

PIAA releases national closed claim data

The information that follows is a summary of nationwide medical malpractice claim data from 1985-1998 from more than 20 member companies of the Physician Insurers Association of America (PIAA). More than 30 major medical and dental specialties are represented in the 162,945 claims and suits. These data have been reported in a codified manner; names are not reported to PIAA.

Demographic information

Overall, 45 percent of practitioners were under 45 years old when the malpractice claim occurred. The graph on this page shows practitioners by age, comparing claims closed between 1985-91 and 1992-98. The percentage of PIAA practitioners under age 45 falls short of the AMA percentage.¹ According to the AMA, 50 percent of practitioners are under the age of 45. Claims against female practitioners represent 5.9 percent of the total claims in the database. Not surprisingly, more females had claims filed against them between 1992-98 than 1985-91 (7.5 percent vs. 4.8 percent). This can be explained, in part, because more females are practicing medicine each year. However, AMA statistics indicate that the overall percentage of female practitioners is about 18.8 percent.² Thus, fewer female doctors have claims reported to the PIAA by percentage than are in practice. (See graph on page 2.)

Seventy-eight percent of practitioners with claims reported to the PIAA Data Sharing System are also board certified, for those cases where board certification status was known. The AMA figures show that 60 percent of all physicians are board certified.³ Seventy-one percent of practitioners with claims reported to the PIAA are graduates of U.S. medical schools. AMA figures show that 77 percent of all federal and non-federal physicians are graduates of a medical school in the United States.

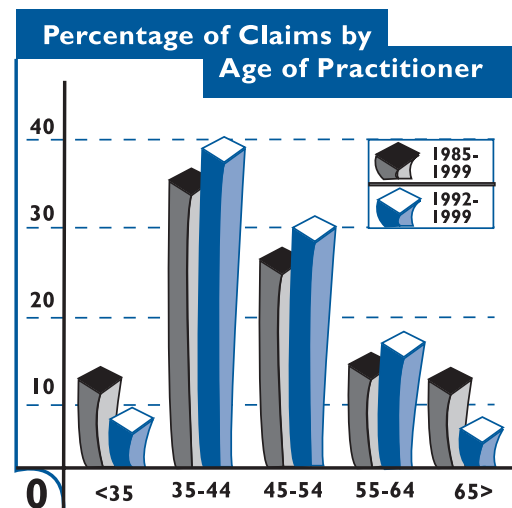
The number of practitioners with previous claims experience is 73 percent. Data on claims closed between 1985 and 1991 show that 71 percent of practitioners had previous claims experience compared to 76 percent of practitioners with claims closed between 1992 and 1998. The number of practitioners who had solo practices at the time the claim occurred has decreased. For those claims closed between 1985 and 1991, 51.3 percent of practitioners were in solo practice. The percentage for most recent six-year period shows that 44.8 percent were in solo practice. For claims closed between 1985 and 1991, 46.3 percent of practitioners were in a group practice. The percentage of practitioners in group practice between 1992 and 1998 increased to 52.9 percent.

Indemnity payment and trends

Of the 28 specialty groups included in the database, obstetric and gynecologic surgery is the group with the most closed (20,725) and paid claims (7,558) reported to the PIAA Data Sharing System. It is also the only group with more than \$1 billion in total indemnity paid (\$1.67B). Internal medicine and family practice have the next highest number of closed claims reported. A total of 31.8 percent of the 146,287 closed claims reported resulted in an indemnity payment to the plaintiff.

Several specialty groups with significant numbers of claims reported have a high percentage of paid to closed claims, and include general and family practice (37.1 percent); Ob/Gyn surgery (36.5 percent); anesthesiology (36.3 percent); and general surgery (36.1 percent). Cardiovascular medicine is the group with the lowest percentage of paid to closed claims (19.5 percent), and the only group with the paid percentage less than 20 percent.

A total of 7,873 closed claims were reported to the PIAA in 1998. Total indemnity paid for these claims amounted to more than \$595 million. The average indemnity paid in 1998 was \$240,914. The median payment was \$125,000. The largest payment reported in 1998 was \$5 million. Although Ob/Gyn had the largest number of closed and paid claims in the cumulative data, internal medicine had the most closed claims reported for 1998 alone (1,135), while Ob/Gyn had the second highest (1,045). However, for paid claims, Ob/Gyn had the highest number overall for 1998 (375).



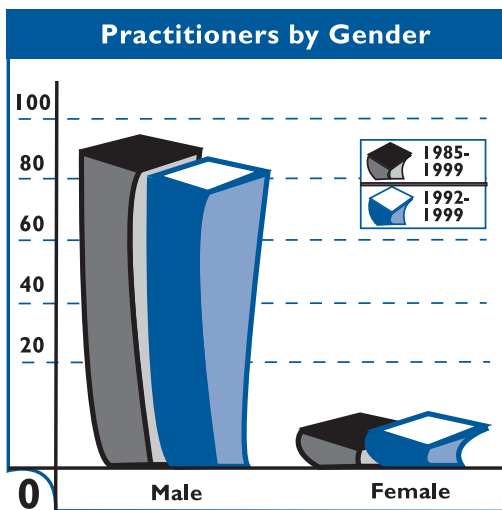
Other specialties with a high frequency of closed claims were general surgery (867) and family practice (843). The highest average payment reported was for neurology (\$527,506) and the highest median was for pathology (\$300,000). One reason for pathology's high median value is a claim resulting in a payment of \$5 million, the largest in 1998.

