



Medical Indemnity Report

**An analysis of premium and claim trends
for medical indemnity insurance in Australia
from 1996 to 2007**

**Prepared by Insurance Statistics Australia Limited
using data supplied by its members:**

Members of the Medical Indemnity Industry Association of Australia (MIIAA):

| | |
|--|---|
| Avant Insurance Ltd (comprising Australasian Medical Insurance Ltd (AMIL) and Professional Indemnity Insurance Company Australia Pty Ltd (PIICA)) and Avant Mutual Group (formerly United Medical Protection and the Medical Defence Association of Victoria) | MDA National Insurance Pty Ltd (MDANI) and MDA National; |
|--|---|

and

**Medical Insurance Australia Pty Ltd and
the Medical Defence Association of South Australia (MDASA)
(together, Medical Insurance Group Australia (MIGA))**

PUBLISHED 31 JULY 2008



1 Introduction

Insurance Statistics Australia Limited (ISA), ABN 93 003 331 600, has compiled data in relation to medical indemnity claims on behalf of three of ISA's members which are major underwriters of this class of business in Australia.

Those members are:

- Medical Insurance Australia Pty Ltd and the Medical Defence Association of South Australia (MDASA) (together, Medical Insurance Group Australia (MIGA))

and the members of the Medical Indemnity Industry Association of Australia:

- Avant Insurance Ltd (comprising Australasian Medical Insurance Ltd (AMIL) and Professional Indemnity Insurance Company Australia Pty Ltd (PIICA)) and Avant Mutual Group (formerly United Medical Protection and the Medical Defence Association of Victoria), and
- MDA National Insurance Pty Ltd (MDANI) and MDA National.

The report, therefore, is representative of approximately 80% of Australia's privately indemnified medical practitioners.

The objective of this report and the analysis completed is to help inform public debate and debate within the medical profession about emerging trends and issues in medical indemnity. The analysis looked at the 11 major speciality groups listed in Table 2.2 on page 4 and also at total information for the practitioners covered by ISA members.

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ISA advises that this report is based on data sourced from third parties, which ISA has not been able to verify as accurate. You should make your own enquiries prior to relying on any data contained in this report. All readers are particularly WARNED to read section 7 of this report which details the general reliances and limitations of this report, as well as the comments that apply to particular sections of the data. *Figure 4.1 and Table 4.2 have been amended since the report was first released on 7 July.*

The report is set out as follows:

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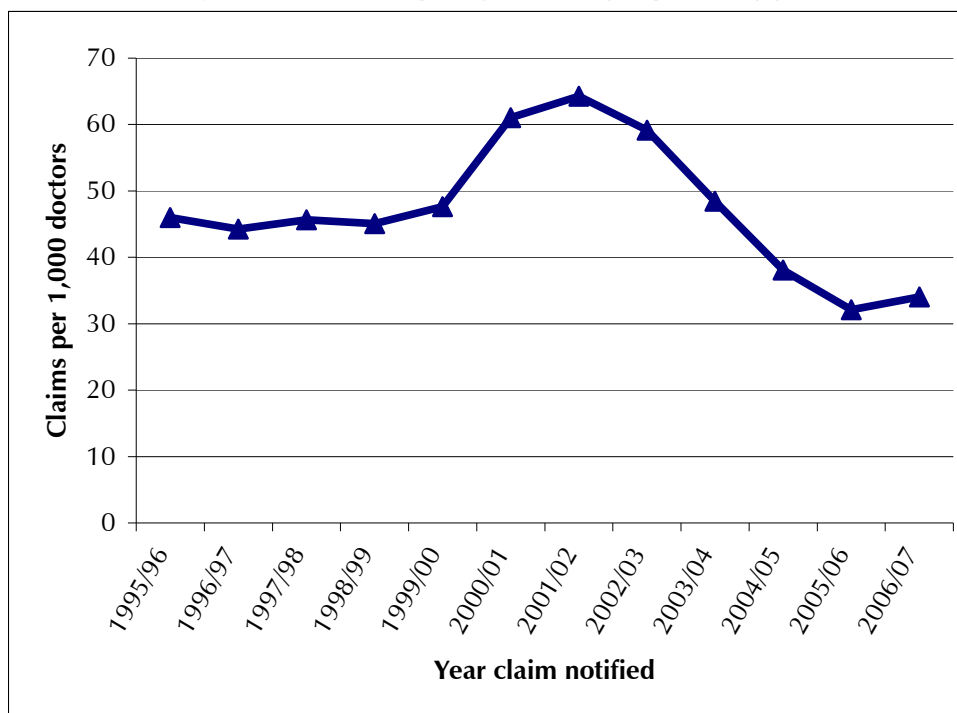
Any questions about this report should be addressed to David Minty on 02 8252 3347.



2 Claim numbers and frequency

Figure 2.1 shows the number of claims per 1,000 practitioners notified in respect of each year for all practitioners who have cover from an ISA member for any medical indemnity claims notified against them. The data excludes cover provided only for medico-legal matters or for a student. A ‘claim’ is generally a matter that is a demand for compensation by a patient against a practitioner, not simply an incident that has been notified to an ISA member since not all matters notified become classified as claims. For convenience, in this report we have referred to all such practitioners as having being ‘insured’ and to all database contributors as ‘insurers’. The claim numbers include estimates of current notifications that will become claims in due course. The estimates of ultimate claim numbers shown in this figure have been derived from the various actuarial estimates undertaken by each ISA member and are used in subsequent comparisons in this report.

Figure 2.1 Claim frequency ultimately expected by year



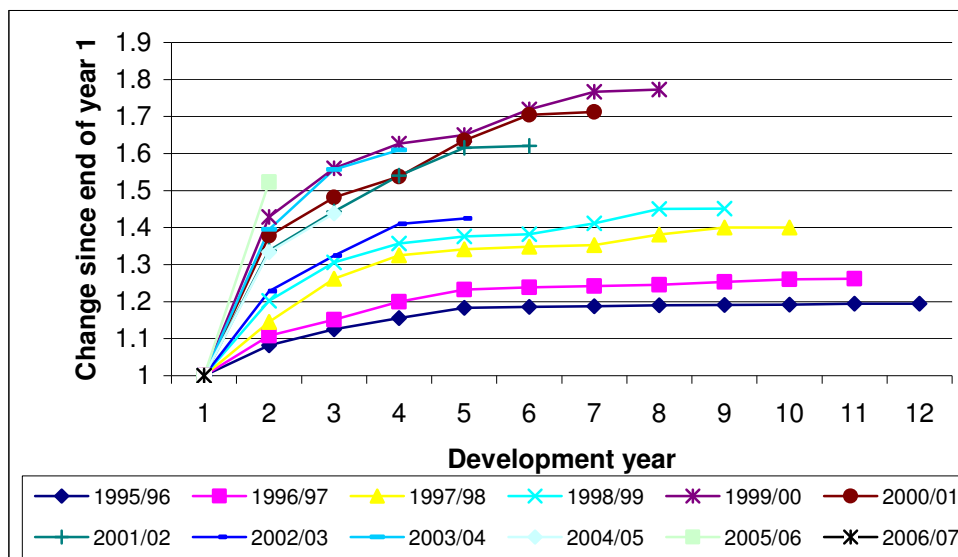
Differences between these numbers and those shown in other publications such as the Australian Consumer and Competition Commission reports will be due to different definitions of claims and also to inclusions of different types of policies issued by the insurers. ISA data excludes “incidents” and “notifications” as well as medico-legal matters such as disciplinary hearings and coronial inquests.

