

OKLAHOMA INSURANCE DEPARTMENT



Medical Professional Liability Insurance Closed Claim Annual Report

January 1, 2011– December 31, 2011



**PROTECTING
OKLAHOMA**

JOHN D. DOAK
INSURANCE COMMISSIONER

OKLAHOMA
INSURANCE
DEPARTMENT

Oklahoma Insurance Department
Five Corporate Plaza
3625 NW 56th, Suite 100
Oklahoma City, OK 73112
1-800-522-0071

OKLAHOMA INSURANCE DEPARTMENT

MEDICAL PROFESSIONAL LIABILITY INSURANCE

CLOSED CLAIM ANNUAL REPORT

JANUARY 1, 2011 – DECEMBER 31, 2011

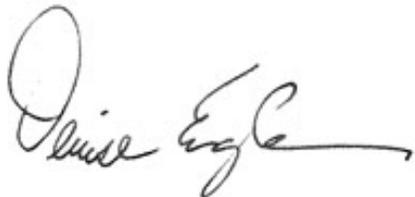
The Oklahoma Insurance Department (OID) hereby presents composite data of medical professional liability closed-claim reports for 2011.

The OID publishes this report pursuant to Title 36, Section 6813 of the Oklahoma Statutes. This report contains aggregate numbers from statewide closed-claims data. Information about specific closed claims is confidential pursuant to Title 36, Section 6816 and is unavailable for public inspection.

The OID has established procedures to collect these claim reports and produce this final composite report. However, the closed-claim reports submitted to the Insurance Department are completed without any type of affirmation of data accuracy supplied by the insurance company. The OID makes neither final nor absolute guarantee about the information contained in this report. This information should not be viewed as a substitute for any type of financial or actuarial opinion about a reporting insurer's claims activities.

The OID collects unedited data from reporting insurers and presents the final aggregate numbers in this annual report. The Oklahoma Insurance Department continues to work with the Oklahoma Legislature and others at the state capitol to more accurately define the statutory requirements and enhance data collection and its understanding.

Questions applicable to this report should be directed to:



Denise M. Engle, CPCU, CIIP, AIC
Deputy Commissioner of Workers' Compensation
Rate and Form Compliance Division
Licensing and Education Division
Denise.Engle@oid.ok.gov

Five Corporate Plaza
3625 NW 56th, Suite 100
Oklahoma City, OK 73112-4511
1-800-522-0071

INSURANCE CLOSED CLAIM ANNUAL REPORT 2011

**The policy limits of the medical professional liability insurance policy covering the claim:
Per occurrence policy limits, primary coverage.**

| Insurance Policy Limits | Closed Claim Count |
|-------------------------|--------------------|
| 25,000 | 6 |
| 50,000 | 1 |
| 100,000 | 5 |
| 125,000 | 12 |
| 250,000 | 3 |
| 500,000 | 29 |
| 1,000,000 | 562 |
| 1,500,000 | 3 |
| 2,000,000 | 92 |
| 3,000,000 | 8 |
| 5,000,000 | 39 |
| 6,000,000 | 1 |
| 10,000,000 | 11 |
| 15,000,000 | 3 |
| Unknown/unreported | 16 |

**The policy limits of the medical professional liability insurance policy covering the claim:
Annual policy limits, primary coverage.**

| Insurance Policy Limits | Closed Claim Count |
|-------------------------|--------------------|
| 25,000 | 3 |
| 75,000 | 1 |
| 300,000 | 5 |
| 1,000,000 | 95 |
| 2,000,000 | 15 |
| 3,000,000 | 498 |
| 4,000,000 | 62 |
| 4,500,000 | 5 |
| 5,000,000 | 17 |
| 6,000,000 | 23 |
| 10,000,000 | 4 |
| 12,000,000 | 1 |
| 15,000,000 | 3 |
| 25,000,000 | 1 |
| Unknown/unreported | 58 |

