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Ohio Medical Liability Closed Claim Report

November 2006

Ohio Medical Malpractice Closed Claim Report - 2005

I. Introduction

Pursuant to House Bill 215 and Ohio Administrative Rule 3901-1-64, the Department of Insurance hereby submits its first annual report to the General Assembly summarizing the Ohio medical liability closed claim data received by the Department for calendar year 2005.

II. Historical Overview

The Ohio Medical Malpractice Commission was created by legislation in 2003 to address the medical liability crisis in Ohio. That legislation, Senate Bill 281, also contained a comprehensive set of tort reforms aimed at reducing the costs of litigation and stabilizing the Ohio medical malpractice market.

While Senate Bill 281 contained a mechanism for collecting data on medical liability claims, testimony of the Department and county clerks before the Commission indicated difficulties and inefficiencies in obtaining reliable data with that system. As a result, the Commission recommended in its Interim Report the passage of legislation requiring more comprehensive data reporting.

Subsequently, the 125th General Assembly passed House Bill 215 enacting section 3929.302 of the Revised Code. All entities that provide medical malpractice insurance to health care providers located in Ohio, including authorized insurers, surplus lines insurers, risk retention groups and self-insurers, are required to report data to the Department regarding medical malpractice claims that close during the year. House Bill 215 authorized the Department to promulgate a rule outlining the procedures and reporting requirements. Ohio Administrative Rule 3901-1-64, which became effective on January 2, 2005, requires that each entity report the costs of defending medical liability claims and paying judgments and/or settlements on behalf of health care providers and health care entities.

House Bill 215 and Ohio Administrative Rule 3901-1-64 require the Department to prepare an annual report to the General Assembly summarizing the closed claim data on a statewide basis. They also stipulate that the data will be confidential and not subject to public record requests. As a result, this report summarizes data in order to maintain the confidentiality of the specific data filed by each reporting entity.

A copy of Ohio Revised Code 3929.302 and Ohio Administrative Rule 3901-1-64 are attached to this report as Appendices A and B.

III. Data Collection

A secured application on the Department's web site at www.ohioinsurance.gov captures the data elements required by Ohio Administrative Rule 3901-1-64,

Medical Liability Data Collection. Data is due by May 1 for each medical, dental, optometric or chiropractic claim closed in the prior calendar year. A detailed user guide providing step-by-step instructions is located on the Department's web site at http://www.ohioinsurance.gov/agent/MLDC_UserGuide.pdf. Data collection methods from other states' insurance departments as well as input from the reporting entities were used in the development of this data reporting application.

IV. Description of Analysis

A claim is a demand for compensation due to alleged malpractice of a health care provider or facility. For the purposes of this report, and based on general practice, when an insurer or other insuring entity opens a file and begins to investigate the circumstances of a demand for compensation, a claim has occurred, whether or not a lawsuit is ever filed. When the file is closed for one of the many reasons detailed in this report, even when the claimant receives no payment, the claim is considered closed.

In this report, two primary pieces of data are analyzed:

- **Paid Indemnity:** The amount of compensation paid on behalf of each defendant to a claimant.

- **Allocated Loss Adjustment Expense (ALAE):** The expenses incurred by a reporting entity, other than paid indemnity, which relate to a specific claim, such as the costs of investigation and defense counsel fees and expenses. As a business practice, some of the reporting entities do not allocate loss adjustment expenses to a specific claim.

In this analysis, we organized and summarized the data to reflect the types of medical malpractice claims, the age and size of these claims, differences among regions of the state, differences among medical professionals, and several other categories.

This first annual report provides a one-year foundation in our analysis of medical malpractice claims in Ohio. Subsequent annual reports will build on this foundation, allowing trends to emerge.

V. Limitations of Analysis

The analysis is based entirely on historical closed claim data. That is, claims are reported to us and included in this analysis based on the year in which they reach a final outcome. Some arose from recent medical incidents, but most arose from incidents that occurred several years ago.

This report is not intended to be used to evaluate past or current medical liability insurance rates.

In addition, this data does not reflect plaintiffs' attorney fees, which are not separately collected and cannot be broken out from this data or from any data available to the Department.

VI. Key Findings

Some important findings are evident in this first report. Greater detail is provided in the narrative describing the exhibits in Appendix C.

- **Total Claims:** A total of 5,051 claims were reported for 2005, by 91 entities. Authorized insurers[1] reported the majority of the claims, 3,325. Self-insured entities reported 1,516 claims; surplus lines insurers reported 172 claims; and risk retention groups reported 38 claims.

- **Indemnity Payments:** A large majority of medical malpractice claims resulted in no payment to a claimant. Four-fifths of the claims, 4,005, had no indemnity payments, while one-fifth of the claims, 1,046, closed with an indemnity payment. The total amount paid to claimants was $281,764,938, an average of $269,374 for those claims with an indemnity payment.

- **ALAE:** While most medical malpractice claims closed with no payments to claimants, almost all claims generated expenses for investigation and defense. The number of claims reported to have ALAE was 4,631. These expenses totaled $113,194,565, an average of $24,443 for claims with ALAE.

- **SB 281 Impact:** Twenty-four percent of the total claims, or 1,187, involved incidents that occurred after the enactment of SB 281, and therefore could have been subject to the revisions in Ohio tort law. However, none of these claims reached a trial or jury verdict, requiring separate detail of economic and non-economic damages. The average indemnity payment for these claims was $171,299 and the average ALAE was $9,044, well below the overall average figures for all claims. The larger claims subject to the provisions of SB 281 will likely take longer to close than those reported here for 2005.

- **Indemnity Payments and Age of Claim:** The amount paid to claimants increased with the age of the claim. Of the claims that closed with an

[1] Authorized (admitted) insurers are licensed to write business in the state; are subject to the Department's rate, policy form and solvency regulation; and are backed by the Ohio Insurance Guaranty Fund. Surplus lines insurers are not authorized and do not have guaranty fund backing, but are allowed to write policies for those doctors and hospitals that cannot obtain coverage from an authorized insurer. These companies must be on a list of accepted surplus lines insurers and are regulated for financial strength by their domiciliary state or country. Risk retention groups are permitted by federal law to cover the liability insurance risk of the group's members. These groups are not backed by the guaranty fund.

indemnity payment, 188 closed within one year of being reported and had average paid indemnity of $113,085. That figure rose to $254,901 for 294 claims closing in their second year, and to $326,435 for 287 closing in their third year. Sixteen claims closed seven or more years after being reported, having average paid indemnity of $731,873.

