than payment	11,299	61.8	61.8
Loss equal to payment <sup>b</sup>	1,495	8.2	70.0
Loss greater than payment	5,486	30.0	100.0
<b>Total</b>	<b>18,279<sup>c</sup></b>	<b>100.0</b>	

<sup>a</sup>Detail does not add to total due to rounding.

<sup>b</sup>For purposes of this comparison, we considered loss to equal payment if loss was within 10 percent (less or greater) of the payment.

<sup>c</sup>Only represents paid claims for which data were provided and, therefore, are representative of about half of all paid claims.

As shown in table 3.9, economic losses for 11,299 patients were less than their indemnity payments. For about 5 percent of these claims, economic losses were from 75 to 89 percent of the payment, while for about

55 percent, the losses were less than 25 percent of the payment (See table V.15.) "Minor temporary disabilities" (about 32 percent) and "minor permanent partial disabilities" (about 25 percent) were most often associated with these 11,299 claims (See table V.17.)

Of the 5,486 claims where the patients' economic losses were greater than the payment, about 8 percent had losses exceeding the payment by 11 to 25 percent. However, for 68 percent, the losses exceeded the payment by more than 100 percent (See table V.16.) For the claims where the patients' loss was greater than the payment, about 22 percent involved "minor temporary disabilities." About 18 percent involved "major permanent total disabilities," and 17 percent were "minor permanent partial disabilities" (See table V.17.)

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### What Percent of Indemnity Payments Are Plaintiff Attorney's Fees?

Our analysis of plaintiff attorney's fees shows the fees as a percentage of the expected values of the indemnity payments to the patients.<sup>6</sup> We initially analyzed 20,671 paid claims where the total indemnity payment was made by one of the companies participating in the study (about 65 percent of all paid claims). The expected values of the indemnity payments for these 20,671 claims accounted for a total of about \$3.5 billion. However, for 4,323 of these claims, the amount of the attorney's fees was unknown. Of the remaining 16,348 claims, 5,257 claims had reported fees of \$0 and the balance had fees totaling \$307.4 million.<sup>7</sup>

As shown in table 3.10, for about 52 percent of the claims, the plaintiff attorney's fees represented from 31 to 40 percent of the expected value of the indemnity payments. The fees represented 40 percent or less of the indemnity payment in about 96 percent of the claims.

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<sup>6</sup>Because some of the claims closed in 1984 involve structured payments that will be made over time, the payments received by patients for the 31,786 paid claims may total about \$5.4 billion.

<sup>7</sup>Because data were not available for about half of the paid claims, the estimates provided are for about half of the universe of paid claims. We are unable to provide estimates for the balance of the paid claims.

**Table 3.10. Analysis of Plaintiff Attorney's Fees as a Percent of Indemnity Payments**

Attorney's fees as a percent of indemnity payments	Paid claims		Cumulative percent
	Number	Percent <sup>a</sup>	
0	5,257	32.2	32.2
1 to 10	554	3.4	35.6
11 to 20	538	3.3	38.9
21 to 30	871	5.3	44.2
31 to 40	8,518	52.1	96.3
41 to 50	503	3.1	99.4
51 to 100	107	0.7	100.1
<b>Total</b>	<b>16,348<sup>b</sup></b>	<b>100.0</b>	

<sup>a</sup>Detail does not add to total due to rounding

<sup>b</sup>Only represents paid claims for which data were provided and therefore, are representative of about half of all paid claims

## How Did Compensation for Noneconomic Losses Relate to Indemnity Payments?

To determine this relationship, we compared patients' compensation for noneconomic losses to the expected value of the indemnity payments.<sup>8</sup> Of the 20,671 paid claims where the total indemnity payment was made by one of the companies participating in the study, compensation for noneconomic losses for 5,676 of these claims was unknown. Of the remaining 14,995 claims, 3,603 had noneconomic losses of \$0, and the balance of the claims included \$555.3 million as compensation for noneconomic losses.<sup>9</sup> For 759 of these 14,995 paid claims (about 5 percent), compensation for noneconomic losses was for amounts greater than \$100,000 and totaled \$403.8 million. This compensation represented about 42 percent of the total expected value of the indemnity payments made for these 759 claims. As shown in table 3.11, about \$342.4 million (about 62 percent) of the compensation was included in the claims where losses were greater than \$200,000.

<sup>8</sup>Because some of the claims closed in 1984 involve structured payments that will be made over time the payments received by patients for the 31,786 paid claims may total about \$5.4 billion.

<sup>9</sup>Because data were not available for about half of the paid claims, the estimates provided are for about half of the universe of paid claims. We are unable to provide estimates for the balance of the paid claims.

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**Table 3.11: Number of Claims and Compensation for Noneconomic Losses by Size of Noneconomic Losses**

Dollars in millions

Noneconomic loss compensation ranges	Paid claims <sup>a</sup>		Aggregate compensation for noneconomic loss <sup>a</sup>
	Number	Percent	
\$0	3,603	24.0	\$0.0
\$1 to \$50,000	10,023	66.8	105.4
\$50,001 to \$200,000	1,049	7.0	107.6
More than \$200,000	321	2.1	342.4
<b>Total</b>	<b>14,995</b>	<b>100.0</b>	<b>\$555.3</b>

<sup>a</sup>Detail does not add to total due to rounding.

Note: Claims classified by noneconomic loss compensation ranges only represent paid claims for which data were provided and, therefore, are representative of about half of all paid claims.

As shown in table 3.12, compensation for noneconomic losses represented from 51 to 60 percent of the expected value of the indemnity payments in about 18 percent of the claims. However, noneconomic losses accounted for 0 percent of the indemnity payments in 24 percent of the claims.

**Table 3.12: Analysis of Compensation for Noneconomic Losses as a Percent of Indemnity Payments**

Noneconomic losses as a percent of indemnity payments	Claims		Cumulative percent
	Number	Percent	
0	3,603	24.0	24.0
1 to 10	875	5.8	29.8
11 to 20	590	3.9	33.7
21 to 30	520	3.5	37.2
31 to 40	1,352	9.0	46.2
41 to 50	1,613	10.8	57.0
51 to 60	2,692	18.0	75.0
61 to 70	1,712	11.4	86.4
71 to 80	369	2.5	88.9
81 to 90	597	4.0	92.9
91 to 100	1,072	7.1	100.0
<b>Total</b>	<b>14,995<sup>a</sup></b>	<b>100.0</b>	

<sup>a</sup>Only represents paid claims for which data were provided and, therefore, are representative of about half of all paid claims.

**How Much Were  
 Medicare/Medicaid  
 Patients Compensated  
 for Their Injuries  
 Compared to Others?**

Table 3.13 shows that when payment was made, the median and average indemnity for Medicare and Medicaid patients were lower than those for patients with other sources of payment for their health care costs

**Table 3.13: Number of Paid Claims and Indemnity Payments by Source of Payment for Health Care Costs**

Source of health care payments	Paid claims		Indemnity payments			
	Number	Percent of total <sup>a</sup>	Median	Average	Range	
					Lowest	Highest
Self	2,741	47.1	\$16,000	\$61,394	\$9	\$589,300
Private/ commercial insurance	15,188	50.5	23,500	105,250	1	1,800,000
Medicare	3,129	42.9	11,667	28,352	25	1,000,000
Medicaid	1,467	51.9	7,500	43,267	222	825,604
Workers compensation	766	35.7	30,000	69,503 <sup>b</sup>	108	800,000

<sup>a</sup>Shows paid claims as a percentage of total claims for each of the sources of payment for health care costs. For example, an estimated 7,293 claims involved Medicare patients. Of these, 3,129 (about 42.9 percent) were closed with payment.

<sup>b</sup>Estimate subject to a large sampling error and should be used with caution.

Medicare and Medicaid beneficiaries experienced all types and severities of injuries; however, Medicare beneficiaries most often suffered "minor temporary disabilities" (about 28 percent) or they died (about 26 percent) as a result of malpractice incidents. Medicaid recipients experienced "insignificant" injuries (24 percent) and "minor temporary disabilities" (about 23 percent) most often. Injuries most frequently resulted from "other" and diagnostic errors for Medicare beneficiaries and from surgical and treatment errors for Medicaid beneficiaries.