The medical specialty of the provider who was primarily responsible for the medical malpractice incident that led to the claim.

| Medical Specialty | Providers Count |
|------------------------------------|-----------------|
| Anesthesiology | 22 |
| Cardiovascular diseases | 20 |
| Dermatology | 3 |
| Diagnostic Radiology | 8 |
| Emergency medicine | 63 |
| Forensic pathology | 2 |
| Gastroenterology | 4 |
| General / Family Practice | 50 |
| General preventive medicine | 1 |
| Hospitalist | 14 |
| Internal medicine | 29 |
| Neurology | 5 |
| Obstetrics & Gynecology | 44 |
| Ophthalmology | 2 |
| Otolaryngology | 5 |
| Pediatrics | 8 |
| Psychiatry | 11 |
| Public health | 5 |
| Clinical pharmacology | 1 |
| Physical medicine & rehabilitation | 3 |
| Pulmonary diseases | 10 |
| Radiology | 26 |
| Radiation oncology | 1 |
| General surgery | 63 |
| Neurological surgery | 14 |
| Orthopedic surgery | 51 |
| Plastic surgery | 12 |
| Thoracic surgery | 4 |
| Urological surgery | 9 |
| Unknown/Unspecified | 243 |
| General dentistry (no specialty) | 56 |
| Dental: Public Health | 1 |
| Pediatric Dentistry | 1 |

INSURANCE CLOSED CLAIM ANNUAL REPORT 2011

The medical occupation/field of the provider who was primarily responsible for the medical malpractice incident that led to the claim.

The primary location within a facility where the medical malpractice incident occurred.

| Medical Occupation/Field | Providers Count |
|--------------------------------|-----------------|
| Chiropractor | 5 |
| Counselor-Mental Health | 1 |
| Marriage and family therapist | 2 |
| Dentist | 58 |
| Optometrist | 3 |
| Registered Nurse | 8 |
| Nurse anesthetist | 1 |
| Nurse practitioner | 4 |
| Licensed practical | 4 |
| Certified nurse aide/assistant | 1 |
| Home health aide | 1 |
| Pharmacist | 19 |
| Pharmacy assistant | 1 |
| Physician (MD) | 378 |
| Osteopathic Physician (DO) | 74 |
| Physician assistant allopathic | 13 |
| Podiatrist | 3 |
| Psychologist | 1 |
| Social worker | 1 |
| Other/Not Specified | 1 |
| Not an individual defendant | 208 |
| Unknown | 4 |

| Location within Facility | Closed Claim Count |
|--|--------------------|
| Catheterization lab | 8 |
| Critical care unit | 5 |
| Dispensary | 1 |
| Emergency department | 104 |
| Labor and delivery room | 31 |
| Laboratory | 4 |
| Nursery | 2 |
| Operating room | 230 |
| Outpatient department | 5 |
| Patient room | 111 |
| Pharmacy | 2 |
| Physical therapy department | 5 |
| Radiology department | 27 |
| Recovery room | 1 |
| Rehabilitation center | 1 |
| Special procedure room | 19 |
| Clinical support center - such as a laboratory or radiology center | 2 |
| Office | 126 |
| Walk-in clinic | 6 |
| Other department in hospital | 2 |
| Other/Unknown | 99 |

The type of health care facility where the medical malpractice incident occurred.