- **ALAE and Age of Claim:** Allocated loss adjustment expense also increased with the age of the claim, starting with an average of $6,076 for claims that closed in their first year, and rising to $14,644 and $36,104 for claims in their second and third years, respectively. For claims closing seven or more years after being reported, average ALAE was $75,348.

- **Regional Comparisons:** Half of the claims, 2,561, came from Northeast Ohio. Of these, 492 had indemnity payments. More than half of the total amount paid to claimants arose from these claims, or $149,129,183. This gave Northeast Ohio the highest average paid indemnity of $303,108. The breakdown of average paid indemnity for the rest of Ohio, in descending order, is Southeast, $268,075; Southwest, $244,453; Central, $242,354; and Northwest, $224,235.

- **Specialty Comparisons:** When claims are broken down by specialty, Internal Medicine had the most at 287 with 41 of them resulting in paid indemnity averaging $277,587. However, Orthopedic Surgery had the highest average paid indemnity of $469,864 for 25 claims with payments, out of 163 reported claims.

- **Treatment Comparisons:** Injuries related to non-obstetric treatment, such as a failure or delay in treatment, produced the highest number of claims, 1,472, with 231 of these resulting in paid indemnity. Diagnosis-related incidents, such as failure to diagnose, delay in diagnosis, or misdiagnosis, produced 1,453 claims, with 234 having indemnity payments. Obstetrics-related claims totaled 245, with 239 of these involving birth injuries. Of these, 78 resulted in indemnity payments averaging $567,625, the highest for any type of injury.

VII. Detailed Findings

This discussion corresponds to the exhibits attached as Appendix C. The reader is encouraged to review those exhibits for full details.

Claims by Outcome (Appendix C, Exhibits 1 and 2)

Reporting entities were asked to indicate the method of final disposition for each closed claim:

- Of the 5,051 claims that were closed in 2005, 79% closed with no indemnity payment. Included in this figure are five categories:

  - 64% of the claims closed when the claim or suit was abandoned or was dismissed without prejudice;
  - 9% were dismissed by summary judgment or a directed verdict;
  - 4% ended with a verdict for the defendant;
  - 1% ended through a settlement;
  - 1% ended with alternative dispute resolution.
- The remaining 21% of the claims closed with paid indemnity. Four categories of claims are included here:
  - 16% reached a settlement;
  - 3% used alternative dispute resolution;
  - 1% had a verdict for the plaintiff;
  - 0.3%[2] ended with a summary judgment or directed verdict for the plaintiff.

Another perspective is gained by grouping these outcomes together as follows:

- Claims that were dropped or dismissed without prejudice, and without an indemnity payment, form the largest group, 64%.
- Claims resulting in settlement are the next largest group, 18%. Of these, most had an indemnity payment.
- Claims with a summary judgment or a directed verdict comprise 10% of the total, with a large majority of these resulting in no indemnity payment.
- Claims that closed following alternative dispute resolution comprise 5% of the total, the majority of which resulted in indemnity payments.
- Finally, of the 5% of the claims that went to trial, most ended without indemnity payments.

This implies that claims ending with a settlement or through alternative dispute resolution were more likely to have indemnity payments to the plaintiff. Claims that ended with a trial or jury verdict were more likely to end in favor of the defendant.

Regardless of which of these outcomes applies, all categories of claims had expenses in the form of ALAE. That is, even though a claim may have closed without an indemnity payment, the claim was likely to generate investigation and legal expense. Exhibit 2 contains the details. Claims dropped or dismissed without prejudice had average ALAE of $12,011. The 66 claims that reached settlement without an indemnity payment had the highest average ALAE, $283,617.

Age of Claim (Appendix C, Exhibit 3)

This exhibit displays claims by age at the time of closing, and shows that average indemnity and average ALAE increased[3] with the age of the claim. While claims

[2] Some of these breakdowns do not add up to 100% due to rounding. See Appendix C, Exhibits 1 and 2 for actual figures.

that closed in their first year represent 23% of the total, they had the lowest average indemnity, $113,085, and ALAE, $6,076. These costs grew significantly as the claims aged. The oldest category, claims that closed at age seven or greater, had the highest average indemnity, $731,873, and ALAE, $75,348.

Claims by Size (Appendix C, Exhibit 4)

Of the 5,051 claims reported closed in 2005, only 21%, or 1,046, closed with an indemnity payment to a claimant. Of these, 65 claims, or 6%, had an indemnity payment greater than $1 million. Indemnity payments for these claims totaled $116,931,464, representing 41% of the total paid indemnity. Ninety-four claims with paid indemnity below $1 million but at least $500,000 represented 9% of the claims, but 24% of the total paid indemnity. This illustrates that 15% of the closed claims are associated with 65% of the total paid indemnity.

Claims by Insurer Type (Appendix C, Exhibit 5)

A total of 91 entities reported closed claim information to the Department. The reporting entities are categorized as authorized (admitted) insurance companies, surplus lines insurance companies, risk retention groups and self-insurers/captives. Of the 5,051 closed claims that were reported, 66% were reported by admitted insurance companies and 30% were reported by self-insurers/captives. Very few claims were reported as closed by surplus lines insurance companies or risk retention groups.

Claims by Region (Appendix C, Exhibits 6 & 7)

Claims were reported by county. However, an exhibit showing details by county would allow the reader to identify specific claims in those counties with very few claims reported in 2005, violating the requirement of confidentiality. In order to provide meaningful information regarding differences by location, we divided the state into five regions: Central, Northeast, Northwest, Southeast and Southwest. The counties within each region are show in Exhibit 5, while Exhibit 6 displays claim data for the regions.

More than half of the closed claims reported for 2005 were from the Northeast region. The Northeast region also had the largest average indemnity payment, while the Southwest region incurred the largest average allocated loss adjustment expense. Conversely, the Northwest region had the smallest average indemnity payment, while the Central region incurred the smallest average allocated loss adjustment expense.

[3] While some age categories have values lower than younger age categories, this is likely due to the number of claims for just one year of data. Statistical tests for growth indicate that ALAE grew by approximately $7,100 per claim per year, and paid indemnity grew by approximately $55,000 per claim per year.

Claims by Physician Specialty (Appendix C, Exhibit 8)

This exhibit shows the fifteen physician and surgeon specialties with the highest number of closed claims. All other specialties are grouped together as "Other" to maintain confidentiality. Internal Medicine had the most closed claims followed closely by Family Physicians & General Practitioners. An average of 15% of the claims against a physician or surgeon resulted in an indemnity payment.