In 1998, the average indemnity paid on behalf of all practitioners was

continued on page 2

claim data (continued)

\$240,914. In 1993, the average indemnity payment was \$186,335. In that 5-year period, indemnity has increased 22.7 percent. When adjusted for inflation, the increase in the average payment between the two periods is 12.6 percent. Exactly 31.4 percent of the 7,873 claims closed resulted in an indemnity payment to the plaintiff. This percentage is up from 30.7 percent 5 years ago but down from 32.2 percent a decade ago. The average amount of expenses spent to defend claims in 1998 was \$24,669. This average has more than doubled in the past decade, when the average expenses reported were \$11,318 (or \$15,732 when adjusted for inflation). The average expenses paid to defend claims that resulted in an indemnity payment were \$34,791 in 1998, an increase of about \$7,000 over the 1993 figure.



Most prevalent medical misadventures

The most prevalent medical misadventure is improper performance of a procedure, which was reported as the primary issue in 26 percent of claims reported between 1985 and 1998. For claims closed in 1998 only, improper performance was the primary misadventure reported in 25.5 percent of claims followed very closely by errors in diagnosis (25.4 percent).

For claims involving improperly performed procedures, operative procedures on the joint structure was the most prevalent procedure performed. These procedures include

any replacement of a joint, such as the ankle, knee, hip or shoulder. This procedure represented some 6.6 percent of all claims reported as improperly performed. For claims involving errors in diagnosis, breast cancer was the most prevalent condition that was incorrectly or not diagnosed. This condition represented 5.5 percent of all diagnostic error claims. Three of the five most prevalent conditions resulting in an error in diagnosis involved cancer (breast, lung and colon). The other two conditions were myocardial infarction and appendicitis. Together, these five conditions comprised 15.7 percent of all diagnostic error claims.

The second most prevalent medical misadventure reported was no medical misadventure, categorized as a situation where there is an absence of an allegation of any inappropriate medical conduct on the part of the insured. The most prevalent conditions for which providers were sued under no medical misadventure include brain damaged infants, pregnancy, myocardial infarctions, and breast cancer.

Most prevalent patient conditions

The most common patient conditions for which claims were filed against providers were brain damaged infants and breast cancer. Claims involving brain damaged infants resulted in an indemnity payment 47.1 percent of the time. The total indemnity paid for claims involving brain damaged infants was 9.1 percent of the total paid for all claims reported to the PIAA Data Sharing System. These claims also resulted in the highest average payment (\$473,629). Breast cancer was the second most prevalent condition for which claims were filed resulting in a payment of 42.1 percent of closed cases.

For claims closed in 1998, the most prevalent patient conditions that resulted in claims were symptoms involving the abdomen and pelvis. These conditions include abdominal pain, and a mass or lump in the abdominal region. Approximately 35 percent of the 185 claims involving this condition resulted in payment. Pregnancy was the second most common condition reported in 1998, with

31 percent of the 135 claims closed resulting in an indemnity payment.

Most prevalent procedures performed

Diagnostic interview, evaluation and consultation is the procedure category that resulted in the most claims against all physician specialties both in 1998 and in the cumulative data. Of the 146,287 claims closed between 1985 and 1998, almost 20 percent involved the performance of a diagnostic interview, evaluation or consultation. Some \$1.3 billion of the \$7.3 billion (18 percent) paid on behalf of providers involved this procedure. The next most prevalent procedure resulting in claims was the prescription of medication (6.7 percent of claims and 6.0 percent of indemnity).

Severity of the patient's injury

The patient expired in 22.7 percent of the claims reported between 1985 and 1998. For this group of claims, a payment resulted in 33 percent of the closed cases. Almost 27 percent of the total indemnity paid was for claims that resulted in the patient's death. The average payment when the alleged incident resulted in the patient's death, \$181,555, is 14 percent more than the cumulative average for paid claims that did not result in death.

Errors in diagnosis were the most common medical misadventure reported when the patient expired (28.7 percent). A payment was made in 40.2 percent of these claims involving diagnostic error. The patient condition most commonly reported in death cases was acute myocardial infarction. Although breast cancer made up only 1.8 percent of all closed claims where the patient died, more than 46 percent of these claims resulted in indemnity payments totaling over \$79 million. The next two most prevalent conditions resulting in death were lung cancer and aortic aneurysm.

While representing only 4.9 percent of closed claims, when the treatment by a provider resulted in quadriplegia, brain damage or need for lifelong care, the average payment was \$422,365. In addition, the total indemnity for this severity classification was over \$1.25 billion, over 17 percent of the total indemnity reported.

The two most common conditions reported to result in this serious outcome are brain damaged infant and breast cancer.