| Type of Health Care Facility | Closed Claim Count |
|--|--------------------|
| Chiropractic Group / Practice | 5 |
| Dental Group/Practice | 59 |
| Optician/Optometric Group/Practice | 2 |
| Medical Group/Practice | 65 |
| Mental Health/Substance Abuse Group/Practice | 3 |
| Home Health Agency/Organization | 4 |
| General/Acute Care Hospital | 482 |
| Psychiatric Hospital | 1 |
| Rehabilitation Hospital | 1 |
| Nursing Facility/Skilled Nursing Facility | 23 |
| Intermediate Care Facility for Mentally Retarded/Substance Abuse/Hospice/Hospice Care Provider | 2 |
| Residential Treatment Facility/Program | 2 |

| Type of Health Care Facility | Closed Claim Count |
|---|--------------------|
| Outpatient Rehabilitation Center/Comprehensive Outpatient Rehabilitation Center | 3 |
| Ambulatory Surgical Center | 38 |
| Ambulatory Clinic/Center | 18 |
| Health Center/Federally Qualified Health Center/Community Health Center | 4 |
| Mental Health Center/Community Mental Health Center | 1 |
| Rural Health Clinic | 2 |
| Radiology/Imaging Center | 3 |
| Health Insurance Company/Provider | 6 |
| Pharmacy | 21 |
| Purchasing Service | 1 |
| Ambulance/Transportation Company | 3 |
| Other not specified | 42 |

INSURANCE CLOSED CLAIM ANNUAL REPORT 2011

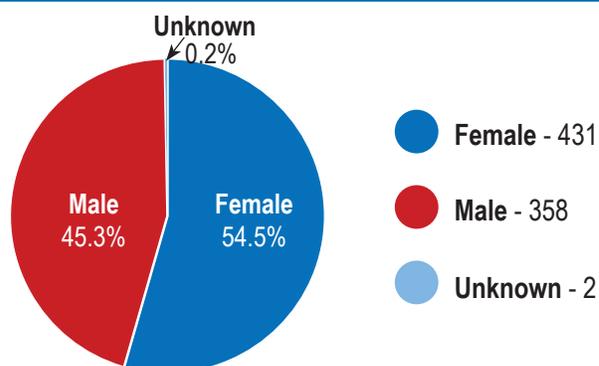
The geographic location, by city, where the medical malpractice incident occurred.

| City | Closed Claim Count | City | Closed Claim Count |
|--------------|--------------------|---------------|--------------------|
| Ada | 7 | Muskogee | 18 |
| Altus | 8 | Mustang | 4 |
| Antlers | 1 | Newcastle | 1 |
| Ardmore | 5 | Newkirk | 1 |
| Bartlesville | 14 | Norman | 33 |
| Bethany | 4 | Nowata | 1 |
| Broken Arrow | 4 | Oklahoma City | 203 |
| Chandler | 1 | Okmulgee | 8 |
| Cheyenne | 1 | Owasso | 2 |
| Chickasha | 8 | Pauls Valley | 2 |
| Choctaw | 1 | Ponca City | 9 |
| Claremore | 5 | Poteau | 3 |
| Cleveland | 1 | Pryor | 2 |
| Coalgate | 1 | Purcell | 2 |
| Coweta | 1 | Rogers | 1 |
| Dewey | 1 | Sallisaw | 8 |
| Duncan | 4 | Sapulpa | 3 |
| Durant | 7 | Sayre | 1 |
| Edmond | 36 | Seminole | 2 |
| Enid | 6 | Shawnee | 16 |
| Fairview | 1 | Skiatook | 1 |
| Frederick | 1 | Stigler | 1 |
| Grove | 2 | Stillwater | 14 |
| Guthrie | 5 | Stilwell | 6 |
| Harrah | 1 | Taft | 2 |
| Hobart | 1 | Tahlequah | 13 |
| Holdenville | 1 | Tishomingo | 2 |
| Idabel | 12 | Tulsa | 200 |
| Kingfisher | 1 | Tuttle | 1 |
| Kiowa | 1 | Unknown | 8 |
| Lawton | 32 | Vinita | 2 |
| Lexington | 1 | Wagoner | 5 |
| Mangum | 1 | Wainwright | 1 |
| Marlow | 1 | Waurika | 1 |
| McAlester | 7 | Weatherford | 6 |
| Miami | 2 | Woodward | 2 |
| Midwest City | 14 | Yukon | 1 |
| Moore | 5 | | |

The geographic location, by county, where the medical malpractice incident occurred.