Orthopedic surgery had the highest average paid indemnity, $469,864, followed by Gastroenterology, $447,727, and Neurology, $409,722. The reader should be aware that one year of data is not sufficient to properly measure differences in costs by specialty. As additional years of data are gathered, this exhibit will become more informative.

Claims by Type of Injury (Appendix C, Exhibit 9)

The reporting entities identified the primary complaint or injury that led to the medical liability claim. Of the 5,051 claims reported as closed, 58% of the claims were closely split between two categories, Non-Obstetrical Medical Treatment and Diagnosis-Related. Non-Obstetrical Medical Treatment includes failure to treat, delay in treatment, and improper treatment. Diagnosis-Related includes failure to diagnose, misdiagnosis, and delay in diagnosis. Obstetrics-Related claims, including improper delivery method, improper management of pregnancy, and delay in delivery, had the highest average paid indemnity, $389,591, and the highest average ALAE, $90,965. These figures differ from those shown by physician and surgeon specialties because this exhibit includes all medical providers, including hospitals.

Birth Injury Claims (Appendix C, Exhibit 10)

Reporting entities identified whether the closed claim was due to a birth injury. Of the 5,051 claims reported, 239, or 5%, were identified as birth injury claims. Of these 239 birth injury claims, 33% resulted in an indemnity payment. The average indemnity payment of a birth injury claim was $567,625, more than twice the overall average indemnity payment of $269,374.

Severity of Injury (Appendix C, Exhibit 11)

Of the 5,051 claims reported as closed, 1,829 or 36% of the claims were due to the death of the injured party, with average paid indemnity of $322,610. Injuries identified as "permanent grave" had average paid indemnity of $914,418, more than three times the overall average indemnity payment. These include quadriplegia and brain damage, requiring lifelong dependent care.

Age of Injured Person (Appendix C, Exhibit 12)

Of the 5,051 claims reported as closed, 71% of the claims were associated with adult claimants, age 18 to 64. Adults age 65 or greater were claimants in 20% of the claims. Infant and minor claimants represented 5% and 4% of the claims, respectively. Average indemnity payments for infants were the highest, $571,685.

Gender of Injured Person (Appendix C, Exhibit 13)

For the 5,051 claims reported as closed, 57% of the claims reported the injured party as female and 43% reported the injured party as male. For both genders, approximately 20% of the claims resulted in an indemnity payment.

Location of Injury (Appendix C, Exhibit 14)

Reporting entities identified the location where the primary injury or complaint occurred that led to the medical liability claim. The greatest number of claims is due to incidents that occurred in the operating suite, followed closely by incidents that occurred in the medical professional's office. These two locations represent nearly 50% of the claims. While the largest average allocated loss adjustment expenses are due to injuries that occurred in the Obstetrics Department, the largest indemnity payments were made for injuries that occurred in the Recovery Room.

VII. Conclusion

This first annual report provides insight into the details of Ohio medical malpractice claims. Trends will emerge as additional years are included. Nevertheless, the data illustrates the following:

- Most of the claims closed without a payment to the plaintiff.
- Almost all of the claims had costs in the form of ALAE.
- Higher value claims tended to be older. Conversely, smaller claims closed faster.
- Northeast Ohio had the highest paid indemnity in total dollars, and in average dollars per claim, of any region in the state.
- Claims that went to trial were more likely to close with no indemnity payment, while those that settled or went through alternative dispute resolution were more likely to close with paid indemnity.
- Although 24% of total claims were subject to SB 281, insufficient data exists to draw any conclusions yet as to its impact.

Appendix A

§ 3929.302. Collection and disclosure of medical claims data.

(A) The superintendent of insurance, by rule adopted in accordance with Chapter 119. of the Revised Code, shall require each authorized insurer, surplus lines insurer, risk retention group, self-insurer, captive insurer, the medical liability underwriting association if created under section 3929.63 of the Revised Code, and any other entity that provides medical malpractice insurance to risks located in this state, to report information to the department of insurance at least annually regarding any medical, dental, optometric, or chiropractic claim asserted against a risk located in this state, if the claim resulted in any of the following results:

(1) A final judgment in any amount;

(2) A settlement in any amount;

(3) A final disposition of the claim resulting in no indemnity payment on behalf of the insured.

(B) The report required by division (A) of this section shall contain such information as the superintendent prescribes by rule adopted in accordance with Chapter 119. of the Revised Code, including, but not limited to, the following information:

(1) The name, address, and specialty coverage of the insured;

(2) The insured's policy number;

(3) The date of the occurrence that created the claim;

(4) The name and address of the injured person;

(5) The date and amount of the judgment, if any, including a description of the portion of the judgment that represents economic loss, noneconomic loss and, if applicable, punitive damages;

(6) In the case of a settlement, the date and amount of the settlement;

(7) Any allocated loss adjustment expenses;

(8) Any other information required by the superintendent pursuant to rules adopted in accordance with Chapter 119. of the Revised Code.

(C) The superintendent may prescribe the format and the manner in which the information described in division (B) of this section is reported. The superintendent may, by rule adopted in accordance with Chapter 119. of the Revised Code, prescribe the frequency that the information described in division (B) of this section is reported.

(D) The superintendent may designate one or more rating organizations licensed pursuant to section 3937.05 of the Revised Code or other agencies to assist the superintendent in gathering the information, and making compilations thereof, required by this section.

(E) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any person or entity reporting under this section or its agents or employees, or the department of insurance or its employees, for any action taken that is authorized under this section.

(F) The superintendent may impose a fine not to exceed five hundred dollars against any person designated in division (A) of this section that fails to timely submit the report required under this section. Fines imposed under this section shall be paid into the state treasury to the credit of the department of insurance operating fund created under section 3901.021 [3901.02.1] of the Revised Code.

(G) Except as specifically provided in division (H) of this section, the information required by this section shall be confidential and privileged and is not a public record as defined in section 149.43 of the Revised Code. The information provided under this section is not subject to discovery or subpoena and shall not be made public by the superintendent or any other person.

(H) The department of insurance shall prepare an annual report that summarizes the closed claims reported under this section. The annual report shall summarize the closed claim reports on a statewide basis, and also by specialty and geographic region. Individual claims data shall not be released in the annual report. Copies of the report shall be provided to the members of the general assembly.