The fact that claim numbers develop over time despite being linked to the year of report of an incident rather than the date on which the incident giving rise to the claim occurred is illustrated by Figure 2.2 in respect of all practitioners. The graph represents an index of development for each report year based on the number of matters that are recognised as claims in the report year itself. Claim development appears to be



increasing for the more recent report years, suggesting that it is taking longer for notifications or incidents to develop into claims.

Figure 2.2 Development of ultimate claim numbers over time



The total number of claims reported to date and the number of claims ultimately projected to be reported for all practitioners with full indemnity cover are summarised in Table 2.1. Also shown is the proportion of all claims ultimately expected to be reported that were not yet settled at 30 June 2007.

Table 2.1 Numbers of Claims Reported

| | Reported to June 2007 | Yet to be reported | Ultimate number | Proportion not yet reported | Proportion not yet settled |
|---------|-----------------------|--------------------|-----------------|-----------------------------|----------------------------|
| 1995/96 | 1,535 | 9 | 1,544 | 0.6% | 2.3% |
| 1996/97 | 1,509 | 21 | 1,530 | 1.4% | 4.1% |
| 1997/98 | 1,596 | 38 | 1,634 | 2.3% | 6.5% |
| 1998/99 | 1,665 | 32 | 1,697 | 1.9% | 9.6% |
| 1999/00 | 1,704 | 77 | 1,781 | 4.3% | 10.1% |
| 2000/01 | 2,137 | 104 | 2,241 | 4.6% | 19.9% |
| 2001/02 | 2,233 | 143 | 2,376 | 6.0% | 25.4% |
| 2002/03 | 1,912 | 179 | 2,091 | 8.6% | 37.3% |
| 2003/04 | 1,484 | 207 | 1,691 | 12.2% | 31.9% |
| 2004/05 | 1,161 | 255 | 1,416 | 18.0% | 48.2% |
| 2005/06 | 876 | 372 | 1,248 | 29.8% | 73.9% |
| 2006/07 | 749 | 663 | 1,412 | 47.0% | 94.3% |

Table 2.2 shows the annual claim frequency projected for each of the 11 speciality groups studied, averaged over the first three report years available and the most recent three report years. The data has been grouped in order to smooth the volatility from year to year within individual speciality groups caused by small numbers of practitioners in some groups. The resulting percentage change for each speciality is also shown. Each of the speciality groups shown separately in this report except procedural general practitioners and 'other' has shown a decline in claim frequency over the period since the data was first collected.



Table 2.2 Claim frequency change - specialty groups

| | Claims per 1,000 doctors reported in | | |
|--|--------------------------------------|---------------------|--------|
| | 1995/96 -1997/98 | 2004/05 -2006/07 | Change |
| Anaesthetics | 56 | 36 | -36% |
| General practice - non-procedural | 27 | 22 | -19% |
| General practice - procedural | 65 | 68 | 5% |
| General surgery | 160 | 109 | -32% |
| Gynaecology no obstetrics | 133 | 107 | -20% |
| Neurosurgery | 382 | 176 | -54% |
| Obstetrics (with or without gynaecology) | 229 | 137 | -40% |
| Orthopaedic surgery | 257 | 129 | -50% |
| Physician | 33 | 20 | -39% |
| Plastic surgery and cosmetic practice | 242 | 200 | -17% |
| Psychiatry | 32 | 19 | -41% |
| Above specialty groups combined | 55 | 37 | -33% |
| Other | 20 | 30 | 50% |
| All specialty groups including 'Other' | 45 | 35 | -22% |

The small numbers of practitioners in some groups, changing mix of practitioners within specialty groups, the combination of some craft groups into the specialties shown and the different (and possibly changing) rates of conversion of incidents and notifications to claims between the specialty groups means that these results (and others later in this report) need to be interpreted with caution.



3 Cost of claims

It is not possible to make an accurate measurement of the cost of claims until all claims are settled, which takes many years. Until that time, the ultimate cost of claims can only be estimated, and changes of views by individual insurers (or their actuaries) can have a significant impact on the assessed value of claims.

Incurred cost of known claims

Figure 3.1 demonstrates the development of the average per-practitioner incurred cost of known claims for all fully insured policyholders since data collection commenced from claim report year 1995/96. Incurred costs are calculated as the sum of payments plus current case estimates for known claims, but with no allowance for future development of claim costs. Corresponding graphs for individual specialties are not released because of considerable volatility within specialty groups (particularly where the number of policyholders is small) and for commercial confidentiality reasons.

Comparability of the incurred claim data over time may be affected by changes to case estimating practices of the medical indemnity groups. It would be very difficult to track whether such changes had occurred or to quantify their impact. This is a further reason that it is necessary to treat the information in this report as indicative of trends rather than representing absolute levels of cost.

The figure gives some indication of how incurred claim costs generally increase over time as more claim information becomes available, and also how average costs per practitioner have changed over time by considering different years of report. It must be noted that because of the presence of large claims, the average cost per practitioner can fluctuate considerably from year to year.

Figure 3.1 Average incurred cost of known claims over time per insured practitioner

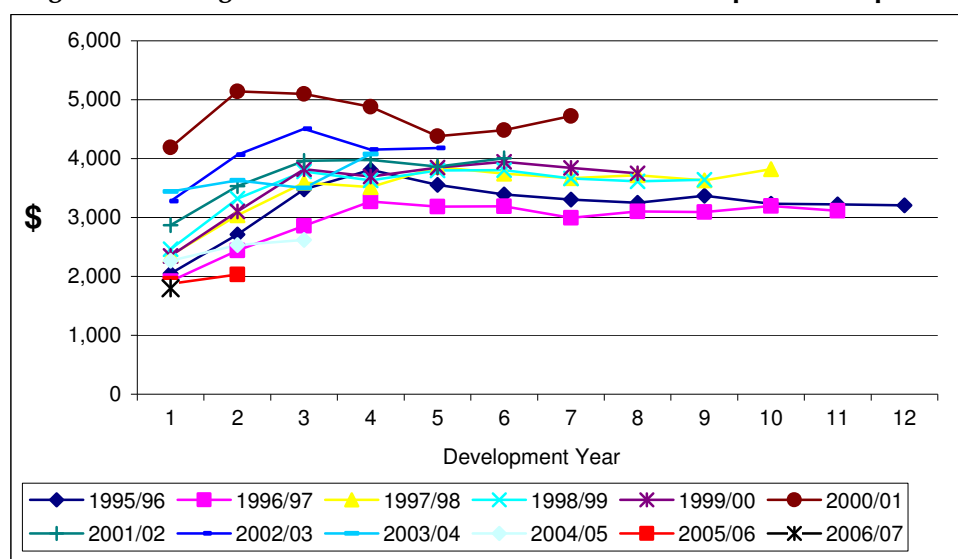




Figure 3.2 provides the average undiscounted annual cost per insured practitioner of all the claims notified, based on the actuarial assessments undertaken on behalf of each insurer by their own actuaries. This includes the assessed cost of incurred but not reported claims and the future development of known claims. The figures are shown gross before receipt of recoveries from the High Cost Claims and Run-off Cover Schemes. The apparent reduction in claim costs represents the expected impact of tort reform, changing clinical and incident management practices and any changes to the mix of insured practitioners by specialty across ISA members.