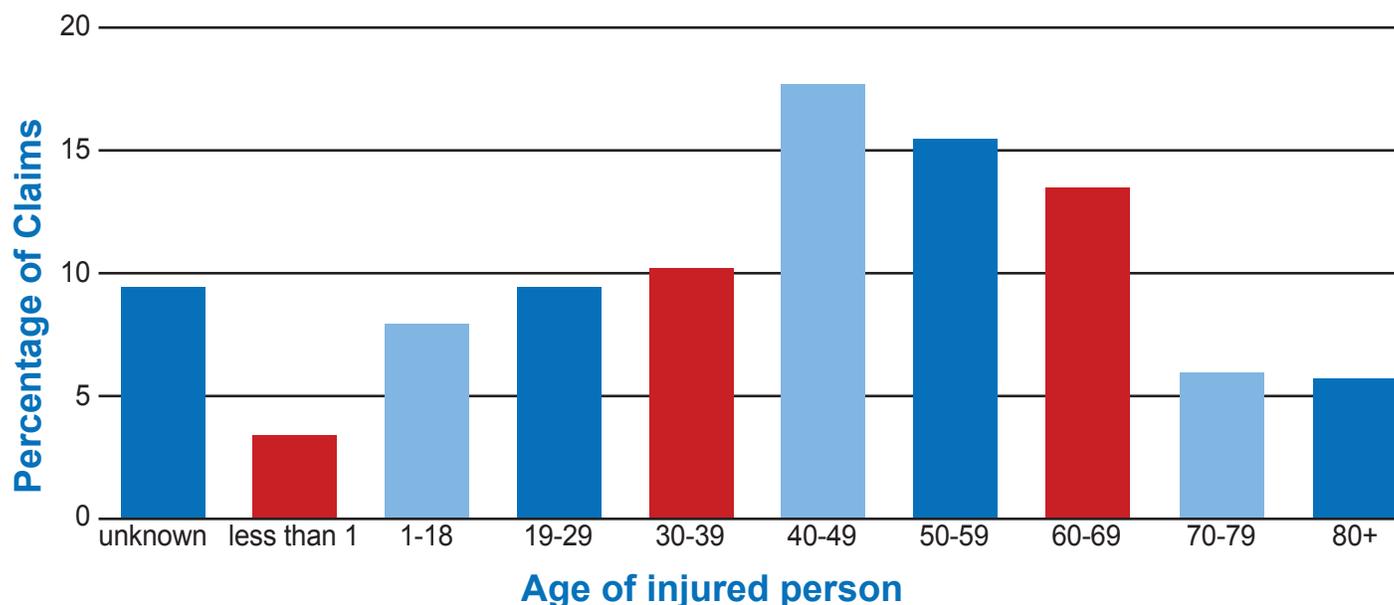
| County | Closed Claim Count | County | Closed Claim Count |
|------------|--------------------|--------------|--------------------|
| Adair | 6 | Logan | 5 |
| Beckham | 1 | Major | 1 |
| Bryan | 7 | Mayes | 1 |
| Canadian | 5 | McClain | 3 |
| Carter | 5 | McCurtain | 12 |
| Cherokee | 13 | Muskogee | 20 |
| Cimmaron | 1 | Oklahoma | 272 |
| Cleveland | 39 | Okmulgee | 11 |
| Coal | 1 | Osage | 4 |
| Comanche | 32 | Ottawa | 2 |
| Craig | 2 | Pawnee | 1 |
| Creek | 3 | Payne | 13 |
| Custer | 6 | Pittsburg | 6 |
| Delaware | 2 | Pontotoc | 8 |
| Garfield | 4 | Pottawatomie | 13 |
| Garvin | 2 | Pushmataha | 1 |
| Grady | 9 | Roger Mills | 1 |
| Greer | 1 | Rogers | 6 |
| Haskell | 2 | Seminole | 5 |
| Hughes | 1 | Sequoyah | 8 |
| Jackson | 6 | Stephens | 5 |
| Jefferson | 1 | Tillman | 1 |
| Johnson | 2 | Tulsa | 193 |
| Kay | 9 | Unknown | 4 |
| Kingfisher | 1 | Wagoner | 8 |
| Kiowa | 3 | Washington | 14 |
| LeFlore | 5 | Washita | 1 |
| Lincoln | 1 | Woodward | 2 |

The sex of the injured person on the incident date.