(I) (1) Except as specifically provided in division (I)(2) of this section, any information submitted to the department of insurance by an attorney, law firm, or legal professional association pursuant to rules promulgated by the Ohio supreme court shall be confidential and privileged and is not a public record as defined in section 149.43 of the Revised Code. The information submitted is not subject to discovery or subpoena and shall not be made public by the department of insurance or any other person.

(2) The department of insurance shall summarize the information submitted by attorneys, law firms, and legal professional associations and include the information in the annual

report required by division (H) of this section. Individual claims data shall not be released in the annual report.

(J) As used in this section, medical, dental, optometric, and chiropractic claims include those claims asserted against a risk located in this state that either:

(1) Meet the definition of a "medical claim," "dental claim," "optometric claim," or "chiropractic claim" under section 2305.113 [2305.11.3] of the Revised Code;

(2) Have not been asserted in any civil action, but that otherwise meet the definition of a "medical claim," "dental claim," "optometric claim," or "chiropractic claim" under section 2305.113 [2305.11.3] of the Revised Code.

HISTORY: 150 v H 215, § 1, eff. 9-13-04; 150 v H 425, § 1, eff. 4-27-05.

The provisions of § 3 of H.B. 425 (150 v -) read as follows:
SECTION 3. The General Assembly hereby requests the Ohio Supreme Court adopt rules of professional conduct that require any attorney who provides representation to a person bringing a medical, dental, optometric, or chiropractic claim to file with the Department of Insurance or its designee under division (D) of section 3929.302 of the Revised Code a report describing the attorney fees and expenses received for such representation, as well as any other data necessary for the Department of Insurance to reconcile the attorney fee and expense data with other medical malpractice closed claim data received by the Department of Insurance pursuant to rules promulgated under section 3929.302 of the Revised Code. The General Assembly hereby requests that any rules adopted by the Ohio Supreme Court define medical, dental, optometric, and chiropractic claims in the same manner as section 3929.302 of the Revised Code and require the filing of a report with the Department of Insurance if the medical, dental, optometric, or chiropractic claim results in a final judgment or settlement in any amount or a final disposition of the claim resulting in no indemnity payment to the claimant.

Effect of Amendments

150 v H 425, effective April 27, 2005, inserted (I) and redesignated former (I) as (J).

Appendix B

3901-1-64 Medical liability data collection.

(A) Purpose The purpose of this rule is to establish procedures and requirements for the reporting of specific medical, dental, optometric and chiropractic claims data to the Ohio Department of Insurance.

(B) Authority This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041 and 3929.302 of the Revised Code.

(C) Definitions

(1) "Medical, dental, optometric and chiropractic claims" include those claims asserted against a risk located in this state that either:

(a) Meet the definition of "medical claim," "dental claim," "optometric claim," or "chiropractic claim" in section 2305.113 of the Revised Code, or

(b) Have not been asserted in any civil action, but that otherwise meet the definition of "medical claim," "dental claim," "optometric claim," or "chiropractic claim" in section 2305.113 of the Revised Code.

(2) "Risk retention group" has the same meaning as in section 3960.02 of the Revised Code.

(3) "Surplus lines insurer" means an insurer that is not licensed to do business in this state, but is nonetheless approved by the department to offer insurance because coverage is not available through licensed insurers.

(4) "Self-insurer" means any person or persons who set aside funds to cover liability for future medical, dental, optometric or chiropractic claims or that otherwise assume their own risk or potential loss for such claims. "Self-insurer" includes captives.

(D) Each authorized insurer, surplus lines insurer, risk retention group, self-insurer, the medical liability underwriting association if created under section 3929.63 of the Revised Code, or any other entity that offers medical malpractice insurance to, or that otherwise assumes liability to pay medical, dental, optometric or chiropractic claims for, risks located in this state, shall report at least annually to the superintendent of insurance, or to the superintendent's designee, information regarding any medical, dental, optometric, or chiropractic claim asserted against a risk located in this state, if the claim resulted in:

(1) A final judgment in any amount,

(2) A settlement in any amount, or

(3) A final disposition of the claim resulting in no indemnity payment on behalf of the covered person or persons.

(E) The report required by division (D) shall include for each claim:

(1) The name, address and specialty coverage of each covered person;

(2) The insured's policy number, if applicable;

(3) The date of the occurrence that created the claim;

(4) The name and address of the injured person;

(5) The date the claim was reported and the claim number;

(6) The injured person's age and sex;

(7) If the medical, dental, optometric, or chiropractic claim was filed with the court, the case number and the name and location of the court;

(8) In the case of a judgment, the date and amount of the judgment and, if the judgment is subject to the itemization requirements in section 2323.43(B) of the Revised Code, a description of the portion of the judgment that represents economic loss, non-economic loss and punitive damages, if any;

(9) In the case of a settlement, the date and amount of the settlement and, if known, the injured person's incurred medical expense, wage loss, and other expenses;

(10) Any loss adjustment expenses allocated to the claim or, if known, the amount allocated to each covered person;

(11) The loss adjustment expense, broken down between fees and expenses, paid to defense counsel;

(12) The date and reason for final disposition, if no judgment or settlement, and the type of disposition;

(13) Unless disclosure is otherwise prohibited by state or federal law, a summary of the occurrence which created the claim which shall include:

(a) The name of the institution, if any, and the location at which the injury occurred;

(b) The operation, diagnosis, treatment, procedure or other medical event or incident giving rise to the alleged injury;

(c) A description of the principal injury giving rise to the claim.

(F) Frequency The report(s) required by this rule shall be filed with the superintendent, or the superintendent's designee, on or before May 1 of each year, and shall contain information for the previous calendar year.

(G) Noncompliance Any person listed in division (D) that fails to timely submit the report required under this section shall be subject to a fine not to exceed $ 500.00.