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# Questions and Answers Regarding Health Care Providers Involved in Medical Malpractice Claims

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The claims closed in 1984 involved an estimated<sup>1</sup> 101,890 health care providers. Of these, about 71 percent were physicians and about 21 percent were hospitals. The physician specialties most frequently involved in claims were obstetrics/gynecology and general surgery. Insurers often were not able to provide data related to the training, board certification, and malpractice claims history of the physicians involved in the claims closed in 1984. However, the limited data for which estimates could be made suggest that at least 51 percent were board certified in the specialty in which the injury occurred and at least 52 percent may have been in practice from 11 to 30 years (estimated based on graduation from medical school between 1950 and 1969 followed by 4 years of post-graduate training). Despite this, at least 42 percent had previous malpractice claims filed against them.

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## Against Whom Were Claims Filed and Payments Made?

A variety of health care providers, including individual practitioners and facilities, were named in medical malpractice claims. However, as shown in figure 4.1, the providers most frequently named in claims were physicians and hospitals, physicians accounted for about 71 percent and hospitals for about 21 percent. The remaining 8 percent included nurses, dentists, technicians, and other facilities, such as HMOs and nursing homes.

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<sup>1</sup>Unless otherwise indicated, all data presented in this chapter are estimated. The estimates are based on the number of providers for which the companies provided data. There were additional providers involved for which the companies provided no information, which accounts for the difference between the 101,890 used in this chapter and the 103,255 providers estimated and discussed in chapter 2. Sampling errors were not computed for the health care provider data estimates since the providers were not randomly selected, thus, the precision of these data is unknown.

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Figure 4 1: Distribution of Providers  
 Against Whom Claims Were Filed

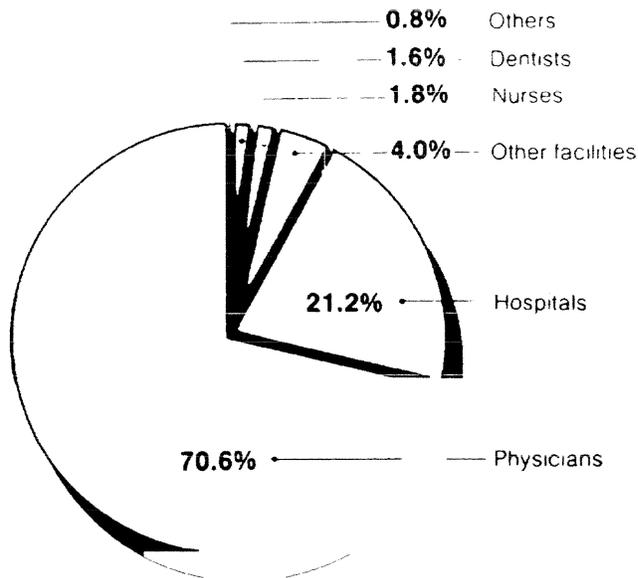


Table 4.1 shows that for all the providers involved in malpractice claims, payment was made for about 34 percent. Claims filed against hospitals had a higher payment percentage (about 39 percent) than those filed against physicians (about 32 percent) Over half of the claims filed against dentists resulted in payments.

Table 4.1: Number of Providers Involved  
 in Claims and Their Payment Status by  
 Type of Provider

Provider type	Total <sup>a</sup>	Providers			
		With payment		Without payment	
		Number <sup>a</sup>	Percent	Number <sup>a</sup>	Percent
All providers	101,890	34,979	34.3	66,470	65.2
Physicians	71,930	22,864	31.8	48,705	67.7
Hospitals	21,558	8,473	39.3	13,023	60.4
Facilities (other than hospitals)	4,032	1,483	36.8	2,544	63.1
Nurses	1,851	646	34.9	1,205	65.1
Dentists	1,650	911	55.2	739	44.8
Other	871	603	69.2	255	29.3

<sup>a</sup>Detail does not add to total due to rounding

Note: Detail by payment status does not add to total or 100 percent because payment action was unknown for some providers

## What Were the Physician Specialties Most Often Named in Claims?

Malpractice claims were filed against physicians practicing in more than 43 specialty areas. However, about half of the physicians named in claims practiced in six areas, and about 86 percent practiced in 17. For all the physicians in the United States, about 40 percent practiced in these six areas, and about 68 percent practiced in the 17 specialties. As shown in table 4.2, obstetricians/gynecologists and general surgeons were most often named in malpractice claims. About 24 percent of the physicians practiced in these two specialties. Orthopedic surgeons and internists accounted for about 16 percent of physicians named in claims. Nationally, about 12 percent of all practicing physicians were internists. General surgeons and obstetricians/gynecologists accounted for about 6 percent and 5 percent, respectively.

**Table 4.2: Number of Physicians Involved in Claims Compared to All Physicians by Physician Specialty**

Specialty	Physicians			
	All <sup>a</sup>		Involved in claims <sup>b</sup>	
	Number	Percent <sup>b</sup>	Number	Percent
Obstetrics/gynecology	25,234	5.2	8,927	12.4
General surgery	31,308	6.4	8,733	12.1
Orthopedic surgery	14,572	3.0	6,064	8.4
Internal medicine	60,118	12.4	5,397	7.5
General practice	29,399	6.1	4,555	6.3
Family practice	31,195	6.4	4,505	6.3
Radiology <sup>c</sup>	19,893	4.1	3,973	5.5
Emergency medicine	7,811	1.6	3,325	4.6
Anesthesiology	16,845	3.5	3,073	4.3
Plastic surgery	3,193	0.6	2,307	3.2
Urology	7,889	1.6	2,156	3.0
Pediatrics	28,027	5.8	2,147	3.0
Ophthalmology	13,281	2.7	2,027	2.8
Neurosurgery	3,498	0.7	1,850	2.6
Otolaryngology	<sup>d</sup>	<sup>d</sup>	1,304	1.8
Psychiatry	27,303	5.6	1,298	1.8
Pathology	12,502	2.6	426	0.6
Other	153,055	31.5	9,862	13.7
<b>Total</b>	<b>485,123</b>	<b>100.0</b>	<b>71,930</b>	<b>100.0</b>

<sup>a</sup>Data are as of December 31, 1981, the year most patient injuries occurred for the malpractice claims closed in 1984 and are from Physician Characteristics and Distribution in the U.S., 1982 Edition, Department of Data Release Services, Division of Survey and Data Resources, American Medical Association, 1983, pp. 37 and 38.

<sup>b</sup>Detail does not add to total due to rounding.

<sup>c</sup>Includes radiology, diagnostic radiology, and therapeutic radiology.

<sup>d</sup>Data not provided for this specialty.

Although obstetricians/gynecologists and general surgeons each made up about 12 percent of the physicians named in malpractice claims, payments were made on behalf of about 46 percent of the obstetricians/gynecologists, while 26 percent of the general surgeons had payments made against them, as shown in table 4.3. Payments were made for about 21 percent of the radiologists and internists.

**Table 4.3: Payment Status for Physicians Involved in Claims by Physician Specialty**

Specialty	With payment		Without payment	
	Number <sup>a</sup>	Percent	Number <sup>a</sup>	Percent
Obstetrics/gynecology	4,070	45.6	4,857	54.4
General surgery	2,267	26.0	6,466	74.0
Orthopedic surgery	2,058	33.9	4,006	66.1
Internal medicine <sup>b</sup>	1,148	21.3	4,206	77.9
General practice	1,724	37.9	2,831	62.1
Family practice <sup>b</sup>	1,169	25.9	3,330	73.9
Radiology <sup>c</sup>	824	20.7	3,148	79.2
Emergency medicine	814	24.5	2,511	75.5
Anesthesiology <sup>b</sup>	1,273	41.4	1,794	58.4
Plastic surgery	689	29.9	1,618	70.1
Urology	1,179	54.7	977	45.3
Pediatrics	713	33.2	1,434	66.8
Ophthalmology	670	33.1	1,357	66.9
Neurosurgery	440	23.8	1,410	76.2
Otolaryngology	710	54.5	594	45.5
Psychiatry	655	50.5	643	49.5
Pathology	324	76.0	102	24.0
Other <sup>b</sup>	2,139	21.7	7,418	75.2
<b>Total<sup>b</sup></b>	<b>22,864</b>	<b>31.8</b>	<b>48,705</b>	<b>67.7</b>

<sup>a</sup>Detail does not add to total due to rounding.