Figure 3.2 Average (actuarial undiscounted) claim cost per policy (all policies)

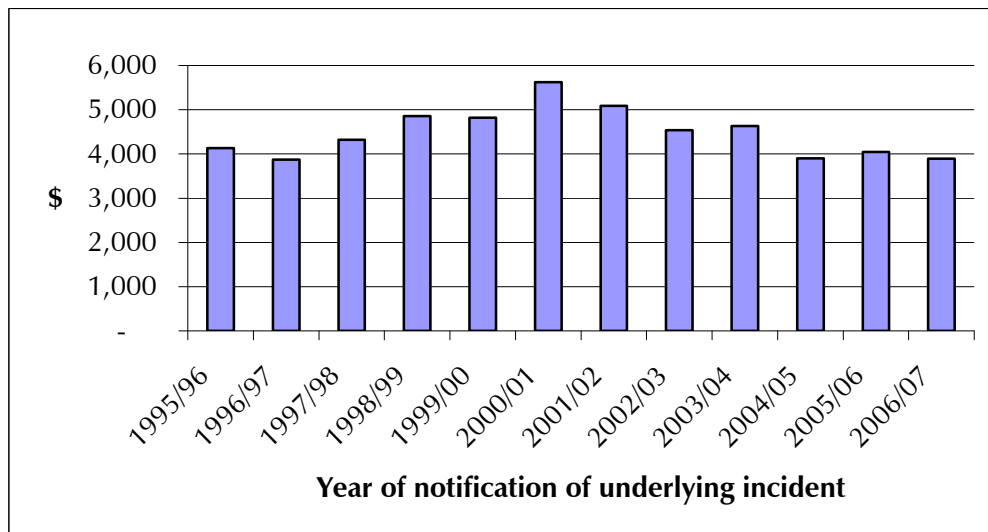
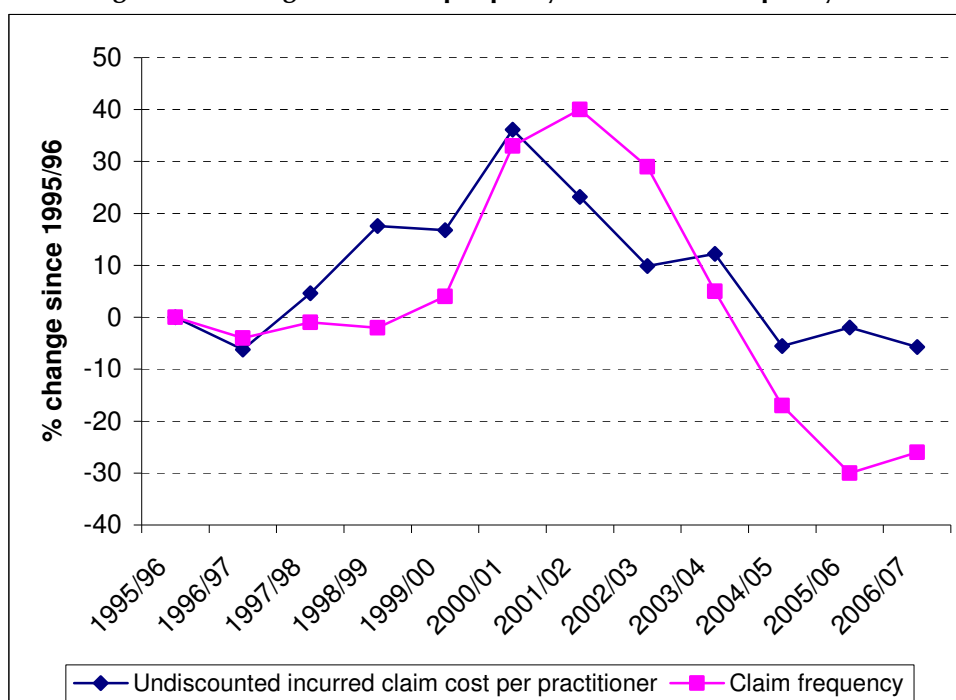


Figure 3.3 shows the change in the average (actuarial undiscounted) claim cost per policy versus the movements in claim frequency over time. The two measures have a broadly similar pattern, indicating that claim frequency is a significant driver of cost per policy.



Figure 3.3 Average claim cost per policy versus claim frequency



Claim attributes

ISA has been collecting data on individual claims only since 2003 and so the history is limited given the long-tail nature of this class of insurance business. The summaries in this section represent the information available for the period 1 July 2003 to 30 June 2007. Note that only 75% of claims ultimately expected in these years are already recognised as claims by insurers and only 40% are settled.

Table 3.1 shows the following statistics for the most common causes attributed to claims reported in the four years:

- The number of claims reported to date (excluding incidents that have not yet been recognised as claims and any 'notification only' cases)
- The proportion of claims relating to each cause of loss
- The proportion of reported claims that are regarded as settled by the insurer
- The reported cost of claims to date (including payments to date and estimates on individual claims made by the insurers)
- The proportion of total claim cost that each cause of claim represents
- The proportion of reported claim cost that has been paid to date
- The average amount of reported claim cost for each claim cause



Table 3.1 Cost of claims by indicated cause of loss – claims notified July 2003-June 2007

| Cause of loss | Claims notified | | | Reported cost | | | |
|--|-----------------|-------------|------------|---------------|-------------|------------|-------------------|
| | Number | Proportion | Settled | \$m | Proportion | Paid % | Average (\$000's) |
| Diagnosis, interpretation | 1,600 | 27% | 59% | 195 | 36% | 45% | 122 |
| Failure of procedure | 1,130 | 19% | 58% | 81 | 15% | 42% | 71 |
| Medical treatment - other | 431 | 7% | 61% | 71 | 13% | 23% | 166 |
| Procedure - intraoperative complications | 468 | 8% | 56% | 56 | 10% | 32% | 120 |
| General duty of care issues | 370 | 6% | 67% | 34 | 6% | 35% | 92 |
| Medication | 301 | 5% | 60% | 19 | 3% | 52% | 61 |
| Other - infection / blood / device failure | 385 | 6% | 84% | 13 | 3% | 58% | 35 |
| Consent | 193 | 3% | 74% | 13 | 2% | 56% | 69 |
| Anaesthetic | 247 | 4% | 66% | 13 | 2% | 54% | 54 |
| Non-procedural (confidentiality, medico-legal etc) | 384 | 6% | 86% | 10 | 2% | 48% | 25 |
| Treatment issues | 223 | 4% | 55% | 7 | 1% | 40% | 30 |
| Procedure - other | 30 | 0% | 97% | 1 | 0% | 93% | 29 |
| Unknown | 256 | 4% | 34% | 24 | 4% | 22% | 94 |
| Total | 6,018 | 100% | 63% | 537 | 100% | 40% | 89 |

Table 3.2 sets out the same analysis for the bodily structures most commonly reported as having been the principal site of trauma giving rise to a claim, as well as those claims that do not relate to bodily injury. Note that this field is not required to be completed until a claim is settled.

Table 3.2 Cost of claims by most frequently affected body structures

| Bodily function and structure | Claims notified | | | Reported cost | | | |
|---|-----------------|-------------|------------|---------------|-------------|------------|-------------------|
| | Number | Proportion | Settled | \$m | Proportion | Paid % | Average (\$000's) |
| Central nervous system | 318 | 5% | 39% | 158 | 29% | 24% | 497 |
| Musculoskeletal system and connective tissues | 988 | 16% | 57% | 89 | 17% | 44% | 90 |
| Digestive system | 354 | 6% | 49% | 37 | 7% | 47% | 104 |
| Cardiovascular system | 236 | 4% | 56% | 25 | 5% | 38% | 107 |
| Mental and behavioural | 167 | 3% | 49% | 15 | 3% | 29% | 87 |
| Peripheral nervous system | 100 | 2% | 47% | 13 | 2% | 35% | 125 |
| Respiratory system | 93 | 2% | 46% | 6 | 1% | 56% | 63 |
| All other affected body parts | 1,124 | 19% | 56% | 81 | 15% | 41% | 72 |
| Claims not attributed to body parts | 488 | 8% | 42% | 30 | 6% | 27% | 61 |
| Unknown | 2,150 | 36% | 82% | 84 | 16% | 68% | 39 |
| Total | 6,018 | 100% | 63% | 537 | 100% | 40% | 89 |

Table 3.3 sets out the same analysis for the venues most commonly reported as having been where the action causing a claim occurred. Note that this field is not required to be completed until a claim is settled.