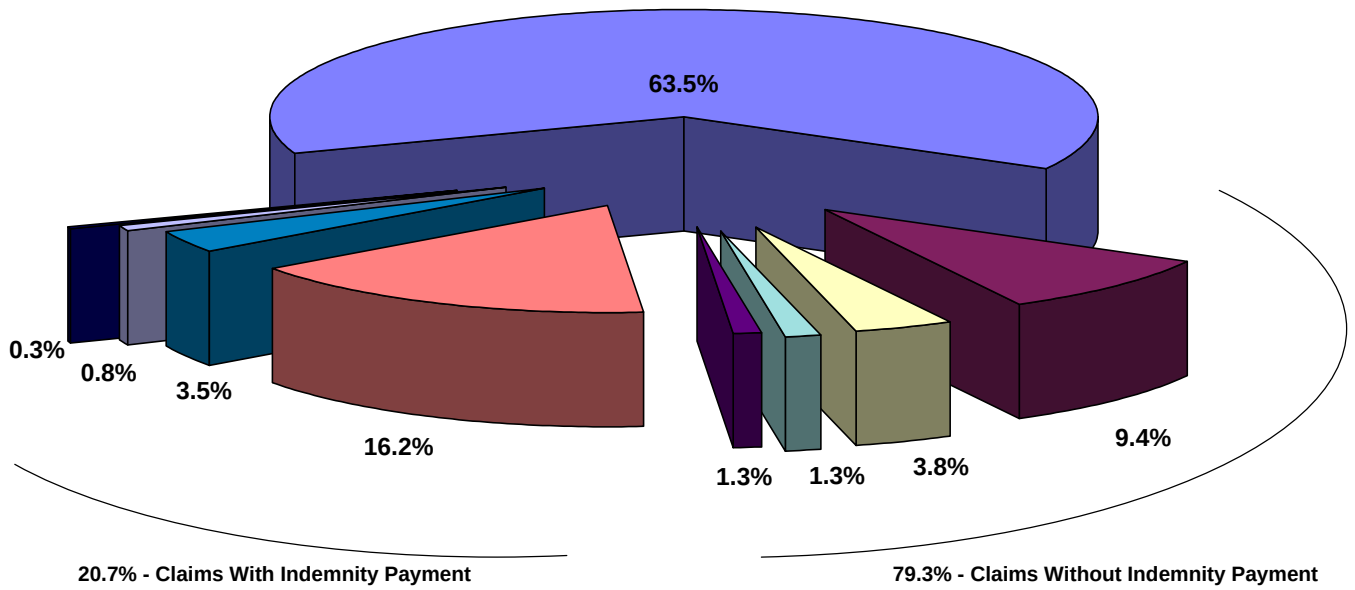
(H) Confidentiality Information reported to the superintendent or the superintendent's designee pursuant to this rule shall be confidential and privileged and is not a public record as defined in section 149.43 of the Revised Code. The information provided under this section is not subject to discovery or subpoena and shall not be made public by the superintendent or any other person, including any rating organizations or other agencies designated by the superintendent to gather and/or compile the information.

(I) The requirements of this rule do not apply to reinsurers, reinsurance contracts, reinsurance agreements, or reinsurance claims transactions.

HISTORY: Eff. 01/02/2005
Promulgated Under: 119.03
Statutory Authority: 3901.041, 3929.302
Rule Amplifies: 3929.302
R.C. 119.032 review dates: 12/30/2008

Appendix C

OHIO
Closed Claims in 2005
Outcome of Malpractice Claims
5051 Closed Claims



- 63.5% Claim/Suit Abandoned Without Indemnity Payment, Including Dismissed Without Prejudice
- 9.4% Dismissed by Court - Summary Judgment/Directed Verdict -- Without Indemnity
- 3.8% Disposed by Trial Verdict/Jury Verdict -- Without Indemnity
- 1.3% Disposed by Settlement Agreement -- Without Indemnity
- 1.3% Disposed by Alternative Dispute Resolution -- Without Indemnity
- 16.2% Disposed by Settlement Agreement -- With Indemnity
- 3.5% Disposed by Alternative Dispute Resolution -- With Indemnity
- 0.8% Disposed by Trial Verdict/Jury Verdict -- With Indemnity
- 0.3% Dismissed by Court - Summary Judgment/Directed Verdict -- With Indemnity

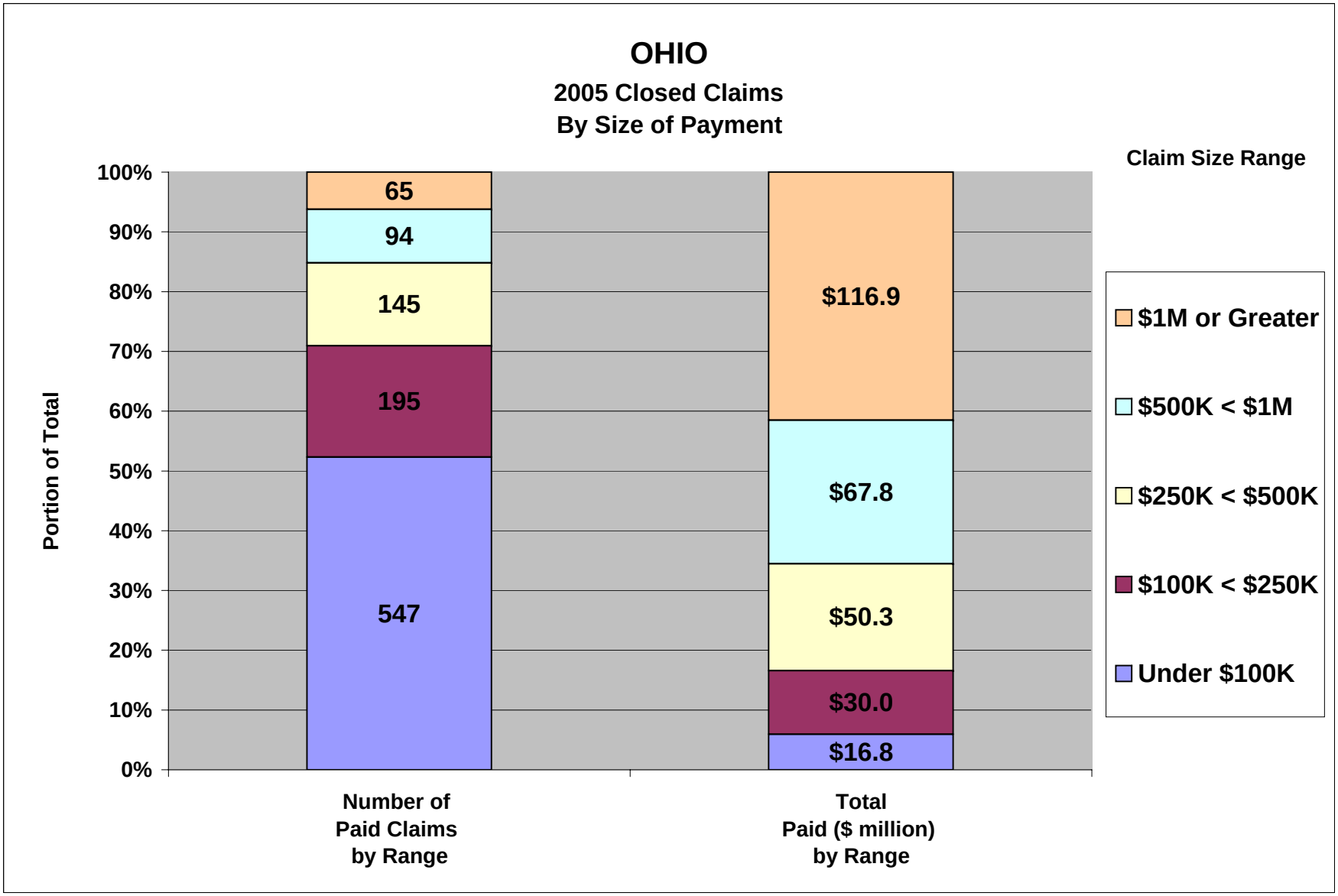
OHIO
2005 Closed Claims
ALAE and Indemnity Payments by Final Disposition