Claims that involve allegations of emotional trauma to the patient (and no physical injury) represent just over 4 percent of closed claims. Only 17 percent of these claims resulted in an indemnity payment, with an average payment of just \$43,843. Predictably, the most common medical misadventure reported for emotional trauma was “no medical misadventure,” which is commonly used in the absence of any evidence of medical negligence against the provider.

Associated medical and legal issues and personnel

For those cases in which an associated medicolegal issue was included in the allegation against the practitioner, consent issues and breach of contract were second most prevalent behind the “other” category. Almost 12.6 percent of closed claims that reported a related issue included informed consent or breach of contract as an issue in the case. Claims involving this issue resulted in an indemnity payment 40.6 percent of the time. However, the fourth most

prevalent associated issue was problem with records, with the highest percentage of paid claims (62.4 percent). Claims reports may indicate a person who had an association with the provider in the treatment that led to the allegations of negligence. Another physician, consultant or nurse was identified as an associated person in the allegation in 42.6 percent of closed claims (62,276 of 146,287).

Note: Exposure data were not collected by PIAA, and therefore, the relative frequency of the claims reported cannot be measured. Any conclusions that may be drawn from this summary should be viewed as a supplementary source of information. Validity standards vary, depending on the size of individual data sets.

This summary is not intended to be a formal position of the PIAA or TMLT regarding the interpretation of the reported data but is intended to serve as an aid to those who wish to be informed of the data. This summary should not be interpreted as defining standards of care attributable to the PIAA or TMLT, and neither PIAA nor TMLT make any recommendation as to the use of data for such purposes. While every effort has been made to assure the compilation of reliable statistics, neither

the PIAA nor TMLT guarantee or warrant the accuracy of this information.

1 Physician Characteristics and Distribution in the US, 1994 Ed., Table B-5. American Medical Association, Chicago, IL. This edition was chosen because the majority of the claims reported to the PIAA occurred prior to 1995.

2 Ibid. Table B-6, B-7.

3 Ibid. Table B-12. percentages do not include physicians who are inactive or whose specialties are unspecified or not classified.

Questions regarding the information contained in this summary should be addressed to Research Department, Physician Insurers Association of America, 2275 Research Boulevard, Suite 250, Rockville, MD 20850. phone (301) 947-9000; fax (301) 947-9090; e-mail Research@phyins.org

Copies of this issue of the TMLT Reporter are available free of charge on the TMLT website (www.tmlt.org) or by calling Shanna Homann at (800) 580-8658, ext. 5910. For complete copies of PIAA specialty closed claims data, contact PIAA, as indicated above.

Y2K: Information please

Visit these websites for information on Y2K and its effects on health care.

www.texmed.org

Click “Business of Medicine” at Texas Medical Association’s website.

www.ama-assn.org/not-mo/y2k

Visit the American Medical Association’s website and see more Y2K guidelines in the “Members Only” section.

www.rx2000.org

Healthcare’s Year 2000 Information Clearinghouse

www.y2kinfo.com or www.y2khealth.htm

Datamation’s website includes examples of Y2K liabilities in the health care industry.

www.ita.org or yr2000bg.htm

Information Technology Association of America Year 2000 Task Group’s website houses a buyer’s guide for Y2K conversions software.

www.fda.gov

The Food and Drug Administration’s website has resources to help you determine if your equipment is Y2K compliant. For equipment not listed, contact the manufacturer directly.

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Inside INSURANCE

Occurrence or claims-made?

by Sandra Hayden, Senior Underwriter

Do you know which type of policy you have? An occurrence policy provides coverage for incidents that may occur during the time you are insured under the policy. Any claim arising from an incident alleged to have occurred while the policy was active should be reported to TMLT.

This enduring nature of the coverage is the advantage of an occurrence policy. However, for the same reason, it is often more expensive than a claims-made policy. The limits of liability that would apply to the claim would be those you carried at the time of the incident.

Approximately 87 percent of TMLT policyholders carry a claims-made policy. This type of policy usually contains a "retroactive date," the date after which coverage for a

reported claim could be available.

The advantage of a claims-made policy is a low premium the first year that rises incrementally until the fourth year. The premium remains stable thereafter, being affected only by a general rate change. The limits of liability that apply under a claims-made policy are those in effect when the claim was actually reported.

When a claims-made policy is cancelled, coverage under the policy ceases, however a Reporting Endorsement (tail coverage) may be purchased for an additional premium. This would allow you to continue to report claims under the policy, provided that the incident occurred while the policy was in force. TMLT offers free tail coverage to policyholders completely retiring from

practice if they are at least age 50 and have been continuously insured on a TMLT claims-made policy for at least five years. It is also provided at no cost in the event of death or retirement due to disability.

Physicians who change insurance carriers can avoid the need to purchase tail coverage by securing "prior acts" coverage from the new carrier, which enables the retroactive date on the new policy to be the same as on the old policy, so that coverage is continuous. If a new claim arises from incidents during the prior acts period, it may be reported to the new carrier.

No matter what type of policy you have, TMLT's dedicated and experienced staff is committed to providing you with the best possible service.