<sup>b</sup>Detail does not add to number of physicians involved in claims as shown in table 4.2 because payment action was unknown for some physicians.

<sup>c</sup>Includes radiology, diagnostic radiology, and therapeutic radiology. Also, detail does not add to number of radiologists involved in claims as shown in table 4.2 because of rounding.

## How Did Companies' Indemnity Payments Differ by Physician Specialty?

We analyzed this question for 14,749 paid malpractice claims in which only one provider was named and that provider was a physician. For these cases, as shown in table 4.4, companies' indemnity payments ranged from \$20 for an anesthesiologist to \$1,616,185 for a general surgeon. The median payment for physicians was \$25,000 and the average was \$85,179.

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**Table 4.4: Number of Paid Claims Involving Only One Physician Provider and Indemnity Payments by Physician Specialty**

Physician specialty	Claims with one physician <sup>a</sup>		Indemnity payments			
	Total	Paid	Median	Average	Range	
					Lowest	Highest
All claims	33,068	14,749	\$25,000	\$85,179	\$20	\$1,616,185
Obstetrics/gynecology	5,165	2,711	75,000	177,509	90	1,000,000
General surgery	3,952	1,173	49,000	120,889	250	1,616,185
Orthopedic surgery	3,283	1,493	25,000	80,059	108	750,000
Internal medicine	1,288	629	10,000	42,757	40	592,000
General practice	2,076	1,071	45,000	50,264	40	800,000
Family practice	2,400	717	15,000	40,339	442	700,000
Radiology <sup>b</sup>	520	231	19,500	53,101	100	1,000,000
Emergency medicine	826	364	7,000	22,640	250	197,500
Anesthesiology	1,851	884	3,000	42,680	20	632,043
Plastic surgery	1,998	618	22,500	70,172	200	850,000
Urology	912	771	625	14,896	116	137,500
Pediatrics	1,640	492	195,000	198,644	120	521,902
Ophthalmology	1,260	578	10,000	55,593	28	290,000
Neurosurgery	828	247	10,000	65,226	2,500	1,000,000
Otolaryngology	632	419	23,500	23,264	424	543,000
Psychiatry	957	637	25,000	34,914	600	560,000
Pathology	195	195	250,000	197,652	2,500	250,000

<sup>a</sup>Total and paid claims data are provided for 17 specialties and, therefore, do not add to totals for all claims

<sup>b</sup>Includes radiology, diagnostic radiology, and therapeutic radiology

## Did the Physicians Have Previous Claims Made Against Them?

As shown in table 4.5, about 42 percent of the physicians had previous claims made against them; however, the information was unknown for about 28 percent.

**Table 4.5: Number of Physicians Who Had Previous Claims Filed Against Them**

Previous claims	Physicians	
	Number <sup>a</sup>	Percent
Yes	30,156	41.9
No	21,298	29.6
Unknown	20,477	28.5
<b>Total</b>	<b>71,930</b>	<b>100.0</b>

<sup>a</sup>Detail does not add to total due to rounding

## When Did the Physicians Graduate From Medical School?

As shown in table 4.6, the largest percentage of physicians involved in claims—about 34 percent—graduated from medical school during the years 1960-69. Nationally, about 24 percent of all physicians graduated during that time. For all the physicians practicing in the United States, about 37 percent graduated from medical school in more recent years (1970-81) compared to those named in medical malpractice claims (about 17 percent). However, the year of medical school graduation was unknown for about 20 percent of the physicians against whom claims were made.

**Table 4.6: Number of Physicians Involved in Claims Compared to All Physicians by Years of Graduation**

Years of graduation	Physicians			
	All <sup>a</sup>		Involved in claims	
	Number	Percent <sup>b</sup>	Number	Percent <sup>b</sup>
1920-29	13,768 <sup>c</sup>	2.8 <sup>c</sup>	214	0.3
1930-39	34,530	7.1	1,543	2.1
1940-49	57,852	11.9	6,445	9.0
1950-59	83,484	17.2	13,225	18.4
1960-69	115,239	23.8	24,073	33.5
1970-79	148,923	30.7	11,373	15.8
1980-81	31,327	6.4	729	1.0
Unknown	.	.	14,168	19.7
<b>Total</b>	<b>485,123</b>	<b>100.0</b>	<b>71,770<sup>d</sup></b>	<b>100.0</b>

<sup>a</sup>Data are as of December 31, 1981, and are from *Physician Characteristics and Distribution in the U.S., 1982 Edition*, Department of Data Release Services, Division of Survey and Data Resources, American Medical Association, 1983, p. 44. (The figures shown on the source document have been discussed with the American Medical Association and have been corrected.)

<sup>b</sup>Detail does not add to total due to rounding.

<sup>c</sup>Before 1930.

<sup>d</sup>Does not include 160 physicians who graduated in 1982 and 1983.

## To What Extent Were Foreign-Trained Physicians Involved in Malpractice Claims?

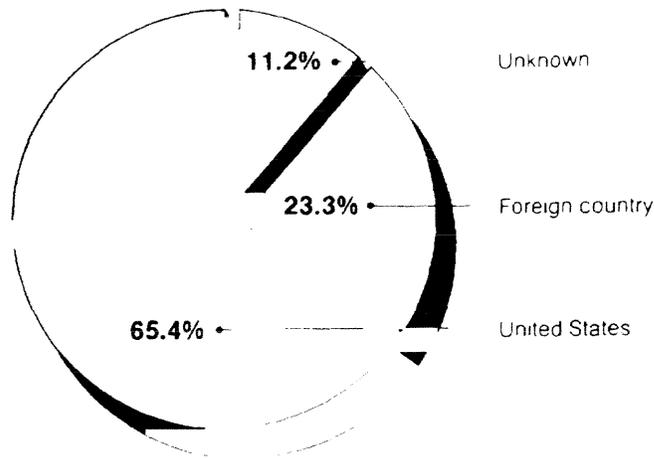
Nationally, in 1981, 110,542<sup>2</sup> (about 23 percent) of the physicians practicing in the United States were educated in foreign medical schools.<sup>3</sup> Figure 4.2 shows that, of the 71,930 physicians in our closed claim universe, about 23 percent (16,780)<sup>4</sup> were foreign trained.

<sup>2</sup>Includes 7,780 physicians educated in Canadian schools.

<sup>3</sup>*Physician Characteristics and Distribution in the U.S., 1982 Edition*, Department of Data Release Services, Division of Survey and Data Resources, American Medical Association, 1983, pp. 44 and 46.

<sup>4</sup>Includes 885 physicians educated in Canadian schools.

Figure 4.2: Distribution of Physicians by Location of Medical Education



Note: Detail does not add to total due to rounding

### To What Extent Were Board Certified Physicians Involved in Patient Injuries?

About 52 percent of all physicians practicing in this country in 1981 were board certified.<sup>5</sup> As shown in table 4.7, about 51 percent of the physicians involved in claims closed in 1984 were board certified in the medical specialty in which the liability injury occurred. However, this information was unknown for about 35 percent.

Table 4.7: Board Certification Status for Physicians Involved in Claims Closed in 1984

Board certification	Physicians	
	Number	Percent <sup>a</sup>
Yes	36,495	50.7
No	10,537	14.6
Unknown	24,898	34.6
<b>Total</b>	<b>71,930</b>	<b>100.0</b>

<sup>a</sup>Detail does not add to total due to rounding

### In What Type of Practice Were the Physicians?

Table 4.8 provides the frequency of insured physicians' involvement in the closed claims by type of practice. As the table shows, about 70 percent were in either individual or group practice.

