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# Web-based Medical Malpractice Data Reporting

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# Closed Claim Reporting Law

- March 2006: Washington passed Health Care Liability Reform – including a framework for medical malpractice closed claim data reporting.
  - Who: Insurers (admitted and surplus lines), self-insurers and risk retention groups.
  - What: Claims that close on or after January 1, 2008.
  - How: A web-based data reporting application.
- June 2007: Rules establishing data definitions and reporting procedures completed.
- August 2008: Web-based medical malpractice data reporting application will “go live.”

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# Collecting and organizing data

- The OIC has published a Closed Claim Data Collection Worksheet to organize data (WAC284-24D-040(1)).
- The worksheet has:
  - The same the sequence of data as the web-based data reporting site.
  - Citations hyperlinked to reference materials:
    - Laws.
    - Rules.
    - Documents at the National Practitioner Data Bank (NPDB) website.

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## What is a closed claim?

- “Closed claim” is defined in RCW 48.140.010(3) and WAC 284-24D-080.
- “Closed” means final administrative action has been taken to close the claim:
  - The final payment is issued to the claimant/plaintiff.
  - Bills for allocated loss adjustment expenses are paid.
  - Indemnity and ALAE data are obtained from a excess insuring entity (if applicable).
- OIC expects reporting entities will close claims in a timely manner.

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## Self-insurers report closed claims if:

- The claim is not covered by an insuring entity (RCW 48.140.020) or the claim falls within a self-insured retention (WAC 284-24D-140).
- The self-insurer wants to report claims and designates itself as the principal reporting entity (WAC 284-24D-150).
- The insuring entity (surplus lines insurer or risk retention group) refuses to report the claim (RCW 48.140.020 and WAC 284-24D-160).

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# Reporting entities register

- Each reporting entity must register a primary user.
- After the primary user registers, the application assigns a permanent User ID number to the entity.
- The primary user can register secondary users – a feature requested by health care facilities that have multiple locations in Washington State.
- Secondary users may be:
  - Employees of the reporting entity.
  - A Third Party Administrator (TPA).

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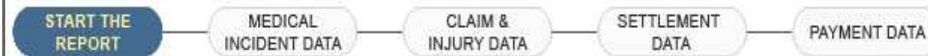
## Start the report

- After registration, users can login and “Start the Report”.
  - The application pre-populates some fields based on the reporting entity user ID.
  - Users can edit contact information.
- A claim identifier must be entered on this page.
- If *the entity* has made payments for more than one facility or provider, it must provide:
  - An incident identifier.
  - The number of defendants.

## Medical Malpractice Closed Claim Report

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### Insuring Entities, Self-Insurers, Facilities and Providers



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#### Reporting Entity Information

Name of Your Organization	<input type="text" value="XYZ Insurance Company"/>		
NAIC#, WAOIC# or NPI#	<input type="text" value="235"/>		
This is the Federal Tax ID number under which your Organization is registered.	<input type="text" value="1235"/>		
Reporting Entity User ID	<input type="text" value="121"/>		
Your Last Name	<input type="text" value="Howard"/>	Your First Name	<input type="text" value="Sue"/>
Phone Number	<input type="text"/>	E-mail	<input type="text" value="sue@mail.com"/>

#### Claim and Incident Information

Please enter the claim identifier assigned by your Organization

Did your Organization make indemnity payments and/or incur allocated loss adjustment expenses for more than one facility or provider because of this medical incident?  Yes  No

Please enter the incident identifier assigned by your Organization

Number of defendants

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# Claim and incident identifiers

- Under RCW 48.140.030(1) and WAC 284-24D-110, you must assign:
  - A claim identification number to each closed claim.
  - An incident identifier if “companion claims” were made by a claimant.

“Companion claims” are separate claims made against other providers or facilities that involve the same incident.
- Claim and incident identifiers must be numbers.

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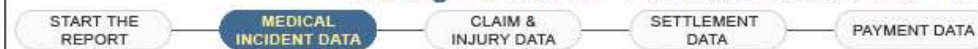
# Medical Incident Data

- Date of medical incident.
- Location of medical incident:
  - Geographic (county and city).
  - Incident location based on Physician Insurers Association of America (PIAA) manual.
- Organization and medical specialty based on National Practitioner Data Bank (NPDB) reports:
  - Type of organization that provided services.
  - Medical specialty of health care provider.