Table 3.3 Cost of claims by venue where incident occurred

| Venue to which claim is attributed | Claims notified | | | Reported cost | | | |
|--|-----------------|-------------|------------|---------------|-------------|------------|-------------------|
| | Number | Proportion | Settled | \$m | Proportion | Paid % | Average (\$000's) |
| Private hospital including private psychiatric | 1,504 | 25% | 60% | 201 | 37% | 32% | 134 |
| Private medical practitioner rooms or surgery | 2,038 | 34% | 63% | 174 | 32% | 43% | 85 |
| Public hospital or public day surgery centre | 528 | 9% | 69% | 52 | 10% | 53% | 98 |
| Private day surgery centre | 140 | 2% | 48% | 6 | 1% | 55% | 40 |
| Public community health centre | 6 | 0% | 100% | 0 | 0% | 100% | 7 |
| Private community health centre | 1 | 0% | 100% | 0 | 0% | 100% | 24 |
| Private residential aged care service | 2 | 0% | 100% | 0 | 0% | 100% | 7 |
| Claims occurring at other venues | 129 | 2% | 47% | 19 | 4% | 34% | 147 |
| Not coded to venue | 1,670 | 28% | 65% | 86 | 16% | 44% | 51 |
| Total | 6,018 | 100% | 63% | 537 | 100% | 40% | 89 |



Table 3.4 sets out the same analysis for the severity of injury giving rise to a claim, as well as those claims that do not relate to bodily injury. Note that this field is not required to be completed until a claim is settled.

Table 3.4 Cost of claims by severity of injury

| Severity of injury | Claims notified | | | Reported cost | | | |
|------------------------------------|-----------------|-------------|------------|---------------|-------------|------------|-------------------|
| | Number | Proportion | Settled | \$m | Proportion | Paid % | Average (\$000's) |
| Minor or mild soft tissue | 671 | 11% | 54% | 18 | 3% | 40% | 26 |
| Minor fractures, lacerations | 545 | 9% | 62% | 21 | 4% | 54% | 38 |
| Moderate injury | 1,254 | 21% | 56% | 93 | 17% | 41% | 74 |
| Serious injury | 415 | 7% | 49% | 59 | 11% | 43% | 142 |
| Major injury involving brain | 118 | 2% | 32% | 98 | 18% | 19% | 833 |
| Quadriplegia | 9 | 0.1% | 11% | 4 | 0.7% | 29% | 434 |
| Paraplegia | 7 | 0.1% | 14% | 3 | 0.5% | 8% | 411 |
| Other major injury involving spine | 27 | 0.4% | 30% | 31 | 6% | 19% | 1,164 |
| Other major injury | 196 | 3% | 43% | 34 | 6% | 32% | 174 |
| Death | 277 | 5% | 45% | 34 | 6% | 35% | 123 |
| Not relevant bodily injury | 170 | 3% | 58% | 5 | 1% | 49% | 29 |
| Not coded | 2,329 | 39% | 78% | 137 | 25% | 59% | 59 |
| Total | 6,018 | 100% | 63% | 537 | 100% | 40% | 89 |



4 Premiums and subscriptions paid by practitioners

In this report, the amount received by the medical indemnity group to provide indemnity coverage for practitioners includes:

- subscriptions for indemnity cover formerly paid to the medical indemnity group,
- any premiums paid to an insurer within the medical indemnity group,
- membership fees paid to the medical defence organisation, and
- the amount of any 'call' (spread over the period that the call was collected from practitioners).

We have generally referred to these amounts paid by practitioners as 'premiums' for convenience. The amounts shown here exclude any GST, stamp duty or other government levies paid by the practitioner.

Information was collected for 11 speciality groups, representing about 90% of the total premium income of the insurers. The change in profile of the practitioner insured by the ISA members is summarised in Table 4.1.

Table 4.1 Change in membership profile

| | Proportion of practitioners in category during | | | Change in practitioner numbers over period |
|--|---|---------------|---------------|---|
| | 1995- 1996 | 2000- 2001 | 2006- 2007 | |
| Anaesthetics | 3.9% | 4.5% | 5.7% | +82% |
| General practice - non-procedural | 39.0% | 36.7% | 39.5% | +25% |
| General practice - procedural | 4.5% | 2.8% | 3.4% | -6% |
| General surgery | 5.0% | 4.0% | 2.0% | -51% |
| Gynaecology no obstetrics | 0.4% | 0.6% | 0.8% | +157% |
| Neurosurgery | 0.2% | 0.2% | 0.3% | +38% |
| Obstetrics (with or without gynaecology) | 1.9% | 1.6% | 1.4% | -12% |
| Orthopaedic surgery | 1.6% | 1.6% | 1.6% | +29% |
| Physician | 13.5% | 15.5% | 10.0% | -8% |
| Plastic surgery and cosmetic practice | 0.8% | 0.8% | 1.2% | +88% |
| Psychiatry | 3.2% | 3.3% | 3.6% | +40% |
| All specialty groups excluding 'Other' | 74.0% | 71.6% | 69.5% | +16% |
| Other | 26.0% | 28.4% | 30.5% | +45% |
| All specialty groups including 'Other' | 100.0% | 100.0% | 100.0% | +24% |

Increases across all practitioners

Figure 4.1 shows the cumulative increase in the average premium paid by practitioners (including calls but before government subsidy) over the last ten years. During that time ISA members changed from claims incurred to claims made cover in different years between 1999/00 and 2003/04, which will have reduced the average premiums recorded and hence the change calculated from year to year. The corresponding movement in professional indemnity premiums (as shown by the JP Morgan / Deloitte general insurance survey 2007) and average weekly earnings for Australia (from the Australian Bureau of Statistics) are shown for comparison.



Figure 4.1 Average increases in cost of indemnity cover to practitioners

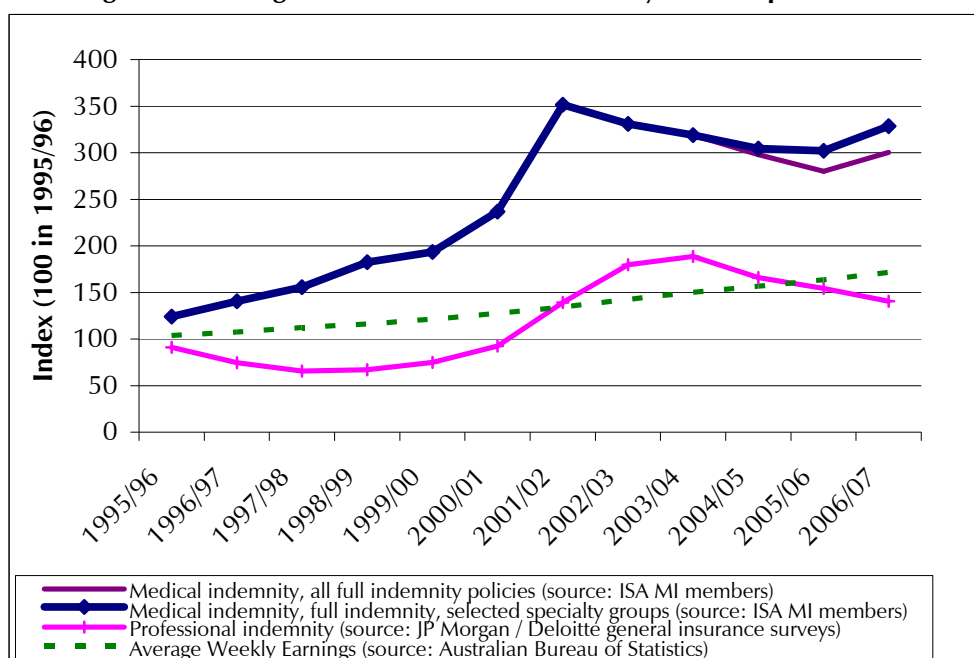


Table 4.2 sets out the year-on-year increases shown in Figure 4.1 in tabular form.