<sup>5</sup>Physician Characteristics and Distribution in the U.S., 1982 Edition, p. 41

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**Table 4.8: Number of Physicians by  
 Type of Practice**

Type of practice	Physicians	
	Number	Percent <sup>a</sup>
Physician in individual practice	27,192	37.8
Physician in group practice	23,210	32.3
Hospital-based salaried physician	6,427	8.9
HMO-based salaried physician	817	1.1
Emergency care center salaried physician	966	1.3
Other	912	1.3
Unknown	12,406	17.2
<b>Total</b>	<b>71,930</b>	<b>100.0</b>

<sup>a</sup>Detail does not add to total due to rounding

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## Previous Closed Claims Studies

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Closed claim studies have been undertaken to collect data for such purposes as developing programs aimed at preventing medical injuries, evaluating legislation already enacted, providing a basis for enacting legislation, and reviewing aspects of insurance rating and classification. Among previous closed claims studies are the following.

- The Secretary of Health, Education, and Welfare (now Health and Human Services) established a commission on medical malpractice. The commission issued a report in 1973 based on about 3,000 claims closed in 1970 by 26 insurance companies. These companies were among the largest insurers of medical malpractice. Analysis of the data focused on the characteristics of claims and the relationship between legal procedures concerning medical malpractice and the occurrence of claims.
- The Department of Health, Education, and Welfare sponsored another study, issued in 1978, based on all claims closed between July 1, 1976, and October 31, 1976, by nine of the largest malpractice insurers. The study developed a file of closed claims data for use in analyzing injuries and compensation.
- A report issued in 1976 by the Insurance Services Office for the American Insurance Association was based on a sample of claims closed in 1974 by 11 companies. The report provided quantitative information about the closed claims in its sample.
- The National Association of Insurance Commissioners published four books entitled NAIC Malpractice Claims, which were issued between December 1975 and May 1977. These publications were based on 25,000 claims closed between July 1, 1975, and June 30, 1976, by 54 insurers writing \$1 million or more of malpractice business in any single year between 1970 and 1975. The analysis focused on (1) developing programs aimed at preventing medical injuries, (2) evaluating legislation already enacted and providing a basis for legislation to be enacted, and (3) reviewing aspects of pricing methodology. In October 1977 the National Association of Insurance Commissioners resumed data collection on all claims closed since July 1, 1976. At that time, the data collection instrument was modified to provide more detail for professional and hospital loss prevention programs. Cooperation was received from the many new limited purpose companies formed since 1975 (i.e., physician-owned and hospital-owned companies). A final compilation of data encompassed 71,782 closed claims and was issued in September 1980.



Appendix II  
Closed Claims Data Collection Instrument

4. What caused your company to open this claim file? (CHECK ONE.) (14)

1.  Patient complained to insured \_\_\_\_\_
2.  Patient's relative, guardian or friend complained to insured
3.  Patient's attorney requested records from insured \_\_\_\_\_ (GO TO QUESTION 6.)
4.  Patient's attorney notified insured of a claim
5.  Suit papers served on insured \_\_\_\_\_
6.  Practitioner or hospital notified company of malpractice incident \_\_\_\_\_ (GO TO QUESTION 5.)
7.  Other (PLEASE SPECIFY.) \_\_\_\_\_  
\_\_\_\_\_
8.  Unknown \_\_\_\_\_

5. Did the company initiate contact with the patient or the patient's representative? (CHECK ONE.) (15)

1.  Yes
2.  No
3.  Unknown

6. During what month and year did the patient or patient's representative make a claim? / / / - / / / /  
mo. yr.  
(16-19)

7. In what state was the claim filed? / / /  
(20-21)

8. How many medical providers were involved when this claim was first made? / / /  
(22-23)

9. How many medical providers were insured by this company? / / /  
(24-25)

II. PATIENT DATA

10. What was the patient's age at the time of the liability injury? (CHECK ONE AND FILL IN THE BLANK.)

- 1.  At birth (before or during delivery)      /\_\_/ \_\_/ \_\_/ (26-28)
- 2.  Less than 1 year--in months \_\_\_\_\_
- 3.  1 year or more--in years \_\_\_\_\_

11. What is the patient's sex? (CHECK ONE.) (29)

- 1.  Male
- 2.  Female

12. What was the patient's occupational status at the time of the liability injury? (CHECK ONE.) (30)

- 1.  Employed
- 2.  Self-employed
- 3.  Homemaker
- 4.  Retired
- 5.  Unemployed
- 6.  Dependent child/student
- 7.  Independent student
- 8.  Other (PLEASE SPECIFY.) \_\_\_\_\_  
\_\_\_\_\_
- 9.  Unknown

13. What were the patient's annual earnings \$/ \_\_/ \_\_/ \_\_/ \_\_/ \_\_/ \_\_/ 0/ 0/ 0/ 0/ at the time of the liability injury? (31-34)  
Estimate if necessary. (ROUND UP TO NEXT \$1,000.00.)

Appendix II  
Closed Claims Data Collection Instrument

14. What was the major source of payment of the patient's health care costs prior to the liability injury? (CHECK ONE.) (35)
1.  Self
  2.  Private/commercial insurance (including HMO's)
  3.  Medicare
  4.  Medicaid
  5.  Worker's compensation
  6.  Other (PLEASE SPECIFY.) \_\_\_\_\_  
\_\_\_\_\_
  7.  Unknown

QUESTIONS 15-20 BELOW REFER TO EXPENSES AND LOSSES RESULTING FROM LIABILITY INJURY, REGARDLESS OF WHETHER COMPENSATION WAS MADE ON THE CLAIM. IF THE DOLLAR AMOUNTS REQUESTED ARE NOT READILY AVAILABLE IN THE FILE, PLEASE ESTIMATE THEM BASED ON OTHER DATA IN THE FILE AND YOUR OWN EXPERIENCE.

What was the . . .

15. Patient's incurred medical expense as of date claim was closed? \$/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/ (36-42)
16. Patient's anticipated future medical expenses? (ESTIMATE FROM DATE CLAIM WAS CLOSED EXPRESSED IN TODAY'S DOLLARS.) \$/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/ (43-49)
17. Patient's incurred wage loss as of date claim was closed? \$/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/ (50-56)
18. Patient's anticipated future wage loss? (ESTIMATE FROM DATE CLAIM WAS CLOSED EXPRESSED IN TODAY'S DOLLARS.) \$/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/ (57-63)
19. Patient's other anticipated expenses incurred as of date claim was closed? \$/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/ (64-70)
20. Patient's anticipated other expenses for the future? (ESTIMATED FROM DATE CLAIM WAS CLOSED EXPRESSED IN TODAY'S DOLLARS.) \$/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/\_\_\_/ (71-77)

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Appendix II  
Closed Claims Data Collection Instrument

III. INJURY DATA

21. What was the principal allegation(s) of negligence/error leading to injury or complication for which the claim was made? (ENTER UP TO 2 CODES FROM THE LIST ON PAGES 17-18 OF THE INSTRUCTION BOOKLET. IF UNABLE TO FIND THE APPROPRIATE CODE, DESCRIBE THE ALLEGATION(S) OF NEGLIGENCE.)

\_\_\_\_/\_\_\_\_/\_\_\_\_  
\*02 (8-9)

\_\_\_\_/\_\_\_\_/\_\_\_\_  
(10-11)

22. How severe was the injury? (CHECK SEVERITY OF ULTIMATE INJURY ON SCALE PROVIDED BELOW.) (12-13)

01.  Emotional only. For example, fright, pain and suffering; no physical damage.

02.  Insignificant. For example, lacerations, contusions, minor scars, rash. No delay in recovery.

TEMPORARY DISABILITY

03.  Minor. For example, infections, misset fracture, fall in hospital. Recovery delayed.

04.  Major. For example, burns, surgical material left, drug side-effect, brain dysfunction. Recovery delayed.

PERMANENT PARTIAL DISABILITY

05.  Minor. For example, loss of fingers, loss or damage to organs. Include non-disabling injuries.

06.  Major. For example, deafness, loss of limb, loss of eye, loss of one kidney or lung.

PERMANENT TOTAL DISABILITY

07.  Major. For example, paraplegia, blindness, loss of two limbs, brain damage.

08.  Grave. For example, quadriplegia, severe brain damage, life long care or fatal prognosis.

09.  Death.

OTHER

10.  Other (PLEASE SPECIFY.) \_\_\_\_\_

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Appendix II  
Closed Claims Data Collection Instrument

IV. COST DATA

23. Was payment made? (CHECK ONE.) (14)

- 1.  Yes (GO TO QUESTION 24.)
- 2.  No (GO TO QUESTION 31.)