INSURANCE CLOSED CLAIM ANNUAL REPORT 2011

The age of the injured person on the incident date.



| Age | How many | Percentage |
|-------------|----------|------------|
| Unknown | 76 | 9.6 |
| less than 1 | 27 | 3.4 |
| 1-18 | 64 | 8.1 |
| 19-29 | 76 | 9.6 |
| 30-39 | 80 | 10.1 |

| Age | How many | Percentage |
|-------|----------|------------|
| 40-49 | 140 | 17.7 |
| 50-59 | 125 | 15.8 |
| 60-69 | 109 | 13.8 |
| 70-79 | 48 | 6.1 |
| 80+ | 46 | 5.8 |

The severity of malpractice injury using the National Practitioner Data Bank severity scale.

| Temporary | | |
|-----------|------------------|-------|
| NPDB code | Type of Injury | Count |
| 1 | Emotional injury | 33 |
| 2 | Insignificant | 56 |
| 3 | Minor | 149 |
| 4 | Major | 79 |

| Permanent | | |
|-----------|----------------|-------|
| NPDB code | Type of Injury | Count |
| 5 | Minor | 42 |
| 6 | Significant | 41 |
| 7 | Major | 86 |
| 8 | Grave | 17 |
| 9 | Death | 198 |
| | Unknown | 90 |

Settlement information that identifies the final method of claim disposition.

| Method of claim disposition | Closed Claim Count |
|---|--------------------|
| Claim is abandoned by the claimant . | 351 |
| Claim is settled by the parties. | 161 |
| Directed verdict for the defendant | 11 |
| Involuntary dismissal | 124 |
| Judgment for the defendant | 23 |
| Judgment for the defendant after appeal | 6 |
| Judgment for the plaintiff | 2 |

| Method of claim disposition | Closed Claim Count |
|---|--------------------|
| Judgment notwithstanding verdict for the defendant (judgment for the plaintiff) | 1 |
| Judgment notwithstanding verdict for the plaintiff (judgment for the defendant) | 4 |
| Mediation | 93 |
| Other type of alternative dispute resolution process | 14 |
| Unknown | 1 |

INSURANCE CLOSED CLAIM ANNUAL REPORT 2011

Settlement information that identifies the timing of claim disposition

| Timing of Claim deposition | Closed Claim Count |
|---|--------------------|
| Before filing suit or requesting arbitration or a mediation hearing | 147 |
| Before trial, arbitration or mediation | 489 |
| During trial, arbitration or mediation | 129 |
| After trial or hearing, but before judgment or award | 1 |
| After judgment or decision, but before appeal | 9 |
| During an appeal | 2 |
| After an appeal | 8 |
| During review panel or non-binding arbitration | 4 |
| Unknown | 2 |

Specific information about the indemnity payments and defense and cost-containment expenses for claims disposed of by a court THAT RESULT in a verdict or judgment that itemizes damages.