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#### Date of Medical Incident

On what date did the medical incident that most directly caused the injury occur?

#### Geographical Location of Medical Incident

In which county did the medical incident that most directly caused the injury occur?

Location out of state

In which city did the medical incident that most directly caused the injury occur?

#### Location of Medical Incident within the Facility, Institution, or Clinic

In which location within the medical facility did the medical incident that most directly caused the injury occur?

Other location(describe)

Location other than an inpatient facility

#### Type of Organization providing Care, Services or Products

What type of Organization provided care, services or products that most directly caused the injury?

Group or practice

#### Medical Specialty of the Health Care Provider

What was the medical specialty of the provider who most directly caused the injury?

Physician Specialties

Dental Specialties

If you do not select a specialty from the selections provided above, you must describe the medical specialty of the health care provider, or select "none" if the claim was made against a facility.

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# Claim and Injury Data

- Demographics of injured person:
  - Gender.
  - Sex.
  - Age group.
- Proximate cause of injury (NPDB allegation coding structure).
- Outcome and severity of injury (NPDB and PIAA coding structure).

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### Insuring Entities, Self-Insurers, Facilities and Providers

START THE  
REPORT

MEDICAL  
INCIDENT DATA

CLAIM &  
INJURY DATA

SETTLEMENT  
DATA

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What was the injured person's gender on the date of medical incident?

What was the injured person's age on the date of the medical incident?

Was the injured person an infant?  Yes  No

Infant Age Group on date of medical incident

Age Group (in years) on the date of the medical incident

What was the allegation that led to the medical malpractice claim?

Please provide one type of specific allegation that led to the medical malpractice claim. If there was more than one specific allegation, please select the allegation that was the proximate cause of the claim against this facility or provider.

Failure to take appropriate action

Allegation - not otherwise classified, specify

Please describe the allegation in this text box

(Reporting entities must use this field to describe the allegation. OIC will use this field for auditing purposes, and data from this field will not be included in any published report. Limit: 300 characters including spaces and punctuation. Do not reference any personal identification information, such as name.)

Please provide the outcome & severity of the injury

These selections are the same as the outcome codes published by the National Practitioner Data Bank.

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# Settlement Data

- **Dates:**
  - Notice.
  - Suit (if filed).
  - Final indemnity payment.
- **Settlement information:**
  - Method and outcome of disposition.
  - Timing of settlement.

## Medical Malpractice Closed Claim Report

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### Insuring Entities, Self-Insurers, Facilities and Providers

START THE  
REPORT

MEDICAL  
INCIDENT DATA


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#### Information about the Timing and Method of Claim Settlement

On what date was your Organization notified of the claim?  

Was a suit filed?  Yes  No

Date of suit  

Date of final indemnity payment  

Date the claim was closed by your Organization  

Date the claim was re-opened  

(If your entity re-opened the claim to report additional payments or subrogation recoveries.)

#### Settlement Information

Please provide the method used to resolve the claim:

Method of claim disposition

Select the outcome of the court disposition

Select the method and outcome of the alternative dispute resolution  If other, please specify

When was the claim settled or disposed?

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# Payment Data

- Gross indemnity payments made for the defendant, including amounts paid under a self-insured retention.
- If applicable, the judgment/verdict.
- Itemized economic and non-economic damages or paid and estimated economic damages.
- Allocated loss adjustment expenses (using PIAA breakdown):
  - Defense counsel.
  - Expert witnesses.
  - All other costs.

### Medical Malpractice Closed Claim Report

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#### Insuring Entities, Self-Insurers, Facilities and Providers



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Your Organization is registered as

Commercial Insurer

Are you reporting this claim because your organization was insured by a risk retention group or surplus lines insurer that will not report data to OIC?  Yes  No

#### What Type of Insurance Coverage applied to this Claim

Did an insurer or risk retention group provide primary, excess, or both types of insurance coverages? If the claim was completely self-insured because insurance was not available or the claim fell under a retention limit, select

Select One

Claim was self-insured

Were indemnity payments made by or on behalf of this defendant to one or more claimants?

Yes  No

#### Please report the Sum of all Indemnity Payments made to resolve this Claim

(Report all indemnity payments made from any source on behalf of this defendant. Round to the nearest dollar.)