24. What was the form of the payment? (CHECK ALL THAT APPLY.) (15-18)

- 1.  Lump sum
- 2.  Structured settlement (periodic payments)
- 3.  Free services
- 4.  Unknown

25. During what month and year was any payment first made to the claimant? /\_\_/\_/ - /\_\_/\_/ mo. yr. (19-22)

26. What was the total value (the expected yield) of the indemnity settlement or award to the claimant on behalf of all defendants by all sources? (I.e., what is the total the claimant would get over time including structured payments and the value of free services, if any.) (IF UNKNOWN, INDICATE WITH "-"s AND GO TO QUESTION 27.)

\$/ \_\_/\_/ / \_\_/\_/ / \_\_/\_/ / \_\_/\_/ / (23-30)

27. What was the total value (the expected yield) of the indemnity settlement or award to the claimant by this company? \$/ \_\_/\_/ / \_\_/\_/ / \_\_/\_/ / \_\_/\_/ / (31-38)

28. What was the total cost to this company for settlement to the claimant? (This includes the amount of any lump-sum payment and/or the cost of any annuity purchased for future structured payments. Include indemnity only; do not include expenses.) \$/ \_\_/\_/ / \_\_/\_/ / \_\_/\_/ / \_\_/\_/ / (39-46)







Appendix II  
Closed Claims Data Collection Instrument

4. Does this insured carry any other excess/umbrella policies? (CHECK ONE.) (37)
1.  Yes
  2.  No
  3.  Unknown
5. Was payment made on behalf of this insured? (CHECK ONE.) (38)
1.  Yes
  2.  No
  3.  Unknown
6. What was the month and year of the final disposition of this claim for this insured? (Date claim file was closed for indemnity purposes; all appeals were final.) /    /    - /    /    /  
mo. yr.  
(39-42)
7. At what stage of this claim proceeding was the claim closed for this insured? (CHECK ONE.) (43-44)
01.  Claim filed, but before suit
  02.  Suit, but before trial
  03.  Suit, but before arbitration
  04.  During trial but before verdict
  05.  During binding arbitration, but before decision
  06.  After trial verdict by jury
  07.  After trial verdict without jury
  08.  After appeal
  09.  After binding arbitration
  10.  Other (PLEASE SPECIFY.) \_\_\_\_\_

Appendix II  
Closed Claims Data Collection Instrument

8. During its pendency, did this claim undergo a review by a pre-trial screening panel? (CHECK ONE.) (45)

1.  Yes (GO TO QUESTION 9.)
2.  No (GO TO QUESTION 10.)
3.  Unknown (GO TO QUESTION 10.)

9. Was the recommendation of the pre-trial review panel for the claimant or the insured? (CHECK ONE.) (46)

1.  Claimant
2.  Insured
3.  No finding
4.  Unknown

10. During its pendency, did the claim undergo arbitration? (CHECK ONE.) (47)

1.  Yes (GO TO QUESTION 11.)
2.  No (GO TO SECTION II.)
3.  Unknown (GO TO SECTION II.)

11. Was the arbitration finding for the claimant or the insured? (CHECK ONE.) (48)

1.  Claimant (GO TO QUESTION 12.)
2.  Insured (GO TO QUESTION 12.)
3.  No finding (GO TO SECTION II.)
4.  Unknown (GO TO SECTION II.)

12. Was the arbitration binding or non-binding? (CHECK ONE.) (49)

1.  Binding
2.  Non-binding
3.  Unknown

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Appendix II  
Closed Claims Data Collection Instrument

II. PRACTITIONER DATA

ANSWER THIS SECTION ONLY IF THE TYPE OF INSURED INDICATED IN QUESTION 2 WAS A PHYSICIAN. IF NOT A PHYSICIAN, FORM B IS COMPLETE.

13. At the time of the liability injury how was the insured physician practicing? (CHECK ONE.) (50)

1.  Physician in individual practice
2.  Physician in group practice
3.  Hospital based salaried physician
4.  HMO based salaried physician
5.  Emergency-care center, salaried physician
6.  Other (PLEASE SPECIFY.) \_\_\_\_\_  
\_\_\_\_\_
7.  Unknown

14. What was the insured's status at the time of the liability injury? (CHECK ONE.) (51)

1.  Medical student
2.  Resident
3.  Fellow
4.  Physician
5.  Unknown
6.  Other (PLEASE SPECIFY.) \_\_\_\_\_  
\_\_\_\_\_

15. Was the insured physician board certified in the medical speciality area in which the liability injury occurred? (CHECK ONE.) (52)

1.  Yes
2.  No
3.  Unknown

B-4

Appendix II  
Closed Claims Data Collection Instrument

16. In what country did the insured physician receive primary medical education?

\_\_\_\_\_  
(COUNTRY)

/ / /  
(53-54)

[ ] Unknown

17. In what year did the insured graduate from medical school?

/ / /  
(55-56)

18. Have previous claims been made against the insured? (CHECK ONE.) (57)

1. [ ] Yes

2. [ ] No

3. [ ] Unknown

B-5

# Principal Allegations of Negligence<sup>1</sup> That Led to Injury or Complication for Which Claim Was Made

---

## Diagnosis Related

- Delay in diagnosis
- Failure to diagnose (no diagnosis made)
- Misdiagnosis (original diagnosis incorrect)
- Failure to obtain consent for diagnostic procedure
- Unnecessary diagnostic test
- Improper performance of diagnostic test
- Other diagnosis-related error

---

## Anesthesia Related

- Failure to complete patient assessment
- Failure to monitor
- Failure to test equipment
- Improper choice of anesthesia
- Improper administration of anesthesia
- Improper use of equipment
- Improper intubation
- Improper positioning
- Other anesthesia-related error

---

## Surgery Related

- Failure to obtain consent for surgery
- Improper performance
- Improper positioning
- Retained foreign bodies
- Unnecessary surgery
- Wrong body part
- Other surgery-related error

---

## Medication Related

- Wrong medication ordered
- Wrong dosage ordered
- Other drug-related error

---

## Medication Administration Related

- Wrong drug given
- Wrong dosage given
- Wrong patient
- Improper route of administration
- Improper method of administration
- Other medication administration-related error

---

<sup>1</sup>The allegations of negligence were developed by the Risk Management Foundation of the Harvard Medical Institutions and are used with their permission

Appendix III  
Principal Allegations of Negligence That Led  
to Injury or Complication for Which Claim  
Was Made

---

**Intravenous Related**

Failure to monitor  
Improper performance  
Other intravenous-related error

---

**Obstetrics Related**

Failure to obtain consent  
Improper management of pregnancy  
Failure to properly manage labor  
Improper choice of delivery method  
Improperly performed vaginal delivery  
Delay in C-section  
Improperly performed C-section  
Failure to identify fetal distress  
Failure to treat fetal distress  
Delay in treating fetal distress  
Wrongful life/birth  
Abandonment  
Other obstetrics-related error

---

**Treatment Related**

Failure to obtain consent for treatment  
Delay in treatment  
Failure to render treatment  
Improper choice of treatment  
Improper performance  
Premature end of treatment  
Failure to instruct  
Other treatment-related error

---

**Physiology/Behavior  
Monitoring Related**

Failure to monitor  
Failure to report  
Failure to respond  
Other monitoring-related error

---

**Biomedical Equipment  
Related**

Failure to inspect  
Inadequate maintenance/repair  
Improper use  
Malfunction/failure  
Failure to respond to product warnings  
Other equipment-related error

---

**Appendix III  
Principal Allegations of Negligence That Led  
to Injury or Complication for Which Claim  
Was Made**

---

**Blood Products Related**

Contamination from blood product  
Wrong type of blood product  
Other blood products-related error

---

**Other**

Failure to follow consent policies  
Failure to follow policy/procedure  
Failure to review provider performance  
Failure to insure patient safety  
Transportation  
Failure to protect third parties  
Falls  
Other

# Categories Used to Classify Injuries by Severity

---

Emotional. For example, fright, pain and suffering, no physical damage

Insignificant For example, lacerations, contusions, minor scars, rash. No delay in recovery

## Temporary Disability

- Minor For example, infections, musset fracture, fall in hospital. Recovery delayed.
- Major For example, burns, surgical material left, drug side-effect, brain dysfunction. Recovery delayed.