Table 4.2 Annual increases in contributions and premiums

| | 1995/96 | 1996/97 | 1997/98 | 1998/99 | 1999/00 | 2000/01 | 2001/02 | 2002/03 | 2003/04 | 2004/05 | 2005/06 | 2006/07 | |
|---|---------|---------|---------|---------|-------------------------------------|---------|---------|---------|---------|---------|---------|---------|-----|
| All members | | | | | --- Not available prior to 2003---- | | | | | | -7% | -6% | 7% |
| Selected specialties only | | 24% | 13% | 11% | 17% | 6% | 23% | 48% | -6% | -4% | -5% | -1% | 9% |
| Average PI increases (JPMorgan/Deloitte survey) | | -9% | -18% | -12% | 2% | 12% | 23% | 51% | 29% | 5% | -12% | -7% | -9% |
| Average Weekly Earnings (A.B.S.) | | 4% | 4% | 4% | 3% | 4% | 5% | 5% | 6% | 5% | 4% | 4% | 5% |

Changes in average premium rates for professional indemnity insurance were generally less than medical indemnity rate changes from 1995/96 to 1998/99 and again since 2004/05. Between 1990/00 and 2003/04 increases in medical indemnity premiums were generally less than experienced in the professional indemnity market. This will have been driven by different competitive situations in each of these markets as well as from the need for medical indemnity insurers to raise capital – by necessity from practitioners – to meet increased prudential requirements. *[Note: the premium increases for ‘all members’ in Figure 4.1 and Table 4.2 have been corrected since the original release of this report to exclude low-premium policies, primarily for students, whose claim experience is not included in the data]*

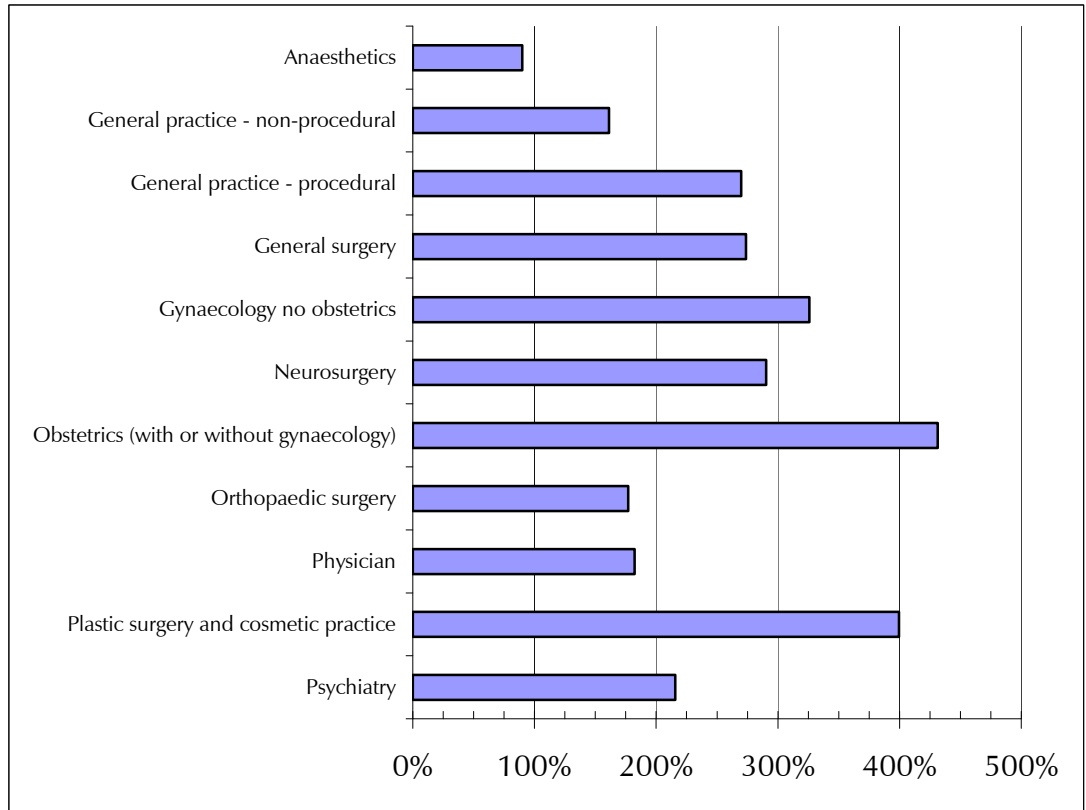
The High Cost Claims Scheme introduced in 2003 will also have limited increases in premiums that might otherwise have been needed by helping to limit reinsurance costs. In his “Third report on the costs of the Australian Government’s Run-Off Cover Scheme (ROCS) for medical indemnity insurers 2006/07 financial year”, the Australian Government Actuary estimated “at least 40 per cent of the cost of all medical indemnity claims relates to claims which are larger than \$500,000”, suggesting that the High Cost Claims Scheme covers more than 20% of gross claim costs that medical indemnity insurers would otherwise meet as it now applies to claims that will exceed \$300,000.



Premiums for individual speciality groups

Figure 4.2 shows the change in average premium for each of the 11 speciality groups, cumulative over the twelve years between 1995/96 and 2006/07. For policy years to 2004/05, these figures were based on the 'typical rate' for each speciality as assessed by each insurer and may reflect different billing bands or other criteria used for rating purposes.

Figure 4.2 Cumulative premium increases by speciality from 1995/96 to 2006/07



Premiums increased considerably from 1995/96 to 2001/02, since which time they have been stable or fallen for all specialties as Table 4.3 shows. As indicated earlier, part of the reason for this more recent stability has been the reforms to medical indemnity insurance industry, including the transfer of half of the cost of large claims in excess of a threshold amount to the High Cost Claims Scheme which the Australian Government meets from consolidated revenue.