FINAL DISPOSITION DESCRIPTION	TOTAL CLAIMS	AVG	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Claim/Suit Abandoned Without Indemnity Payment, Including Dismissed Without Prejudice -- Without Indemnity	3208	63.5%	2993	$35,950,032	$12,011	0	$0	$0
Dismissed by Court -Summary Judgment/Directed Verdict -- Without Indemnity	473	9.4%	434	$6,878,849	$15,850	0	$0	$0
Disposed by Trial Verdict/Jury Verdict -- Without Indemnity	194	3.8%	191	$13,178,053	$68,995	0	$0	$0
Disposed by Settlement Agreement -- Without Indemnity	66	1.3%	51	$14,464,484	$283,617	0	$0	$0
Disposed by Alternative Dispute Resolution -- Without Indemnity	64	1.3%	64	$230,660	$3,604	0	$0	$0

FINAL DISPOSITION DESCRIPTION	TOTAL CLAIMS	AVG	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Disposed by Settlement Agreement -- With Indemnity	818	16.2%	680	$29,637,547	$43,585	818	$200,300,256	$244,866
Disposed by Alternative Dispute Resolution -- With Indemnity	175	3.5%	166	$8,571,532	$51,636	175	$55,421,480	$316,694
Disposed by Trial Verdict/Jury Verdict -- With Indemnity	39	0.8%	39	$3,719,130	$95,362	39	$24,284,263	$622,673
Dismissed by Court -Summary Judgment/Directed Verdict -- With Indemnity	14	0.3%	13	$564,279	$43,406	14	$1,758,940	$125,639
TOTALS and AVERAGES:	5051	100.0%	4631	$113,194,565	$24,443	1046	$281,764,938	$269,374

OHIO
2005 Closed Claims
ALAE and Indemnity Payments by Age of Claim

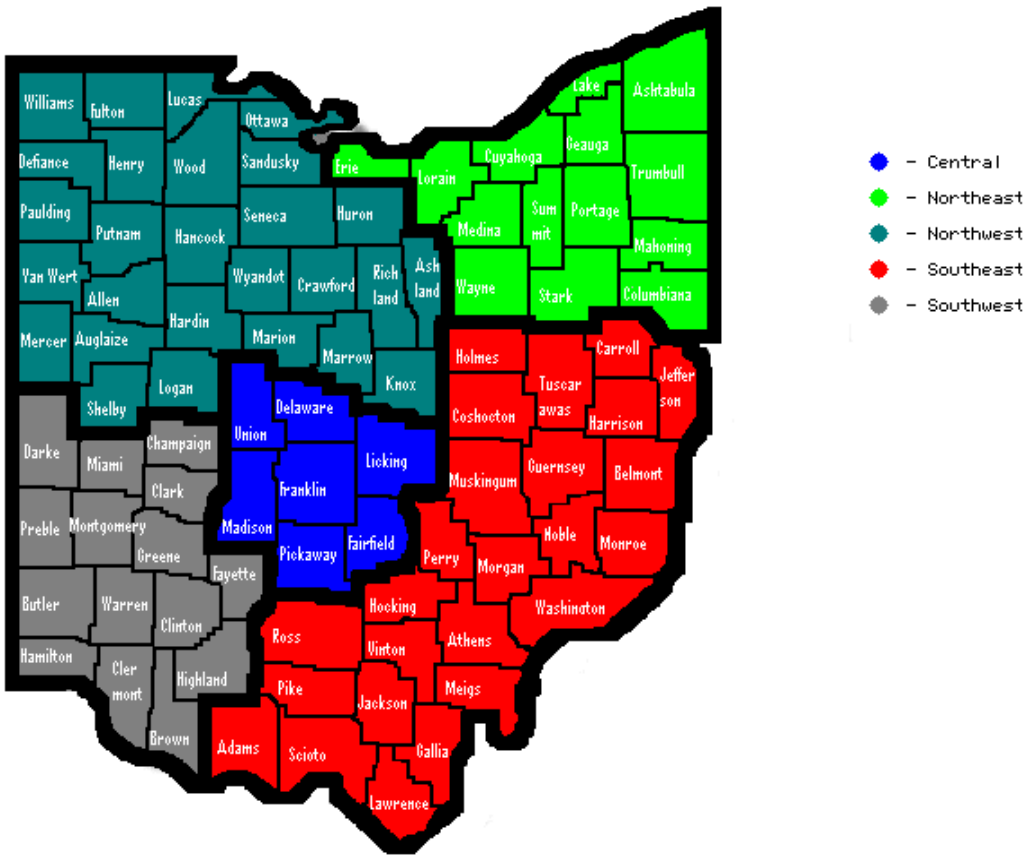
AGE IN YEARS	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Less Than 1	1165	936	$5,687,478	$6,076	188	$21,260,009	$113,085
1 But Less Than 2	1585	1483	$21,716,580	$14,644	294	$74,940,826	$254,901
2 But Less Than 3	1248	1209	$43,649,696	$36,104	287	$93,686,788	$326,435
3 But Less Than 4	572	545	$19,328,165	$35,465	151	$40,996,457	$271,500
4 But Less Than 5	286	277	$12,056,208	$43,524	63	$25,421,292	$403,513
5 But Less Than 7	153	148	$8,269,970	$55,878	47	$13,749,597	$292,545
7 or Greater	42	33	$2,486,469	$75,348	16	$11,709,970	$731,873
TOTALS and AVERAGES:	5051	4631	$113,194,565	$24,443	1046	$281,764,938	$269,374