## Permanent Partial Disability:

- Minor For example, loss of fingers, loss or damage to organs. Include nondisabling injuries
- Major. For example, deafness, loss of limb, loss of eye, loss of one kidney or lung.

## Permanent Total Disability.

- Major. For example, paraplegia, blindness, loss of two limbs, brain damage.
- Grave. For example, quadriplegia, severe brain damage, life long care or fatal prognosis.

Death

Other

# Supplemental Estimated Closed Claims Data

**Table V.1: Number of Claims for Surgical Errors by Specific Allegations**

Allegations	Surgical error claims	
	Number	Percent
All claims	18 697	100.0
Improper performance	13 966	74.7
Other surgery-related error	1 690	9.1
Retained foreign bodies	1 051	5.6
Unnecessary surgery	811	4.3
Failure to obtain consent for surgery	780	4.2
Improper positioning	3	
Wrong body part	3	

<sup>a</sup>Limited occurrence in sample precludes calculation of reliable estimate

**Table V.2: Number of Claims for Diagnostic Errors by Specific Allegations**

Allegations	Diagnostic error claims	
	Number	Percent
All claims	17 372	100.0
Failure to diagnose (no diagnosis made)	6 495	37.4
Misdiagnosis (original diagnosis incorrect)	5 794	33.4
Delay in diagnosis	3 891	22.4
Improper performance of diagnostic test	871	5.0
Failure to obtain consent for diagnostic procedure	186	1.1
Unnecessary diagnostic test	3	
Other diagnosis-related error	3	

<sup>a</sup>Limited occurrence in sample precludes calculation of reliable estimate

**Table V.3: Number of Claims for Treatment Errors by Specific Allegations**

Allegations	Treatment error claims	
	Number	Percent
All claims	14 635	100.0
Improper performance	6 602	45.1
Improper choice of treatment	3 179	21.7
Failure to render treatment	2 073	14.2
Other treatment-related error	1 192	8.1
Delay in treatment	1 047	7.2
Failure to obtain consent for treatment	3	
Premature end of treatment	3	
Failure to instruct	3	

<sup>a</sup>Limited occurrence in sample precludes calculation of reliable estimate

Appendix v  
Supplemental Estimated Closed Claims Data

**Table V.4: Number of Claims According to Payment Status by Type of Facility Where Injury Occurred**

Type of facility	With payment		Without payment	
	Number	Percent	Number <sup>a</sup>	Percent
All claims	31 786	43.3	41 686	56.7
Community hospital—nonteaching	16 269	38.1	26 397	61.9
Community hospital—teaching	5 797	43.8	7 432	56.2
Other hospital	1 928	59.5	1 312	40.5
Physician's office	5,106	55.1	4 169	44.9
Nursing home, emergency care center, HMO, patient's home, other, and unknown	2 686	53.1	2 377	46.9

<sup>a</sup>Detail does not add to total due to rounding

**Table V.5: Number of Paid Claims and Indemnity Payments by Type of Facility Where Injury Occurred**

Type of facility	Paid claims		Indemnity payments			
	Number	Percent of total <sup>a</sup>	Median	Average	Range	
					Lowest	Highest
All claims	31 786	43.3	\$18,000	\$80,741	\$1	\$2,472,020
Community hospital—nonteaching	16,269	38.1	17,500	92,375	9	2,472,020
Community hospital—teaching	5,797	43.8	25,000	113,083	1	1,800,000
Other hospital	1,928	59.5	25,000	72,172	20	1,616,185
Physician's office	5,106	55.1	15,000	30,559	28	500,000
Nursing home, emergency care center, HMO, patient's home, other, and unknown	2,686	53.1	18,000	42,009	93	1,109,937

<sup>a</sup>Shows paid claims as a percentage of total claims for each of the types of facilities. For example, an estimated 13,229 claims involved injuries that occurred in teaching hospitals. Of these, 5,797 (about 43.8 percent) were closed with payment.

**Table V.6: Number of Claims According to Payment Status by Patients' Age Ranges**

Age ranges (years)	With payment		Without payment	
	Number	Percent	Number	Percent
All claims	30 911	43.8	39 730	56.2
At birth	3 049	49.1	3 160	50.9
Less than 1	<sup>a</sup>	<sup>a</sup>	<sup>a</sup>	<sup>a</sup>
1 to 17	3,482	59.2	2,398	40.8
18 to 29	5,441	37.3	9 165	62.7
30 to 39	5,023	45.6	5 990	54.4
40 to 49	3,950	39.1	6 148	60.9
50 to 59	3,512	39.5	5 375	60.5
60 to 64	1,771	52.1	1 630	47.9
65 and over	4 099	42.6	5 517	57.4

<sup>a</sup>Limited occurrence in sample precludes calculation of reliable estimate

Note: The total number of claims is based on the number of claims for which the relevant data were provided.

**Appendix V  
Supplemental Estimated Closed Claims Data**

**Table V.7: Number of Paid Claims and Indemnity Payments by Patients' Age Ranges**

Age ranges (years)	Paid claims		Indemnity payments			
	Number	Percent of total <sup>a</sup>	Median	Average	Range	
					Lowest	Highest
All claims	30,911	43.8	\$20,000	\$81,895	\$1	\$2,472,020
At birth	3,049	49.1	200,000	300,500	480	2,000,000
Less than 1	<sup>b</sup>	<sup>b</sup>	<sup>b</sup>	<sup>b</sup>		
1 to 17	3,482	59.2	15,000	40,071	9	700,000
18 to 29	5,441	37.3	13,750	60,389	93	2,059,388
30 to 39	5,023	45.6	15,000	64,078	90	1,616,185
40 to 49	3,950	39.1	35,000	83,858	18	2,472,020
50 to 59	3,512	39.5	20,000	75,222	1	850,000
60 to 64	1,771	52.1	15,000	37,639	25	1,000,000
65 and over	4,099	42.6	7,500	31,627	38	632,043

<sup>a</sup>Shows paid claims as a percentage of total claims within each of the age ranges. For example, an estimated 6,209 claims involved injuries occurring at birth. Of these, 3,049 (about 49.1 percent) were closed with payment.

<sup>b</sup>Limited occurrence in sample precludes calculation of reliable estimate.

Note: The total number of claims is based on the number of claims for which the relevant data were provided.

**Table V.8: Number of Claims According to Payment Status by Patients' Sex**

Sex	With payment		Without payment	
	Number	Percent	Number	Percent
All claims	31,786	43.3	41,591	56.7
Male	14,131	44.7	17,499	55.3
Female	17,655	42.3	24,092	57.7

Note: The total number of claims is based on the number of claims for which the relevant data were provided.

**Table V.9: Number of Paid Claims and Indemnity Payments by Patients' Sex**

Sex	Paid claims		Indemnity payments			
	Number	Percent of total <sup>a</sup>	Median	Average	Range	
					Lowest	Highest
All claims	31,786	43.3	\$18,000	\$80,741	\$1	\$2,472,020
Male	14,131	44.7	18,000	86,420	18	2,000,000
Female	17,655	42.3	18,000	76,196	1	2,472,020

<sup>a</sup>Shows paid claims as a percentage of total claims for each sex. For example, an estimated 31,630 claims involved males. Of these, 14,131 (about 44.7 percent) were closed with payment.