What were the sum of all indemnity payments made by your Organization to resolve this claim?

\$

What were the sum of all indemnity payments made by your Organization and, if applicable, other insuring entities, and/or the defendant(s) due to a deductible, self-insured retention, or any other reason?

\$

What were the sum of all indemnity payments made by your Organization and/or all insurer(s) or risk retention groups that provided coverage for this claim?

\$

Did a court award a different amount than the sum of all indemnity payments that you have reported above?

Yes  No

What was the total amount of the judgment or verdict?

\$

#### Information about the Itemized Damages

Did a court itemize damages?

Yes  No

Total economic damages awarded by the court

\$

Total non-economic damages awarded by the court

\$

What were the sum of all paid and estimated economic damages? The maximum entry is an amount equal to the sum of all indemnity payments that you previously reported.

\$

Will all or part of the indemnity payments be distributed under a structured settlement?

Yes  No

Has any other insuring entity, or self-insurer, facility or provider made claim payment(s) related to this medical incident?

Yes  No  Unknown

#### Itemize the Allocated Loss Adjustment Expenses (ALAE)

(Provide detailed information about ALAE paid on behalf of this defendant from all sources. Round to the nearest dollar.)

Sum of defense counsel ALAE – including both in-house and outside counsel

\$

Sum of expert witness ALAE – including both in-house and outside experts

\$

Sum of all other ALAE

\$

Total allocated loss adjustment expenses paid on behalf of this defendant.

\$

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# What are the elements of economic loss?

Under RCW 4.56.250(1)(a) and WAC 284-24D-360, the elements of economic damages are:

- ❑ Medical expenses.
- ❑ Loss of earnings.
- ❑ Burial costs.
- ❑ Cost of obtaining substitute domestic services.
- ❑ Loss of employment.
- ❑ Loss of business or employment opportunities.

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# Estimating economic damages . . .

Where appropriate, you must:

- ❑ Project the elements of economic loss for the:
  - Duration of the injury or disability.
  - Anticipated life span of the injured/deceased person.
- ❑ Discount economic damages to present value.
- ❑ Consider related factors, such as:
  - Issues of negligence and liability.
  - The relative strength of the defense.
  - The component of the claim payment driven by economic damages.

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# What are allocated loss adjustment expenses (ALAE)?

- ALAE are defense and cost containment expenses (WAC 284-24D-020(1)).
- Expenses paid for defense, litigation and medical cost containment services must be reported, including:
  - Services provided by:
    - Internal staff, such as in-house counsel or professional medical staff.
    - External staff, such as defense counsel or expert witnesses.
  - Specific case-related expenses.

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## Itemized ALAE

- Report the sum of these ALAE components:
  - Defense counsel ALAE (in-house and outside counsel).
  - Expert witness ALAE (in-house and outside experts).
  - All other ALAE.
- The reporting application will sum the components of ALAE and display one figure.

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## ALAE does not include:

- Expenses to determine whether coverage is available.
- Expenses or costs associated with external or internal claims adjusting staff.
  - Staff adjusters.
  - Independent (contract) adjusters.
- Adjusters typically:
  - Verify that coverage applies.
  - Investigate claims.
  - Make restitution to the injured person.

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## Calculating in-house ALAE . . .

Under WAC 284-24D-340(2), entities that use internal staff for defense and cost containment services must:

- Must report salary, benefits and an allocation for overhead for those employees.
- May use average salaries and time studies when calculating ALAE for internal staff.

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# Editing your work

- Closed claim reports can be re-opened to update or correct data.

For example, subrogation recoveries may take time to collect, so you can re-open claim reports and edit data.

- From March 15 through June 30 of each year, old reports may not be edited without approval from the OIC (WAC 284-24D-100).
- New closed claim reports can entered anytime during the year (WAC 284-24D-090).

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## For help with a closed claim report . . .

- Email us at [medmalreports@oic.wa.gov](mailto:medmalreports@oic.wa.gov)
- New information will be posted at [http://www.insurance.wa.gov/insurers/rates\\_forms/medMalClaimReport.shtml](http://www.insurance.wa.gov/insurers/rates_forms/medMalClaimReport.shtml)
- The web-based reporting application should be ready for business by August 1, 2008.
- Reports for claims closed in 2008 are due by March 1, 2009.