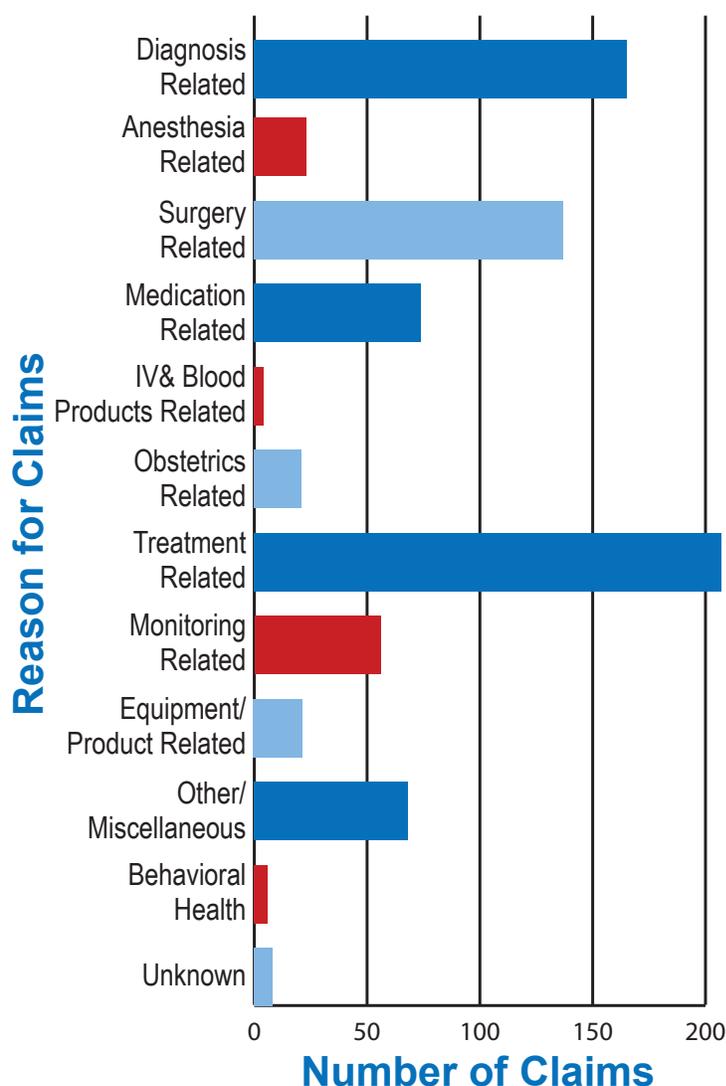
| | |
|---|----------|
| The indemnity payment made on behalf of the defendant | \$45,000 |
| Economic damages | \$0 |
| Noneconomic damages | \$0 |
| Punitive damages, if applicable | \$0 |
| Total Defense and Cost Containment Expense | \$99,896 |

Specific information about the indemnity payments and defense and cost-containment expenses for claims that DO NOT result in a verdict or judgment that itemizes damages.

| | |
|---|--------------|
| The total amount of the settlement on behalf of the defendant | \$50,941,413 |
| The insuring entity's or self-insurer's best estimate of economic damages included in the settlement | \$10,450,490 |
| The insuring entity's or self-insurer's best estimate of noneconomic damages included in the settlement | \$34,959,972 |
| Total Defense and Cost Containment Expense | \$22,167,862 |

The reason for the medical professional liability claim, allegation group

| Reason | Closed Claim Count |
|-----------------------------|--------------------|
| Diagnosis Related | 165 |
| Anesthesia Related | 23 |
| Surgery Related | 137 |
| Medication Related | 74 |
| IV & Blood Products Related | 4 |
| Obstetrics Related | 21 |
| Treatment Related | 207 |
| Monitoring Related | 56 |
| Equipment / Product Related | 22 |
| Other / Miscellaneous | 68 |
| Behavioral Health | 6 |
| Unknown | 8 |



INSURANCE CLOSED CLAIM ANNUAL REPORT 2011

The reason for the medical professional liability claim, specific allegation.