OHIO
2005 Closed Claims
By Size of Payment
Portion of Total
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
65
94
145
195
547
$116.9
$67.8
$50.3
$30.0
$16.8
Number of Paid Claims by Range
Total Paid ($ million) by Range
Claim Size Range
$1M or Greater
$500K < $1M
$250K < $500K
$100K < $250K
Under $100K

OHIO
2005 Closed Claims
ALAE and Indemnity Payments by Insurer Type

INSURING ENTITY TYPE	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Insurance Company - Authorized/Admitted	3325	3139	$66,631,466	$21,227	596	$167,097,194	$280,364
Insurance Company - Surplus Lines	172	139	$3,395,231	$24,426	32	$7,538,146	$235,567
Risk Retention Group	38	34	$419,734	$12,345	4	$1,787,500	$446,875
Self Insurers (Captives)	1516	1319	$42,748,134	$32,410	414	$105,342,098	$254,450
TOTALS and AVERAGES:	5051	4631	$113,194,565	$24,443	1046	$281,764,938	$269,374

Closed Claims 2005
Regions



The counties displayed on the map include the following:

Central:
Delaware, Fairfield, Franklin, Licking, Madison, Pickaway, Union

Northeast:
Ashtabula, Columbiana, Cuyahoga, Erie, Geauga, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Wayne

Northwest:
Allen, Ashland, Auglaize, Crawford, Defiance, Fulton, Hancock, Hardin, Henry, Huron, Knox, Logan, Lucas, Marion, Mercer, Morrow, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Shelby, Van Wert, Williams, Wood, Wyandot

Southeast:
Adams, Athens, Belmont, Carroll, Coshocton, Gallia, Guernsey, Harrison, Hocking, Holmes, Jackson, Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Tuscarawas, Vinton, Washington

Southwest:
Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Fayette, Greene, Hamilton, Highland, Miami, Montgomery, Preble, Warren

OHIO
2005 Closed Claims
ALAE and Indemnity Payments by Region

STATE REGION	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Central	616	539	$10,284,732	$19,081	116	$28,113,006	$242,354
Northeast	2561	2383	$53,265,564	$22,352	492	$149,129,183	$303,108
Northwest	771	711	$15,208,661	$21,391	174	$39,016,878	$224,235
Southeast	217	192	$3,905,565	$20,341	51	$13,671,845	$268,075
Southwest	878	798	$30,421,862	$38,123	212	$51,824,026	$244,453
Unknown	8	8	$108,182	$13,523	1	$10,000	$10,000
TOTALS and AVERAGES:	5051	4631	$113,194,565	$24,443	1046	$281,764,938	$269,374

OHIO
2005 Closed Claims
ALAE and Indemnity Payments by Physician Specialty

PHYSICIAN SPECIALTY	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Internal Medicine	287	276	$6,210,226	$22,501	41	$11,381,077	$277,587
Family Physicians\General Practioners	264	250	$5,744,996	$22,980	48	$13,283,157	$276,732
Emergency Medicine	215	201	$4,349,156	$21,638	17	$6,490,516	$381,795
Obstetrics/Gynecology	215	202	$5,913,695	$29,276	56	$15,572,665	$278,083
Surgery - General	212	207	$5,000,652	$24,158	34	$8,909,498	$262,044
Surgery - Orthopedic	163	157	$2,982,683	$18,998	25	$11,746,604	$469,864
Radiology	160	157	$2,209,833	$14,075	18	$4,152,999	$230,722
Anesthesiology	103	95	$2,111,428	$22,226	22	$6,216,350	$282,561
Neurology	92	89	$1,114,780	$12,526	9	$3,687,500	$409,722
Cardiovascular Disease	89	87	$2,139,088	$24,587	9	$2,440,000	$271,111

PHYSICIAN SPECIALTY	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Gastroenterology	59	56	$1,335,731	$23,852	11	$4,924,999	$447,727
Surgery - Plastic	42	41	$601,418	$14,669	8	$2,354,900	$294,363
Pediatrics	37	35	$628,742	$17,964	5	$1,455,000	$291,000
Urology	37	36	$550,606	$15,295	6	$2,022,161	$337,027
Ophthalmology	36	35	$606,999	$17,343	11	$3,060,000	$278,182
Other	438	414	$7,944,683	$19,190	59	$22,398,771	$379,640
TOTALS and AVERAGES:	2449	2338	$49,444,715	$21,148	379	$120,096,197	$316,877

OHIO
2005 Closed Claims
ALAE and Indemnity Payments by Injury

INJURY DESCRIPTION	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Medical Treatment, Non-Obstetrical (Failure to Treat, Delay in Treatment, Improper Treatment, etc.)	1472	1371	$25,877,007	$18,875	231	$57,938,197	$250,815
Diagnosis-Related (Failure To Diagnose, Misdiagnosis, Delay In Diagnosis, etc.)	1453	1361	$31,763,943	$23,339	234	$76,470,035	$326,795
Surgery-Related (Delay in Surgery, Improper Performance of Surgery, etc.)	903	847	$17,304,405	$20,430	148	$52,788,979	$356,682
Other (No Listed Category Applies)	253	206	$3,596,540	$17,459	47	$8,676,742	$184,612

INJURY DESCRIPTION	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Obstetrics-Related (Improper Delivery Method, Improper Management of Pregnancy, Delay in Delivery, etc.)	245	233	$21,194,790	$90,965	81	$31,556,854	$389,591
Safety & Security-Related (Falls, Failure To Ensure Safety, Failure to Protect From Assault)	177	138	$2,409,208	$17,458	104	$5,727,692	$55,074
Patient Monitoring-Related (Failure to Monitor, etc.)	176	153	$4,373,382	$28,584	82	$27,109,676	$330,606
Blood-Related (Wrong Blood Type, Contaminated Blood, etc.)/Medication-Related (Failure to Order, Wrong Medication, Wrong Dosage, etc.)	168	148	$3,406,511	$23,017	49	$12,154,146	$248,044
Breach of Confidentiality/Communication-Related (Failure To Instruct, Failure to Obtain Consent, etc.)	68	63	$1,314,823	$20,870	21	$2,683,277	$127,775