Table 4.3 Average annual rates of increase in premium by specialty group

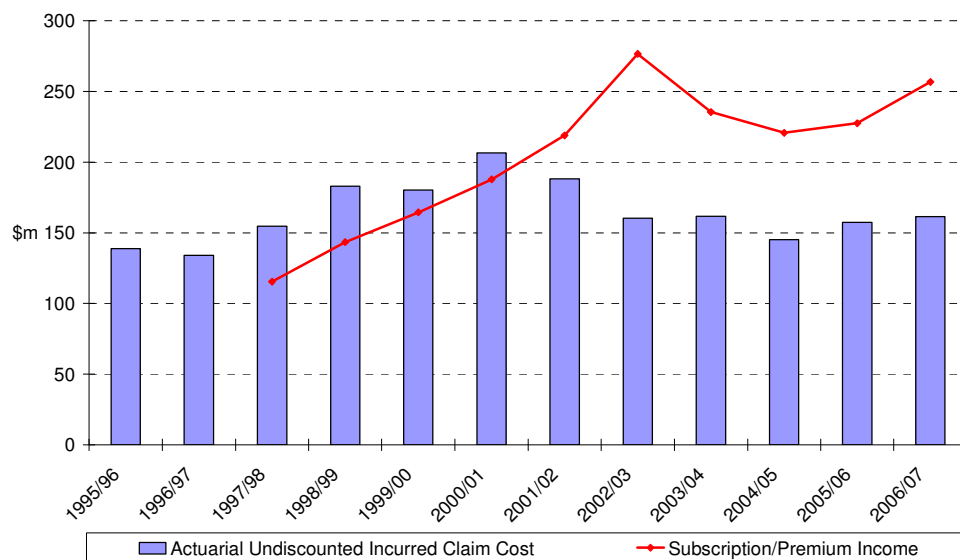
| | Average annual change from | | |
|---|----------------------------|-----------------------|-----------------------|
| | 1995/96 to 2001/02 | 2001/02 to 2006/07 | 1995/96 to 2006/07 |
| Anaesthetics | 14% | -6% | 5% |
| General practice - non-procedural | 17% | -3% | 8% |
| General practice - procedural | 20% | 0% | 12% |
| General surgery | 23% | -3% | 12% |
| Gynaecology no obstetrics | 22% | 1% | 13% |
| Neurosurgery | 21% | 0% | 12% |
| Obstetrics (with or without gynaecology) | 23% | 4% | 15% |
| Orthopaedic surgery | 19% | -4% | 9% |
| Physician | 19% | -4% | 9% |
| Plastic surgery and cosmetic practice | 26% | 0% | 14% |
| Psychiatry | 20% | -2% | 10% |
| Overall for these classes of practitioners | 20% | -1% | 10% |
| Professional indemnity (source: JP Morgan / Deloitte general insurance surveys) | 5% | 0% | 3% |
| Average Weekly Earnings (source: Australian Bureau of Statistics) | 4% | 5% | 5% |



5 Comparison of claims and premiums

Figure 5.1 compares the total annual premium revenue of ISA members with the total undiscounted cost of the claims reported in that year (as measured in the actuarial assessments undertaken by each insurer at 30 June 2007). These figures include all practitioners covered by the insurers, not just the 11 specialty groups focused on above. Note that the effect of future investment earnings on premiums is ignored by such a comparison, but provides a consistent basis for considering relative performance by financial and notification years. Projected claim costs are gross before the impact of the High Cost Claims and Run-off Cover Scheme arrangements. Premiums exclude all government levies and charges.

Figure 5.1 Premium income versus actuarial undiscounted cost of claims



6 Large claims

The contributing medical indemnity groups provided information about each reported claim where the incurred cost recognised to date exceeded \$500,000 and either the claim had been settled by the medical indemnity group since 1 January 1992, or the claim was still open at 30 June 2007.

The large loss data includes claims from earlier notification years than the data included earlier in this summary. Care needs to be exercised in comparing it with results in the earlier sections of the summary.

Largest claims settled

Figure 6.1 shows the cost of the largest claims settled each year (including legal costs). These are the amounts actually paid at the time: they have not been inflation-adjusted to current values.

Figure 6.1 Largest claim settled in each financial year

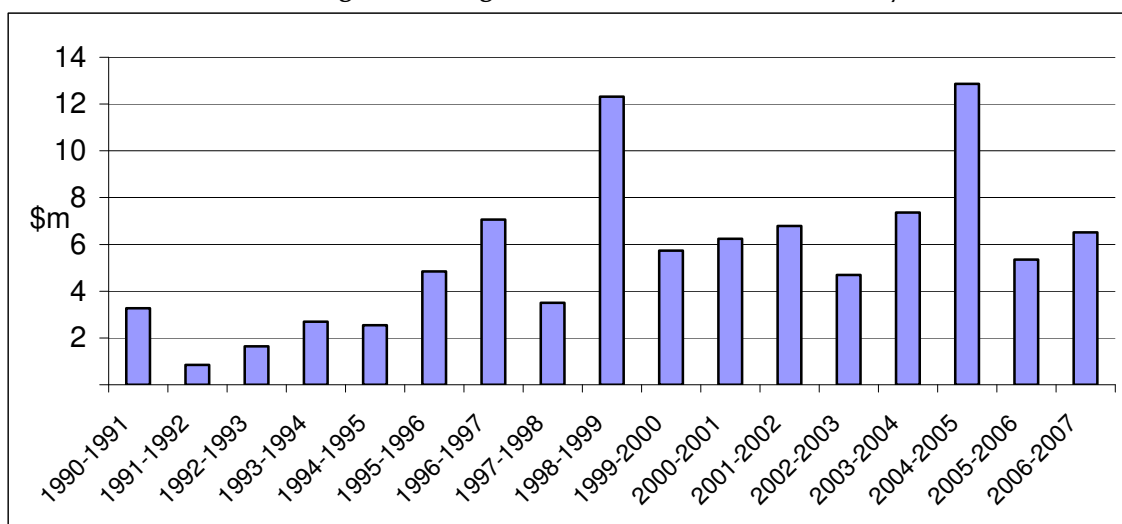




Table 6.1 shows the largest claim settled by specialty group over the seventeen years for which data is available. The largest claim amount for each specialty is shown in bold.

Table 6.1 Largest claims settled each year by specialty group (in \$m)

| | 1990-1992 | 1992-1995 | 1995-1998 | 1998-2001 | 2001-2004 | 2004-2007 | Overall |
|--|-----------|------------|------------|-------------|------------|-------------|-------------|
| | \$m | \$m | \$m | \$m | \$m | \$m | \$m |
| Anaesthetics | 3.1 | 2.7 | 5.6 | 2.7 | 3.4 | 2.7 | 5.6 |
| Cosmetic practitioner | | | | 0.6 | | 0.6 | 0.6 |
| Dermatology | | | 0.5 | | | 1.0 | 1.0 |
| General practice - non-procedural | | 0.8 | 2.9 | 1.2 | 2.5 | 3.6 | 3.6 |
| General practice - procedural | | 0.9 | 0.7 | 12.3 | 7.4 | 6.5 | 12.3 |
| Gynaecology no obstetrics | | | | 0.8 | | 3.2 | 3.2 |
| Obstetrics (with or without gynaecology) | 3.3 | 2.7 | 4.8 | 6.2 | 6.8 | 12.9 | 12.9 |
| Ophthalmology | | | | | 0.6 | 0.8 | 0.8 |
| Other | 0.9 | 1.5 | 7.1 | 2.9 | 1.1 | 4.8 | 7.1 |
| Physician - general | | | | 1.7 | | 1.1 | 1.7 |
| Physician - specialty | | 0.6 | 0.5 | 3.0 | 0.9 | 1.7 | 3.0 |
| Psychiatry | | | 3.5 | 1.0 | 5.7 | 0.8 | 5.7 |
| Radiology | | | 1.2 | 1.6 | 3.2 | 3.7 | 3.7 |
| Surgery - general | | 1.3 | 0.7 | 1.8 | 3.4 | 5.4 | 5.4 |
| Surgery - neurosurgery | 1.0 | 2.0 | 3.4 | 3.6 | 0.6 | 0.8 | 3.6 |
| Surgery - orthopaedic | 0.6 | 0.8 | 1.2 | 0.8 | 2.6 | 1.9 | 2.6 |
| Surgery - other specialty | | 2.5 | 1.8 | 1.0 | 1.1 | 1.4 | 2.5 |
| Surgery - plastic | | 1.6 | 0.5 | 2.5 | 0.6 | 1.1 | 2.5 |
| Largest loss in period | 3.3 | 2.7 | 7.1 | 12.3 | 7.4 | 12.9 | 12.9 |

Notified causes of large claims

Table 6.2 shows the proportion of unsettled claims with an estimated cost in excess of \$500,000 by the major cause of loss. The corresponding data for settled claims is not released because of the high proportion of older claims that do not have a cause of loss recorded about them on the ISA database.