Appendix V  
Supplemental Estimated Closed Claims Data

**Table V.10: Number of Claims According to Payment Status by Patients' Occupational Status**

Patients' occupational status	With payment		Without payment	
	Number	Percent	Number	Percent
All claims	31,786	43.3	41,686	56.7
Employed	9,847	41.2	14,074	58.8
Self-employed	1,723	49.8	1,739	50.2
Homemaker	3,921	42.1	5,389	57.9
Retired	3,111	36.6	5,380	63.4
Unemployed	2,952	44.0	3,761	56.0
Dependent child/student	6,972	55.6	5,560	44.4
Independent student, other, and unknown	3,260	36.1	5,783	63.9

**Table V.11: Number of Paid Claims and Indemnity Payments by Patients' Occupational Status**

Patients' occupational status	Paid claims		Indemnity payments			
	Number	Percent of total <sup>a</sup>	Median	Average	Range	
					Lowest	Highest
All claims	31,786	43.3	\$18,000	\$80,741	\$1	\$2,472,020
Employed	9,847	41.2	25,000	69,659	18	1,800,000
Self-employed	1,723	49.8	15,000	81,598	41	1,616,185
Homemaker	3,921	42.1	19,500	57,310	1	2,059,388
Retired	3,111	36.6	8,500	31,979	25	1,000,000
Unemployed	2,952	44.0	9,300	55,703	187	949,991
Dependent child/student	6,972	55.6	30,000	156,089	9	2,000,000
Independent student, other, and unknown	3,260	36.1	7,500	50,019	20	2,472,020

<sup>a</sup>Shows paid claims as a percentage of total claims within each of the occupational status categories. For example, an estimated 23,921 claims involved employed patients. Of these, 9,847 (about 41.2 percent) were closed with payment.

**Table V.12: Number of Claims According to Payment Status by Claim Resolution Period**

Time (months)	With payment		Without payment	
	Number	Percent	Number	Percent
All claims	31,642	43.2	41,562	56.8
0 (less than 1)	158	62.7	94	37.3
1 to 12	8,899	35.2	16,367	64.8
13 to 24	8,062	44.6	10,006	55.4
25 to 36	5,300	43.4	6,914	56.6
37 to 48	3,988	61.4	2,503	38.6
49 to 72	3,731	44.8	4,591	55.2
73 to 132	1,504	58.1	1,087	41.9

Note: The total number of claims is based on the number of claims for which the relevant data were provided.

Appendix V  
Supplemental Estimated Closed Claims Data

**Table V.13: Number of Claims and Disposition Time by Severity of Injury Categories**

Severity of injury	Number of claims	Disposition time			
		Median	Average	Range	
				Lowest	Highest
All claims <sup>a</sup>	73,058	19.0	25.0	0.0 <sup>b</sup>	132.0
Emotional	4,654	11.0	12.2	0.0	55.0
Insignificant	6,685	14.0	20.8	0.0	110.0
Temporary disability—minor	21,887	20.0	24.4	0.0	108.0
Temporary disability—major	8,028	16.0	22.5	0.0	82.0
Permanent partial disability—minor	11,551	18.0	26.8	0.0	114.0
Permanent partial disability—major	4,130	33.0	34.5	0.0	132.0
Permanent total disability—major	2,788	32.0	33.7	2.0	90.0
Permanent total disability—grave	1,794	23.0	31.4	1.0	115.0
Death	11,159	23.0	27.7	1.0	109.0

<sup>a</sup>Detail does not add to total because not all claims were classified by the severity of injury categories

<sup>b</sup>A 0.0 in this column indicates that the claim was filed and resolved within the same month

Note: The total number of claims is based on the number of claims for which the relevant data were provided

**Table V.14: Number of Claims Involving One Provider According to Payment Status by Stage of Settlement**

Settlement stage	With payment		Without payment	
	Number	Percent	Number <sup>a</sup>	Percent
All claims	24,630	43.7	31,726	56.3
Claim filed, before suit	7,562	35.8	13,544	64.2
Suit, before trial	15,252	53.4	13,288	46.6
During trial, before verdict	585	69.8	253	30.2
After verdict by jury and without jury	331	18.8	1,425	81.2
After appeal	277	27.4	733	72.6
Suit, before arbitration and after arbitration	370	20.3	1,456	79.7
Other	253	19.8	1,025	80.2

<sup>a</sup>Detail does not add to total due to rounding

Note: The total number of claims is based on the number of claims for which the relevant data were provided

Appendix V  
Supplemental Estimated Closed Claims Data

**Table V.15: Economic Losses Compared to Indemnity Payments for Claims Where Losses Were Less Than Payment**

Loss as a percent of payment	Paid claims		Cumulative percent
	Number <sup>a</sup>	Percent	
1 to 24	6,253	55.3	55.3
25 to 49	2,629	23.3	78.6
50 to 74	1,813	16.0	94.6
75 to 89	605	5.4	100.0
<b>Total</b>	<b>11,299</b>	<b>100.0</b>	

<sup>a</sup>Detail does not add to total due to rounding

**Table V.16: Economic Losses Compared to Indemnity Payments for Claims Where Losses Were Greater Than Payment**

Percent by which loss exceeds payment	Paid claims		Cumulative percent
	Number	Percent <sup>a</sup>	
11 to 25	432	7.9	7.9
26 to 50	556	10.1	18.0
51 to 75	326	5.9	23.9
76 to 100	462	8.4	32.3
Over 100	3,710	67.6	99.9
<b>Total</b>	<b>5,486</b>	<b>100.0</b>	

<sup>a</sup>Detail does not add to total due to rounding

**Table V.17: Number of Claims With Economic Losses Less or Greater Than Indemnity Payments by Severity of Injury Categories**

Severity of injury	Economic losses			
	Less than		Greater than	
	Number	Percent	Number	Percent
All claims	11,299	100.0	5,486	100.0
Emotional	684	6.1	<sup>a</sup>	
Insignificant	1,538	13.6	355	6.5
Temporary disability—minor	3,572	31.6	1,191	21.7
Temporary disability—major	1,022	9.0	646	11.8
Permanent partial disability—minor	2,789	24.7	932	17.0
Permanent partial disability—major	455	4.0	315	5.7
Permanent total disability—major	338	3.0	979	17.8
Permanent total disability—grave	<sup>a</sup>	<sup>a</sup>	437	8.0
Death	847	7.5	543	9.9

<sup>a</sup>Limited occurrence in sample precludes calculation of reliable estimate

# Key Estimated Closed Claims Data and Related Sampling Errors

**Table VI.1: Total Indemnity Payments and Related Sampling Error by Indemnity Payment Ranges**

Payment ranges	Indemnity payments in millions	
	Estimate	Sampling error <sup>a</sup>
All claims	\$2,566.4	\$17.3
\$1 to \$999	1.4	0.2
\$1,000 to \$4,999	13.1	1.5
\$5,000 to \$9,999	26.7	3.8
\$10,000 to \$24,999	67.6	7.5
\$25,000 to \$49,999	161.5	13.8
\$50,000 to \$99,999	264.2	23.5
\$100,000 to \$249,999	474.1	37.4
\$250,000 to \$999,999	1,229.4	92.1
\$1 million or more <sup>b</sup>	328.4	272.6

<sup>a</sup>Sampling errors are stated at the 95-percent confidence level

<sup>b</sup>Estimate subject to a large sampling error and should be used with caution

Note: The universe of claims was 31,786

**Table VI.2: Number of Claims and Related Sampling Error by Principal Allegations of Negligence Leading to the Injuries Involved**

Type of error	Number		Percent	
	Estimate	Sampling error <sup>a</sup>	Estimate	Sampling error <sup>a</sup>
Surgery	18,697	130	25.4	0.2
Diagnosis	17,372	351	23.6	0.5
Treatment	14,635	1,215	19.9	1.7
Obstetrics	5,517	1,320	7.5	1.8
Medication	3,019	289	4.1	0.4
Medication administration	2,735	291	3.7	0.4
Anesthesia	2,720	306	3.7	0.4
Physiology/behavior monitoring, biomedical equipment, intravenous, blood products, and other	8,774	1,116	11.9	1.5