| NPDB code | Reason | Closed Claim Count | NPDB code | Reason | Closed Claim Count |
|-----------|---|--------------------|-----------|---|--------------------|
| 100 | Failure to use aseptic technique | 1 | 326 | Wrong dosage ordered of correct medication | 7 |
| 101 | Failure to diagnose | 71 | 327 | Wrong medication administered | 6 |
| 102 | Failure to delay case when indicated | 1 | 328 | Wrong medication dispensed | 9 |
| 104 | Failure to treat fetal distress | 1 | 329 | Wrong medication ordered | 2 |
| 105 | Failure to medicate | 3 | 330 | Wrong body part | 7 |
| 106 | Failure to monitor | 41 | 332 | Wrong equipment | 1 |
| 107 | Failure to order appropriate medication | 3 | 333 | Wrong patient | 4 |
| 108 | Failure to order appropriate test | 1 | 334 | Wrong procedure or treatment | 5 |
| 109 | Failure to perform preoperative evaluation | 1 | 400 | Contraindicated procedure | 4 |
| 110 | Failure to perform procedure | 2 | 402 | Unnecessary procedure | 6 |
| 112 | Failure to recognize a complication | 23 | 404 | Unnecessary treatment | 2 |
| 113 | Failure to treat | 36 | 500 | Communication problem between practitioners | 8 |
| 200 | Delay in diagnosis | 64 | 501 | Failure to instruct or communicate with patient of family | 9 |
| 201 | Delay in performance | 8 | 502 | Failure to report on patient condition | 1 |
| 202 | Delay in treatment | 13 | 504 | Failure to supervise | 5 |
| 203 | Delay in treatment of identified fetal distress | 2 | 505 | Improper supervision | 3 |
| 300 | Administration of blood or fluid problems | 1 | 600 | Failure/delay in admission to hospital | 1 |
| 303 | Equipment utilization problem | 6 | 601 | Failure/delay in referral or consultation | 4 |
| 304 | Improper choice of delivery method | 4 | 702 | Breach of contract or warranty | 1 |
| 305 | Improper management | 42 | 703 | Breach of patient confidentiality | 1 |
| 306 | Improper performance | 150 | 704 | Equipment malfunction | 3 |
| 308 | Improperly performed vaginal delivery | 2 | 706 | Failure to ensure patient safety | 12 |
| 309 | Improperly performed resuscitation | 3 | 707 | Failure to obtain consent / lack of informed consent | 7 |
| 311 | Improper technique | 31 | 711 | (Legal/ethical/moral) improper conduct | 4 |
| 314 | Pathology error | 1 | 715 | Product liability | 21 |
| 316 | Patient history | 1 | 716 | Religious issues | 1 |
| 318 | Patient monitoring problem | 3 | 717 | Sexual misconduct | 2 |
| 319 | Patient position problem | 3 | 718 | Third party claimant | 3 |
| 320 | Problem with appliance | 5 | 719 | Vicarious liability | 25 |
| 321 | Radiology or imaging error | 7 | 899 | Cannot be determined from available records | 12 |
| 322 | Surgical or other foreign body retained | 19 | 999 | Allegation not otherwise classified | 35 |
| 323 | Wrong diagnosis or misdiagnosis | 10 | 099 | UNKNOWN | 10 |
| 324 | Wrong dosage administered | 4 | | | |
| 325 | Wrong dosage dispensed | 7 | | | |

*2011 Supplemental Information

| | |
|--|--------------|
| Number of claims with payment by insurer | 200 |
| Number of claims with no payment by insurer | 591 |
| Average claim settlement or award with payment by insurer | \$254,932 |
| Total defense and cost containment expense for claims with payment by insurer | \$11,294,315 |
| Total defense and cost containment expense for claims with no payment by insurer | \$10,973,443 |
| Average defense and cost containment for claims with payment by insurer | \$56,472 |
| Average defense and cost containment for claims with no payment by insurer | \$18,568 |

8 *This supplemental information is provided as a courtesy by the Oklahoma Insurance Department to supplement your Medical Professional Liability Insurance Closed Claim Annual Report and is not required to be furnished by statute.