

2021 medical malpractice statistical summary

Settlement data submitted by attorneys

Lawsuits with final disposition from Jan. 1, 2017 through Dec. 31, 2021

June 2022

Mike Kreidler, *Insurance Commissioner*

www.insurance.wa.gov

Table of contents

Introduction	3
Key 2021 medical malpractice lawsuit statistics.....	4
Calendar year comparison	5

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 require attorneys to 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. 14, 2022, Insurance Commissioner Mike Kreidler notified the Legislature that the OIC would post statistical summaries by July 1.

³ [WAC 284-24E-150](#).

⁴ [RCW 7.70.140\(2\)\(b\)\(v\)](#).

Key 2021 medical malpractice lawsuit statistics

- Attorneys reported 11 lawsuits were resolved with paid indemnity in 2021.
- In cases where indemnity payments were made to the claimant, average compensation to the claimant was \$2.7 million.
- Average attorney fees were \$972,438.

Calendar year comparison

This table shows data reported by attorneys for the five-year period ending Dec. 31, 2021.⁵

	Calendar year				
	2017	2018	2019	2020	2021
Settlements reported by attorneys	34	32	18	11	11
Total legal expenses	\$11,347,914	\$18,948,160	\$6,313,494	\$4,818,014	\$11,545,742
Average legal expense per lawsuit	\$333,762	\$592,130	\$350,750	\$438,001	\$1,049,613
Number of lawsuits with paid indemnity	31	32	16	11	11
Total paid indemnity	\$27,239,000	\$43,422,870	\$15,340,000	\$12,520,000	\$29,469,287
Average indemnity payment	\$878,677	\$1,356,965	\$958,750	\$1,138,182	\$2,679,026
Number of lawsuits with attorney fees	29	31	16	11	11
Total attorney fees	\$9,520,746	\$16,794,797	\$5,351,851	\$4,321,180	\$10,696,815
Average fee paid to attorney	\$328,302	\$541,768	\$334,491	\$392,835	\$972,438
Average fee ÷ average indemnity	37.4%	39.9%	34.9%	34.5%	36.3%

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 2021 was \$1 million per reported lawsuit, a 139.6% increase from 2020.

Indemnity payments to claimants

- In 2021, attorneys reported 11 lawsuits in which a claimant received compensation.
- The average indemnity payment was \$2.7 million, a 135.4% increase from 2020.

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 2021 was \$972,438 per reported lawsuit with attorney fees, a 147.5% increase from 2020.

⁵ Data submitted on or before April 25, 2022, and audited through June 7, 2022.