Table 6.2 Causes of large claims that have not yet settled

| | Proportion of unsettled claim numbers | Proportion of cost of unsettled claims |
|--|---------------------------------------|--|
| Diagnosis, interpretation | 29.9% | 26.5% |
| Treatment issues | 10.8% | 17.0% |
| Duty of care / consent non-procedural | 10.0% | 11.9% |
| Procedure - intraoperative complications | 10.4% | 8.7% |
| Procedure - other | 8.0% | 6.0% |
| Other issues | 31.1% | 29.9% |
| | 100.0% | 100.0% |



Large claims by specialty group

The claim data by specialty group is summarised in Table 6.3.

251 claims of those claims were open at 30 June 2007, with an estimated total cost of \$436 million (or an average of \$1.7 million). 487 claims over \$500,000 incurred cost had been settled for a total cost of \$627 million or an average of \$1.3 million between January 1992 and 30 June 2007

Table 6.3 Large claims over \$500,000 by specialty group

| | All claims over \$0.5 million incurred cost | | | | Open claims over \$0.5 million incurred cost | | | |
|--|---|------------------|----------------|----------------|--|------------------|----------------|----------------|
| | Reported to date | Incurred to date | Average amount | Maximum amount | Reported to date | Incurred to date | Average amount | Maximum amount |
| Anaesthetics | 41 | 61 | 1.5 | 5.6 | 7 | 7 | 1.1 | 2.8 |
| Cosmetic practitioner | 2 | 1 | 0.6 | 0.6 | | | | |
| Dermatology | 5 | 4 | 0.9 | 1.4 | 2 | 1 | 0.7 | 0.8 |
| General practice - non-procedural | 106 | 119 | 1.1 | 5.1 | 40 | 53 | 1.3 | 5.1 |
| General practice - procedural | 56 | 105 | 1.9 | 12.3 | 13 | 25 | 1.9 | 10.5 |
| Gynaecology no obstetrics | 5 | 9 | 1.8 | 3.4 | 2 | 5 | 2.3 | 3.4 |
| Obstetrics (with or without gynaecology) | 171 | 354 | 2.1 | 12.9 | 76 | 188 | 2.5 | 8.0 |
| Ophthalmology | 5 | 3 | 0.6 | 0.8 | | | | |
| Other | 49 | 77 | 1.6 | 7.1 | 18 | 35 | 1.9 | 6.1 |
| Pathology | 6 | 9 | 1.4 | 4.3 | 6 | 9 | 1.4 | 4.3 |
| Physician - general | 7 | 13 | 1.9 | 4.7 | 4 | 10 | 2.5 | 4.7 |
| Physician - specialty | 39 | 44 | 1.1 | 4.5 | 15 | 21 | 1.4 | 4.5 |
| Psychiatry | 16 | 19 | 1.2 | 5.7 | 2 | 1 | 0.6 | 0.7 |
| Radiology | 35 | 42 | 1.2 | 3.7 | 13 | 17 | 1.3 | 3.5 |
| Surgery - general | 59 | 63 | 1.1 | 5.4 | 9 | 11 | 1.3 | 3.3 |
| Surgery - neurosurgery | 28 | 33 | 1.2 | 3.6 | 10 | 9 | 0.9 | 1.5 |
| Surgery - orthopaedic | 59 | 46 | 0.8 | 2.6 | 18 | 13 | 0.7 | 1.6 |
| Surgery - other specialty | 39 | 50 | 1.3 | 6.0 | 14 | 28 | 2.0 | 6.0 |
| Surgery - plastic | 10 | 10 | 1.0 | 2.5 | 2 | 1 | 0.7 | 0.8 |
| Total | 738 | 1,063 | 1.4 | 12.9 | 251 | 436 | 1.7 | 10.5 |

The number of claims in excess of \$500,000 settled over the period is shown in Table 6.4. That table shows that the number of large claims settled in each year band has increased considerably over the years, even allowing for the fact that the first band only represents two years and all subsequent bands, three years. There was a dramatic jump between 1997 and 1998 and again from 2003 to 2004. The average number of claims settled in each of the six years 1991/92 to 1996/97 was 7; from 1997/98 to 2002/03 it averaged 34, and from 2003/04 to 2006/07 it averaged 48.

Given the transition between databases in 2003/04 and that the original ISA summarised data collection commenced only in 2001, these movements would be influenced by incomplete reporting of earlier years and changing settlement behaviour of both insurers and courts from time to time, as well as inflation of awards pushing claims over the \$500,000 threshold. It would **not** be sensible to conclude that actual large claim experience has deteriorated seven-fold over the period.



Table 6.4 Number of large claims in excess of \$500,000 settled in year

| | 1990- 1992 | 1992- 1995 | 1995- 1998 | 1998- 2001 | 2001- 2004 | 2004- 2007 | Overall |
|--|---------------|---------------|---------------|---------------|---------------|---------------|------------|
| | \$m | \$m | \$m | \$m | \$m | \$m | \$m |
| Anaesthetics | 3 | 1 | 4 | 7 | 5 | 12 | 32 |
| Cosmetic practitioner | | | | 1 | | 1 | 2 |
| Dermatology | | | 1 | | | 1 | 2 |
| General practice - non-procedural | | 2 | 6 | 16 | 17 | 23 | 64 |
| General practice - procedural | | 2 | 2 | 10 | 13 | 16 | 43 |
| Gynaecology no obstetrics | | | | 1 | | 2 | 3 |
| Obstetrics (with or without gynaecology) | 2 | 3 | 12 | 17 | 30 | 29 | 93 |
| Ophthalmology | | | | | 2 | 3 | 5 |
| Other | 3 | 3 | 5 | 8 | 2 | 8 | 29 |
| Physician - general | | | | 2 | | 1 | 3 |
| Physician - specialty | | 2 | 1 | 11 | 5 | 5 | 24 |
| Psychiatry | | | 11 | 1 | 1 | 1 | 14 |
| Radiology | | | 2 | 3 | 8 | 8 | 21 |
| Surgery - general | | 4 | 5 | 16 | 10 | 14 | 49 |
| Surgery - neurosurgery | 2 | 2 | 5 | 6 | 1 | 1 | 17 |
| Surgery - orthopaedic | 1 | 2 | 6 | 13 | 9 | 10 | 41 |
| Surgery - other specialty | | 2 | 5 | 5 | 6 | 7 | 25 |
| Surgery - plastic | | 1 | 1 | 1 | 1 | 4 | 8 |
| Total | 11 | 24 | 66 | 118 | 110 | 146 | 475 |

Duration to claim report and settlement

Table 6.5 summarises the average and maximum periods for the following aspects of the overall large claim experience:

- From date of incident to date of report, for both settled and open claims
- From date of incident to date of report, for settled claims only
- From date of report to date of settlement, for settled claims only

Note that for some specialty groups, the number of claims involved in these calculations is small, so the averages may vary considerably. “Date of report” in this case refers to the date on which the matter was recognised as a claim – it may have been recorded as an incident by the insurer for many years before being recognised as a claim. The introduction of claims made policies will have reduced the time for an incident to be notified to a medical indemnity group, but it may still take several years for a claim to be recognised because of the time it may take for a plaintiff to commence an action.