<sup>a</sup>Sampling errors are stated at the 95-percent confidence level

Note: The universe of claims was 73,468

Appendix VI  
Key Estimated Closed Claims Data and  
Related Sampling Errors

**Table VI.3: Number of Claims and  
Related Sampling Error by Severity of  
Injury Categories**

Severity of injury	Number		Percent	
	Estimate	Sampling error <sup>a</sup>	Estimate	Sampling error <sup>a</sup>
Emotional	4,660	579	6.4	0.8
Insignificant	6,823	603	9.3	0.8
Temporary disability—minor	21,969	802	30.0	1.1
Temporary disability—major	8,101	865	11.1	1.2
Permanent partial disability—minor	11,551	464	15.8	0.6
Permanent partial disability—major	4,225	341	5.8	0.5
Permanent total disability—major	2,788	219	3.8	0.3
Permanent total disability—grave	1,794	97	2.4	0.1
Death	11,179	168	15.3	0.2

<sup>a</sup>Sampling errors are stated at the 95-percent confidence level

Note: The universe of claims was 73,090

**Table VI.4: Average Disposition Time  
and Related Sampling Error by Severity  
of Injury Categories**

Severity of injury	Disposition time in months	
	Estimate	Sampling error <sup>a</sup>
All claims	28.0	0.1
Emotional	14.9	2.6
Insignificant	21.8	2.0
Temporary disability—minor	25.7	1.1
Temporary disability—major	22.4	1.8
Permanent partial disability—minor	28.9	1.3
Permanent partial disability—major	31.7	3.2
Permanent total disability—major	37.2	7.1
Permanent total disability—grave	38.8	7.2
Death	33.2	1.2

<sup>a</sup>Sampling errors are stated at the 95-percent confidence level

Note: The universe of claims was 31,642

Appendix VI  
Key Estimated Closed Claims Data and  
Related Sampling Errors

**Table VI.5: Average Disposition Time  
and Related Sampling Error by  
Indemnity Payment Ranges**

Disposition time in months	Disposition time	
	Estimate	Sampling error <sup>a</sup>
<b>Payment ranges</b>		
All claims	25.1	0.1
\$0	22.9	1.0
\$1 to \$999	11.9	1.5
\$1,000 to \$4,999	22.4	2.2
\$5,000 to \$9,999	28.7	4.7
\$10,000 to \$24,999	22.7	2.2
\$25,000 to \$49,999	32.0	2.3
\$50,000 to \$99,999	31.6	2.7
\$100,000 to \$249,999	33.0	2.9
\$250,000 to \$999,999	41.8	3.4
\$1 million or more <sup>b</sup>	64.9	64.2

<sup>a</sup>Sampling errors are stated at the 95-percent confidence level

<sup>b</sup>Estimate subject to a large sampling error and should be used with caution

Note: The universe of claims was 73,204

**Table VI.6: Average Indemnity  
Payments and Related Sampling Error  
by Disposition Time**

Time (months)	Average payments	
	Estimate	Sampling error <sup>a</sup>
All claims	\$81,105	\$549
0 (less than 1) <sup>b</sup>	16,814	21,878
1 to 12	31,411	813
13 to 24	69,793	3,092
25 to 36	73,125	2,593
37 to 48	134,354	15,475
49 to 72	109,212	7,310
73 to 132 <sup>b</sup>	259,656	110,575

<sup>a</sup>Sampling errors are stated at the 95-percent confidence level

<sup>b</sup>Estimate subject to a large sampling error and should be used with caution

Note: The universe of claims was 31,642

Appendix VI  
Key Estimated Closed Claims Data and  
Related Sampling Errors

**Table VI.7: Average Indemnity Payments and Related Sampling Error by Principal Allegations of Negligence**

Type of error	Average payments	
	Estimate	Sampling error <sup>a</sup>
All claims	\$80,741	\$545
Surgery	76,255	2,052
Diagnosis	95,747	4,400
Treatment	42,316	2,431
Obstetrics	216,464	21,008
Medication	51,263	13,123
Medication administration	33,379	9,338
Anesthesia	84,451	10,662
Physiology/behavior monitoring, biomedical equipment, intravenous, blood products, and other	27,122	2,815

<sup>a</sup>Sampling errors are stated at the 95-percent confidence level

Note: The universe of claims was 31,786

**Table VI.8: Average Indemnity Payments and Related Sampling Error by Severity of Injury Categories**

Severity of injury	Average payments	
	Estimate	Sampling error <sup>a</sup>
All claims	\$80,741	\$545
Emotional	21,694	4,894
Insignificant	12,024	1,411
Temporary disability—minor	13,978	533
Temporary disability—major	34,670	3,214
Permanent partial disability—minor	52,356	2,337
Permanent partial disability—major	144,049	19,089
Permanent total disability—major	364,384	72,836
Permanent total disability—grave	488,375	103,496
Death	75,242	2,329

<sup>a</sup>Sampling errors are stated at the 95-percent confidence level

Note: The universe of claims was 31,786

**Appendix VI  
Key Estimated Closed Claims Data and  
Related Sampling Errors**

**Table VI.9: Average Indemnity Payments and Related Sampling Error by Size of Patients' Economic Losses**

Patients' economic loss ranges	Average payments	
	Estimate	Sampling error <sup>a</sup>
All claims	\$71,530	\$1,056
\$0 <sup>b</sup>	16,025	7,060
\$1 to \$999	3,881	396
\$1,000 to \$4,999	17,809	1,474
\$5,000 to \$9,999	33,755	5,215
\$10,000 to \$24,999	42,327	4,850
\$25,000 to \$49,999	65,052	16,166
\$50,000 to \$99,999	80,642	29,078
\$100,000 to \$249,999	138,835	45,815
\$250,000 to \$999,999	255,234	47,125
\$1 million or more <sup>b</sup>	439,397	184,546

<sup>a</sup>Sampling errors are stated at the 95-percent confidence level

<sup>b</sup>Estimate subject to a large sampling error and should be used with caution

Note: The universe of claims was 18,279

**Table VI.10: Average Patient Economic Losses and Related Sampling Error by Severity of Injury Categories**

Severity of injury	Average economic losses	
	Estimate	Sampling error <sup>a</sup>
All claims	\$219,370	\$5,588
Emotional <sup>b</sup>	6,599	5,636
Insignificant	2,373	428
Temporary disability—minor	12,012	1,327
Temporary disability—major	29,916	6,290
Permanent partial disability—minor	64,380	11,639
Permanent partial disability—major <sup>b</sup>	196,447	129,220
Permanent total disability—major <sup>b</sup>	1,814,942	761,866
Permanent total disability—grave	1,688,029	621,577
Death	158,173	22,417

<sup>a</sup>Sampling errors are stated at the 95-percent confidence level

<sup>b</sup>Estimate subject to a large sampling error and should be used with caution

Note: The universe of claims was 18,279

Appendix VI  
Key Estimated Closed Claims Data and  
Related Sampling Errors

**Table VI.11: Compensation for Noneconomic Losses and Related Sampling Error by Size of Noneconomic Losses**

Noneconomic loss compensation ranges	Compensation	
	Estimate	Sampling error <sup>a</sup>
All claims	\$555.3	\$11.0
\$0	0.0	0.0
\$1 to \$50,000	105.4	3.7
\$50,001 to \$200,000	107.6	27.6
More than \$200,000	342.4	122.0

<sup>a</sup>Sampling errors are stated at the 95-percent confidence level

Note: The universe of claims was 14,995

**Table VI.12: Average Indemnity Payments and Related Sampling Error by Source of Payment for Health Care Costs**

Source of health care cost payments	Average payments	
	Estimate	Sampling error <sup>a</sup>
All claims	\$80.741	\$545
Self	61.394	6.397
Private/commercial insurance	105.250	1.639
Medicare	28.352	3.307
Medicaid	43.267	11.252
Workers compensation <sup>b</sup>	69.503	50.147

<sup>a</sup>Sampling errors are stated at the 95-percent confidence level

<sup>b</sup>Estimate subject to a large sampling error and should be used with caution

Note: The universe of claims was 31,786