INJURY DESCRIPTION	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Equipment-Related (Improper Use of Equipment, Improper Maintenance, Equipment Failure/Malfunction, etc.)	60	49	$741,891	$15,141	27	$2,113,023	$78,260
Anesthesia-Related (Improper Choice, Improper Administration, etc.)	41	35	$733,711	$20,963	11	$3,483,762	$316,706
Policies & Procedures-Related (Failure To Follow, Negligent Credentialing, etc.)/Supervision-Related (Supervision of Residents, Nurses, etc.)	33	25	$462,386	$18,495	11	$1,062,554	$96,596
Unknown	2	2	$15,970	$7,985	0	$0	$0
TOTALS and AVERAGES:	5051	4631	$113,194,565	$24,443	1046	$281,764,938	$269,374

OHIO
2005 Closed Claims
ALAE and Indemnity Payments by Birth Injury

BIRTH INJURY	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
No	4810	4406	$91,655,313	$20,802	968	$237,490,192	$245,341
Yes	239	223	$21,523,283	$96,517	78	$44,274,747	$567,625
Unknown	2	2	$15,970	$7,985	0	$0	$0
TOTALS and AVERAGES:	5051	4631	$113,194,565	$24,443	1046	$281,764,938	$269,374

OHIO
2005 Closed Claims
ALAE and Indemnity Payments by Severity

SEVERITY DESCRIPTION	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Death	1829	1738	$43,308,095	$24,918	342	$110,332,470	$322,610
Emotional	131	109	$1,583,637	$14,529	25	$914,249	$36,570
Permanent Grave	134	129	$4,597,568	$35,640	25	$22,860,458	$914,418
Permanent Major	584	547	$18,670,981	$34,133	122	$82,061,240	$672,633
Permanent Minor	400	370	$6,585,258	$17,798	96	$14,784,023	$154,000
Permanent Significant	588	560	$23,094,629	$41,240	105	$31,528,265	$300,269
Temporary Low Significance	211	180	$1,300,671	$7,226	21	$130,705	$6,224
Temporary Major	527	455	$7,184,366	$15,790	159	$13,201,445	$83,028
Temporary Minor	645	541	$6,853,392	$12,668	151	$5,952,084	$39,418
Unknown	2	2	$15,970	$7,985	0	$0	$0
TOTALS and AVERAGES:	5051	4631	$113,194,565	$24,443	1046	$281,764,938	$269,374

OHIO
2005 Closed Claims
ALAE and Indemnity Payments by Age

AGE RANGE	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Adult (Ages 18-64)	3566	3264	$63,229,386	$19,372	621	$162,966,569	$262,426
Senior (Age 65+)	986	902	$19,154,778	$21,236	259	$36,619,343	$141,387
Infant (Less than 1 year old)	271	255	$23,201,638	$90,987	96	$54,881,741	$571,685
Minor (Ages 1 to 17)	206	190	$7,076,216	$37,243	62	$24,029,978	$387,580
Unknown	22	20	$532,547	$26,627	8	$3,267,308	$408,414
TOTALS and AVERAGES:	5051	4631	$113,194,565	$24,443	1046	$281,764,938	$269,374

OHIO
2005 Closed Claims
ALAE and Indemnity Payments by Gender

GENDER	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Female	2860	2613	$66,510,458	$25,454	605	$146,591,383	$242,300
Male	2189	2016	$46,668,138	$23,149	441	$135,173,556	$306,516
Unknown	2	2	$15,970	$7,985	0	$0	$0
TOTALS and AVERAGES:	5051	4631	$113,194,565	$24,443	1046	$281,764,938	$269,374

OHIO
2005 Closed Claims
ALAE and Indemnity Payments by Location

LOCATION	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Operating Suite (Includes Pre-Op & Operating Rooms)	1198	1118	$23,045,820	$20,613	211	$71,343,692	$338,122
Medical Professional's Office	1163	1106	$19,470,653	$17,605	205	$50,293,484	$245,334
Emergency Room/Emergency Department	751	677	$16,296,345	$24,071	105	$25,292,623	$240,882
Patient's Room, Including Patient Bathroom or Inpatient Areas Not Otherwise Specified	512	447	$9,716,343	$21,737	136	$25,372,765	$186,564

LOCATION	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Obstetrics Department (Labor & Delivery, Recovery & Post-Partum)	270	249	$21,455,207	$86,165	87	$42,535,644	$488,915
Radiology (Includes Mammograpy, CT, MRI, Radiation Therapy & Nuclear Medicine)	210	198	$3,062,131	$15,465	37	$6,031,793	$163,021
Other (No Listed Location Applies)	207	165	$4,082,820	$24,744	40	$8,978,882	$224,472
Outpatient/Ambulatory Care Areas or Facilities	151	138	$2,426,547	$17,584	35	$10,667,951	$304,799
Nursing Home (Includes Assisted Living, Extended Care & Long-Term Care)	149	137	$2,995,918	$21,868	57	$4,786,254	$83,969

LOCATION	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Critical Care Unit (ICU/CCU/NICU)	144	136	$3,145,980	$23,132	25	$10,147,476	$405,899
Special Procedure Room (Includes Cardiac Cath Lab, EEG, Dialysis, Endoscopy, Sleep Lab, etc.)	89	78	$2,558,195	$32,797	26	$4,257,090	$163,734
Patient's Home	53	51	$1,329,821	$26,075	15	$5,614,000	$374,267
Ancillary Services (Includes Laboratory, Pharmacy, and Blood Bank)	41	34	$817,947	$24,057	17	$6,350,827	$373,578
Physical Therapy Dept.	23	22	$305,304	$13,877	13	$1,232,250	$94,788

LOCATION	TOTAL CLAIMS	CLAIMS With ALAE	TOTAL ALAE	AVERAGE ALAE	CLAIMS With INDEMNITY	TOTAL INDEMNITY	AVERAGE INDEMNITY
Mental Health (Includes Psychiatric and Drug & Alchohol Addicition)	21	15	$403,466	$26,898	6	$915,000	$152,500
Recovery Room (Post-Anesthesia Care Unit)	18	17	$442,225	$26,013	5	$2,678,641	$535,728
Facility Support Areas (Including Administrative Areas, Hallways, Elevators, Cafeteria, Gift Shop & Public Restrooms)	16	9	$115,642	$12,849	8	$121,969	$15,246
Hospice Area or Facility	10	9	$307,507	$34,167	7	$308,007	$44,001
Unknown	2	2	$15,970	$7,985	0	$0	$0
TOTALS and AVERAGES:	5051	4631	$113,194,565	$24,443	1046	$281,764,938	$269,374