The average duration from occurrence to report is about four years. Psychiatry lies well above the average at around nine years. Non-procedural general practice had the longest period from occurrence to report as a claim of 28 years.

Settlement periods average six years for these large claims. Psychiatry has the longest average settlement period at about nine years while the claim that has taken the greatest time to settle, at 20 years, is now an obstetrics claim.



Table 6.5 Duration from incident date to report and report to settlement

| 1992 - 2007 | All large claims | | Finalised large claims | | | |
|--|--|--|--|--|--|--|
| | Average period from Incident to Report (years) | Maximum period from Incident to Report (years) | Average period from Incident to Report (years) | Maximum period from Incident to Report (years) | Average period from Report to Settlement (years) | Maximum period from Report to Settlement (years) |
| Anaesthetics | 1.6 | 18.1 | 1.8 | 18.1 | 7.4 | 18.0 |
| Cosmetic practitioner | 3.1 | 3.8 | 3.1 | 3.8 | 4.5 | 5.5 |
| Dermatology | 1.2 | 1.5 | 1.1 | 1.5 | 3.8 | 6.5 |
| General practice - non-procedural | 4.6 | 27.8 | 4.4 | 21.5 | 4.9 | 12.5 |
| General practice - procedural | 3.8 | 19.4 | 4.0 | 18.5 | 6.6 | 17.1 |
| Gynaecology no obstetrics | 2.5 | 5.6 | 3.3 | 5.6 | 2.5 | 4.2 |
| Obstetrics (with or without gynaecology) | 4.4 | 18.4 | 4.9 | 18.4 | 6.8 | 20.1 |
| Ophthalmology | 4.6 | 9.8 | 4.6 | 9.8 | 3.9 | 5.9 |
| Other | 6.7 | 22.8 | 4.8 | 12.4 | 7.2 | 17.5 |
| Pathology | 3.8 | 6.1 | | | | |
| Physician - general | 4.8 | 17.5 | 8.3 | 17.5 | 4.9 | 6.6 |
| Physician - specialty | 4.8 | 12.7 | 4.2 | 12.2 | 5.3 | 11.5 |
| Psychiatry | 9.3 | 25.5 | 9.9 | 25.5 | 9.2 | 17.5 |
| Radiology | 2.7 | 6.5 | 2.9 | 6.5 | 5.4 | 11.5 |
| Surgery - general | 3.4 | 21.5 | 3.3 | 21.5 | 6.0 | 15.0 |
| Surgery - neurosurgery | 2.5 | 6.7 | 3.2 | 6.7 | 7.0 | 14.5 |
| Surgery - orthopaedic | 3.4 | 15.5 | 3.6 | 15.5 | 4.9 | 9.6 |
| Surgery - other specialty | 4.4 | 21.0 | 4.6 | 21.0 | 7.5 | 16.8 |
| Surgery - plastic | 2.8 | 7.2 | 2.6 | 6.3 | 6.7 | 13.5 |
| Grand Total | 4.2 | 27.8 | 4.1 | 25.5 | 6.2 | 20.1 |

Effect of large claims on total reported claim costs

Table 6.6 summarises the relative effect of large claims in respect of each of the specialty groups that have been examined in the first part of this summary. Note that the comparison is only in respect of claims notified from 1995 to 2007, as we did not have total claim data for earlier years of report. Again, it should also be noted that the data is not fully developed as it does not include matters reported that have not yet developed into a claim nor estimates of future development of known claims.

While large losses over \$500,000 represent less than 3% of all claims notified, they represent 48% of known claim costs for these report years.

The data confirms that obstetrics is the specialty most exposed to large claims. For this specialty group, 1 in 12 claims (8%) is greater than \$500,000 and these claims represent 80% of the total cost of claims against obstetricians.

Claims over \$500,000 also represent the majority of the claims costs of procedural general practitioners and neurosurgeons based on the reported claim data and represent nearly half the cost of anaesthetist claims. The costs for the 'all other' specialty group is also dominated by large claim costs, suggesting that while those groups may have relatively low costs overall, their experience is influenced by large claims.



Table 6.6 Proportion of known claim costs represented by claims over \$500,000

| Claims notified 1995/96 - 2006/07 | Large claims over \$0.5 million | | | All claims | | Large as proportion of | |
|--|---------------------------------|------------------|----------------|------------------|------------------|------------------------|------------------|
| | Reported to date | Incurred to date | Maximum amount | Reported to date | Incurred to date | Reported to date | Incurred to date |
| | \$m | | | \$m | | | |
| Anaesthetics | 21 | 23.2 | 1.1 | 876 | 46.9 | 2.4% | 49% |
| General practice - non-procedural | 85 | 97.7 | 1.1 | 4,538 | 274.5 | 1.9% | 36% |
| General practice - procedural | 37 | 66.4 | 1.8 | 1,094 | 114.4 | 3.4% | 58% |
| General surgery | 36 | 37.1 | 1.0 | 2,367 | 161.0 | 1.5% | 23% |
| Gynaecology no obstetrics | 5 | 9.1 | 1.8 | 355 | 27.5 | 1.4% | 33% |
| Neurosurgery | 14 | 16.1 | 1.1 | 255 | 30.2 | 5.5% | 53% |
| Obstetrics (with or without gynaecology) | 122 | 246.6 | 2.0 | 1,545 | 308.2 | 7.9% | 80% |
| Orthopaedic surgery | 42 | 34.0 | 0.8 | 1,364 | 104.0 | 3.1% | 33% |
| Physician | 37 | 46.3 | 1.3 | 1,687 | 141.3 | 2.2% | 33% |
| Plastic surgery and cosmetic practice | 10 | 7.1 | 0.7 | 950 | 46.0 | 1.1% | 16% |
| Psychiatry | 3 | 2.0 | 0.7 | 380 | 14.6 | 0.8% | 14% |
| All excluding 'Other' | 412 | 585.7 | 0.1 | 15,411 | 1,268.5 | 2.7% | 46% |
| Other | 99 | 130.6 | 1.3 | 3,150 | 223.4 | 3.1% | 58% |
| All claims | 511 | 716.3 | 1.4 | 18,561 | 1,491.9 | 2.8% | 48% |



7 Reliances and limitations

This report was prepared by ISA on behalf of its medical indemnity insurer members. ISA is an organisation owned by its member insurance companies that collects insurance data from individual companies, compiles it and presents on an aggregate basis in order to protect the confidentiality of individual companies. It should be noted that the data collected for this assignment has not been audited, although reasonableness checks have been performed where possible. As part of this review, some anomalies in the data used for preparation of previous reports were identified and corrected.

There are some inconsistencies between different insurers on the specialty group to which particular practitioners are allocated (in particular, cosmetic practitioners), and this has been compounded by the collection of more detailed specialty data on the individual claim and policy database since 2004. Comparability of the incurred claim data over time may also be affected by changes in payment or case estimating practices of the medical indemnity groups.

It would be very difficult to track whether such changes had occurred in a systematic way or to quantify their impact. **The information in this report should therefore be regarded as indicative of possible trends rather than representing absolute levels of cost or change, particularly at the level of specialty groups and other subdivisions of the information.**

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